HIPAA'S IMPACT ON PHYSICIAN PRACTICES: A METHODOLOGY FOR COMPLIANCE

PRESENTED BY

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WHAT IS HIPAA?

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HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Public Law 104-191
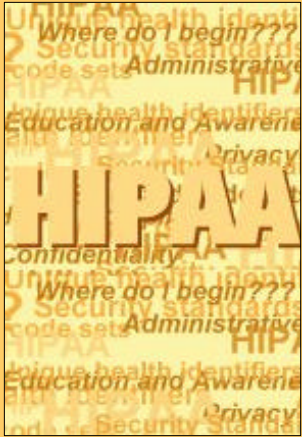
A.K.A - Kennedy-Kassebaum Act

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PURPOSE OF HIPAA

- Protect the insurability of individuals

- Further limit insurance fraud and abuse

- Secure the privacy of individual health information

- Reduce costs associated with the administration of health care

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HIPAA REGULATIONS

- Set Security Standards

- Set Standards for electronic transactions

- Identify Code sets

- Unique Health Identifiers

- Electronic Signature

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WHAT IS REQUIRED?

- All health organizations - health plans, clearinghouses, providers, even single physician offices - which electronically maintain and/or transmit *any* individually identifiable health information must implement these standards

- Standards apply to external communication, not necessarily internal communication

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WHO DOES IT AFFECT?

PAYORS

PROVIDERS

PATIENTS

EMPLOYERS

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WHOSE PROBLEM IS IT?

Adequate protection of health care information depends on both technology and organizational practices for security

Administration of polices and procedures reaches throughout the organization

It's **NOT** just an IT problem

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HIPAA AFFECTS ALL INTERACTION WITH PATIENT INFORMATION

- Individuals

- Managers

- Departments

- Business Practices

- Communications

- Applications Programs

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WHAT ARE THE IMPACTS?

- Behavioral / Personal Accountability

- Organizational Barriers / Practices

- Technological Barriers

- Enforcement

- Patient Consent / Inspection / Disclosure

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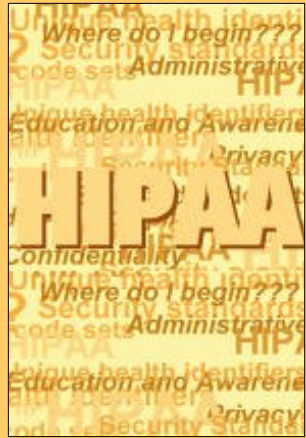
ESTIMATED COST OF HIPAA

- **"Estimated that HIPAA compliance will consume 33 cents of every healthcare dollar"**
  – HIPAA primer, HIPAAlert Newsletter

- **"We anticipate costs to be somewhere between three to four times the amount of expenditures required for Y2K…"**
  – Rebecca Lageman, Fitch Analyst

- **"…the severity of the financial and operational impact will be directly related to the level of disparity between that organization's current information technology (IT), security, and communications systems and those required by HIPAA"** *- "Investment Rating Warns to Start HIPAA Preparations Now", September 2000*

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WHY DO IT?

- HIPAA is a *federal government mandate* for healthcare

- Regulatory agencies will look for HIPAA compliance as part of their reviews/ accreditation

- Sanctions with monetary penalties for non-compliance

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PENALTIES FOR NON-COMPLIANCE

- For violation of a provision of the regulations a penalty of not more than **$100.00** for each violation of an identical requirement, with a maximum of **$25,000** per year per provision.

