

HIPAA



HIPAA

*goulston&storrs*  
think*results*

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# *Who Am I*

- **Goulston & Storrs, 1967 --**
- **JD Boston College Law School**
- **LLM (Taxation) Boston Univ. Law School**
- **Past Pres. American Health Lawyers As'n**
- **Amer., DC, VA Bar As'ns Health Law Councils**
- **Adjunct Professor of eHealth Care Law**
  - Boston College Law School**
  - Univ. of Maryland School of Law**
  - Suffolk University Law School**

# *Professor Goldberg's Honest Lawyer Privacy Policy*

- **Nothing I say in this room is private**
- **Everything you say in this room is public**
- **We have zero privacy in this room: get over it!**



- H I P P A      W R O N G !
- H I P A      W R O N G !
- H I P P O      W R O N G !

• **H** I P A A    **I** t's **P** owerful  
**A** nd **A** wesome

- **PSQIA**
- **Patient Safety & Quality Improvement Act of 2005**
- **July 29, 2005**

# *Patient Safety Work Product*

- **Data, reports, memos, analyses (written or oral)**
- **By provider to report to Patient Safety Organization**

# ***Patient Safety Work Product***

- ***Or Developed by Patient Safety Organization for conduct of patient safety activities***
- ***And Which could result in improved patient safety or health care quality or outcomes***

# *Patient Safety Work Product*

- *Or* Which identify or are deliberations or analysis of, or identify the fact of reporting pursuant to, a patient safety evaluation system



# *Patient Safety Organization*

- **Private or public entity or component listed by HHS**
- **Activities include improve patient safety & quality of health care delivery**

# *Patient Safety Organization*

- **Collect & analyze Patient Safety Work Product**
- **Develop & share information to improve patient safety**

# *Patient Safety Work Product*

- **Encourage a culture of safety & provide feedback & assistance to effectively minimize patient risk**

# ***Patient Safety Work Product***

- **Patient Safety Work Product does *not* include information collected, maintained, or developed separately from patient safety evaluation system even if reported to PSO**

# ***Patient Safety Work Product Protection***

- **Privileged**
- **Confidential, *but* may be disclosed to contractors and others specified to conduct research if permitted as PHI disclosure under HIPAA Ad/Si**

# *Penalties for Wrongful Disclosure: Identifiable*

- **Knowing or reckless violation**
- **Civil monetary penalty of not more than \$10,000 for each act of violation**
- **Either PSQIA *or* HIPAA privacy rule violation, but not both**

# *Does Not Alter or Affect HIPAA Ad/Si*

- **PSQIA privilege & confidentiality provisions do not alter or affect HIPAA privacy rule or HIPAA monetary sanctions except no penalty under both for same act**

*Patient Safety Org. is  
HIPAA Business Associate*

- **Patient safety activities of  
Patient Safety  
Organizations are part of  
health care operations for  
provider**



# ***NOTICE OF PRIVACY PRACTICES***

- **“THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.”**

# *Got a date?*

- **April 14, 2006 – Covered Health Plans Notice Availability Reminder**
- **April 20, 2006 – Security Rule Enforceable for Small Covered Health Plans**

# US vs. Richard W. Gibson

- **Employee of covered health care provider disclosed name, date of birth, & Social Security number of patient to AT&T Universal Card for personal gain**
- **Intended unlawfully to get credit card in name of patient**
- **Agreed to plead guilty to violation of HIPAA & likely to go to jail**
- **Mr. Gibson is NOT a covered entity or a business associate: he's a mere "person"**

# US v. Liz Arlene Ramirez

- **Selling confidential medical record information of FBI Special Agent to person she believed to be working for a drug trafficker but who was FBI source**
- **Pleaded guilty to federal felony**
- **Wrongfully using unique health identifier with intent to sell individually identifiable health information for personal gain**
- **Was employed at doctor's office providing care to FBI agents**

**BE A HIPAA  
HERO <sup>(R)</sup>**



**BE A HIPAA  
HEROINE *(sm)***



# *Professor Goldberg's*

## *Y3K Year 3000 Readiness Disclosure*

- **To the best of my knowledge, this presentation will not cause the interruption or cessation of, or other negative impact on, business or other operations, attributable directly or indirectly to the processing (including but not limited to calculating, comparing, sequencing, displaying, or storing), transmitting, or receiving of date data from, into, and between the 20th and 22nd centuries, and during the calendar year 1998 and thereafter (including but not limited to the calendar years 1999-3000), and leap year calculations, or give rise to the inability of one or more computer software or hardware programs, machines or devices accurately to receive, store, process or transmit data on account of calendar information applicable to such programs, machines or devices, including without limitation calendar information relating to dates from and after the date hereof.**

*Why is this man smiling?*  
*I Practice Safe HIPAA!*  
*And so should you!*

