

Trends in Privacy Policies & Procedures

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Policy & Procedure Trends


- ◉ Privacy is not just about HIPAA
- ◉ Privacy does not exist without security
- ◉ Security does not work without training, monitoring and auditing
- ◉ Training is not effective without plain language and examples

Policies and procedures need to include all of the above!

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HIPAA Key Concepts: Privacy

- ◉ Quick summary of key concepts:
 - HIPAA applies to Covered Entities.
 - Covered Entities are required to protect Protected Health Information.
 - Uses and disclosures are allowed for treatment, payment and health care operations.



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HIPAA Key Concepts: Basic Obligations

- Provide information to patients about their privacy rights and how their information can be used (Notice of Privacy Practices).
- Adopt clear privacy procedures.
- Train employees to understand privacy procedures.
- Protect patient records that contain IIHI.
- Report breaches of PHI.

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HIPAA Security Rule

- The Security Rule was enacted to physically protect health information.
- Focuses on administrative, physical and technical security of information.
 - Administrative: Employee access rights
 - Physical: Workstation locations
 - Technical: Automatic logoff



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Other Privacy Laws

- Privacy Act of 1974 – primarily Alaska Native programs, but also Federal agencies
- Alaska Personal Information Protection Act
- FERPA – Family Educational Rights and Privacy Act – schools
- State laws re: substance abuse, behavioral health, etc.

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Cover All the Privacy Laws

- ◎ Part of your risk assessment should be an analysis of which privacy laws apply
- ◎ Policies, procedures and training should cover all applicable privacy laws
- ◎ If you work frequently with organizations subject to additional laws (i.e. 42 CFR Part 2 or Privacy Act), may be beneficial to address that possibility

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Policy Approach: Privacy Laws

- ◎ What do you do when more than one privacy law applies?
 - Look at preemption, provide references, if necessary
 - Cover all applicable laws in one policy, or be sure to reference other policies that may be triggered
 - Examples: HIPAA and AK PIPA; HIPAA and 42 CFR Part 2

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Effective Policies Require Effective Training

- ◎ Train staff on policies and procedures in using hands-on and interactive methods
- ◎ Provide examples, lots and lots of examples
- ◎ When new situations arise, send out email alerts
- ◎ Make sure employees are familiar with the related forms, not just the policies and procedures

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Forms & Templates

- ◎ Many policies and procedures may require forms or template documents to be properly and effectively carried out
- ◎ Draft the forms before a situation arises
- ◎ Make sure forms and templates are patient friendly
- ◎ Make sure staff knows when forms should be used

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Helpful Privacy Forms

- ◎ Forms to exercise privacy rights
- ◎ Acknowledgement of staff training
- ◎ Acknowledgement of mobile device policies
- ◎ Breach notification templates
- ◎ Investigation questionnaires

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Timeliness is Key!

- ◎ Recent action for untimely breach notification resulted in \$475,000 payment

“Covered entities need to have a clear policy and procedures in place to respond to the Breach Notification Rule’s timeliness requirements” said OCR Director Jocelyn Samuels.

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Tracking Deadlines

- ◎ Many privacy requirements have specific deadlines for follow-up or response
- ◎ Establish an agreed upon method for tracking deadlines
- ◎ Include the method in procedures
- ◎ Be sure that the tracking documents can be accessed by more than just the privacy or security officer

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HIE: Are new policies needed?

- ◎ Instead of revising current policies, may be easier to adopt new policies to address:
 - HIE Access and Authorization
 - HIE Breach Reporting
 - HIE Monitoring and Auditing
- ◎ Look at Network Responsibilities and other contracts, policies for the HIE you are joining

Legal, Technological Changes May Require Policy Changes

- ◎ Be sure to monitor laws that affect privacy and security: HIPAA, AK PIPA, new State & Federal laws regarding individual information
- ◎ Monitor changes in technology that could affect security:
 - Less expensive alternatives
 - More secure alternatives
 - Changes in staff use of technology

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Recent Trends Affecting Privacy

- Storing Data in the Cloud:
<https://www.hhs.gov/hipaa/for-professionals/special-topics/cloud-computing/index.html>
- Increased Use of Patient Portals
- Increased Use of Phones and Other Recording Devices
 - Providers
 - Patients
 - Film Crews

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Compliance Plans: An Important Part of Privacy

- Affordable Care Act Compliance Requirements
- OIG Guidance
- 7 Elements of an Effective Compliance Plan
- What Should Your Compliance Plan Cover?
- Getting Ready for Enforcement & Audits

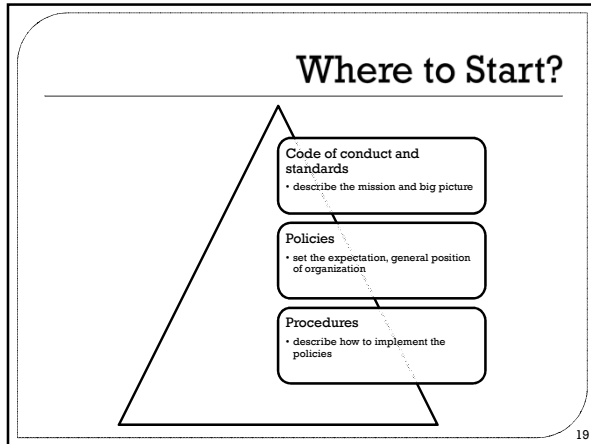


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Seven Elements of an Effective Compliance Program

- Code of conduct w/written policies & procedures
- Compliance officer, committee and high-level oversight
- Effective training and education
- Effective lines of communication
- Well-publicized disciplinary standards
- Effective system for routine monitoring and auditing
- Prompt response to compliance issues

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- ### Communication
- Communication should go in both directions
 - Employees should be provided alternatives for communication
 - Hotline process or other anonymous reporting method ideal
 - Stress non-retaliation
 - Provide variety of forums
 - Acknowledge and address employee concerns
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- ### On-going Compliance Checklist
- Periodically review compliance program, policies that are part of the program, employee standards and code of conduct
 - Ensure that employee training is conducted and documented
 - Manage and monitor employee reporting process
 - Provide ongoing training, as needed
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Ongoing Compliance Checklist

- ◎ Ensure that compliance related files are maintained as described in plan
- ◎ Ensure that monitoring and auditing systems are in place and working
- ◎ **Make periodic reports to the Board regarding compliance, even if no violations**

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Questions?

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