- For persons knowingly in violation of misuse of individually identifiable health information or obtaining data in an inappropriate fashion, penalties of **$50,000 to $250,000** and may include possible prison term of **1 to 10 years**.
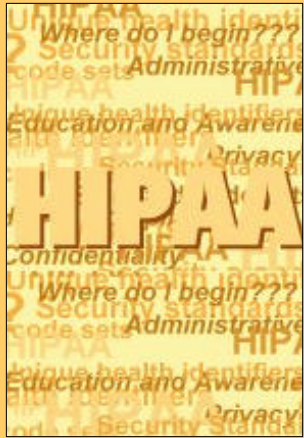
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COMPLIANCE DEADLINES

- Effective date = 60 days after rule is published in the Federal Register

- Most organizations have 24 months from the effective date of the final rules to achieve compliance

- Smaller health plans have 36 months from effective date to comply

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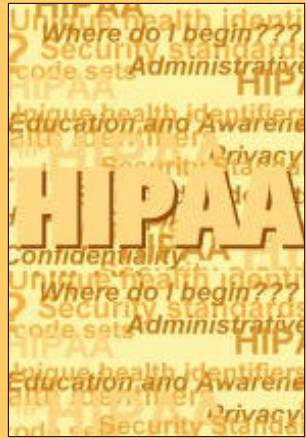
KEY DEFINITIONS FOR HIPAA

Individually Identifiable Health Information
Any information, including demographic information collected from an individual that identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual….
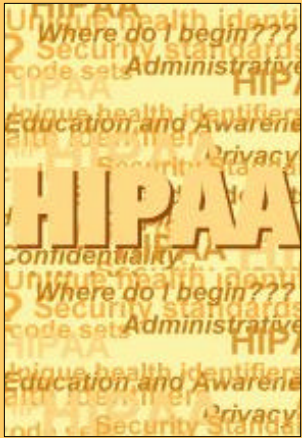
Privacy
"Privacy" relates to the individual right to be free from intrusions, to remain anonymous, and to control the circulation of information about oneself

Confidentiality
"Confidentiality" relates to the nature of the information itself. Confidential information is sensitive or secret data for which unauthorized disclosure could be prejudicial or damaging

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WHAT ARE THE STANDARDS?

Four parts of Administrative Simplification include:

- Electronic Transactions & Code Sets

- Privacy and Confidentiality

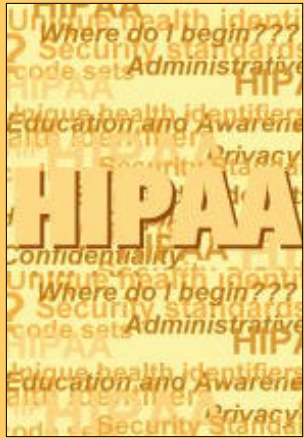- Unique Identifiers

- Security and Electronic Signatures

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STANDARDS FOR ELECTRONIC TRANSACTIONS AND CODE SETS

FINAL RULE

PUBLISHED 8/17/00

Take Effect October 2002!!!

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TRANSACTIONS AND CODE SETS

- Implementing a national standard will mean we all use one format – "simplifying" and improving efficiency

- Providers using non-electronic transactions are not required to adopt standards but may need to contract a clearinghouse for translation
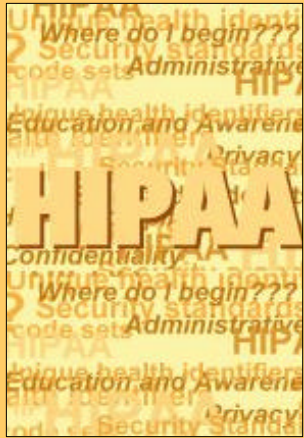
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TRANSACTIONS AND CODE SETS

- Health and Human services estimates HIPAA will save 29.9 Billion dollars over ten years.

- HHS states there are about 400 different formats for health care claim forms nationwide.

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ELECTRONIC TRANSACTIONS

"Electronic Health Transactions" include ANSI ASC X12 Standards for

- Health Claims (837), Encounters (IHCLME) and Attachments (275)

- Enrollment (834)

- Eligibility (270, 271, IHCEBI, IHCEBR)

- Payments and Remittance (811, 820, 835)

- Report of Injury (148)

- Health Claim Status (276, 277)

- Referral Certification & Authorization (278)

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CODING STANDARDS

Code Sets for

- Diagnoses: ICD-9-CM, Volumes 1 & 2

- Procedures:

  - ICD-9-CM, Volume 3 (inpatient care)

  - CPT 4 (outpatient / physician care)

  - HCFA (equipment, supplies, injectable drugs and other services)

  - CDT-2 (dental)

  - NDC (pharmacy)

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TRANSACTIONS AND IDENTIFIERS IN THE PHYSICIAN OFFICE

- In the article "<u>10 HIPAA Tips for the Physician Office</u>" the author has a *Quick and Dirty HIPAA Benefit Calculation Estimator.* This calculator helps to determine if it is cost effective to do EDI yourself.

- Based on his study a group of eight or more physicians could save $7,200 per provider.

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UNIQUE IDENTIFIERS

**National Standard Health Care
Provider Identifier**
NPRM published May 7, 1998

National Standard Employer Identifier
NPRM published June 16, 1998

**National Standard Identifiers
for Health Plans**
NPRM not yet available

National Individual Identifiers
NPRM not yet available
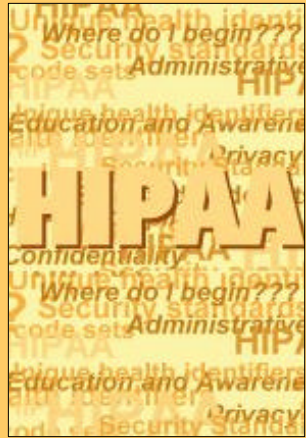
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UNIQUE IDENTIFIERS

- Current system allows for multiple ID numbers

- This can be conducive to errors and costly to organizations

- Standard Identifiers are expected to reduce these problems

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UNIQUE IDENTIFIERS

- Unique Identifiers:

  -Individuals (TBD)

  -Employers (EIN / TIN)

  -Health Plans (Payer ID – HCFA)
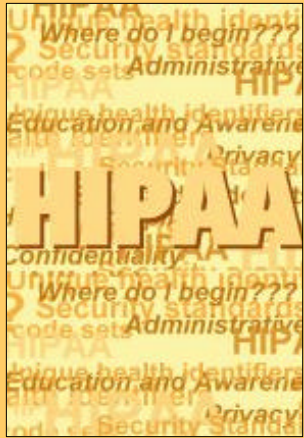
  -Providers (National Provider ID – HCFA)

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SECURITY AND ELECTRONIC SIGNATURE STANDARDS

NPRM published August 12, 1998

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SECURITY AND ELEC. SIGNATURES

- Security standards will provide a uniform level of protection for:

  - Health Information stored or transmitted electronically, and

  - Health information which pertains to an individual
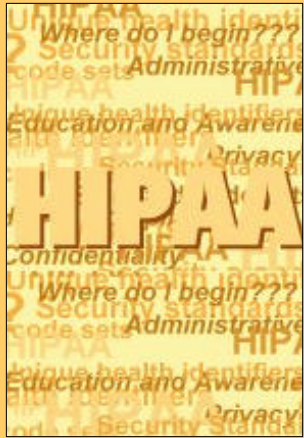
- Major IT component of compliance

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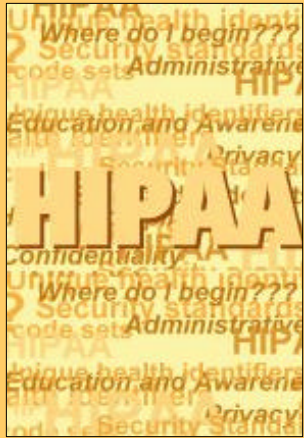
SECURITY – WHAT'S REQUIRED?

- An enterprise-wide program must be developed with focus on internal controls, training programs and audit procedures, as well as external security measures

- Internet rules are currently under review (HCFA currently prohibits internet transactions containing individual information)
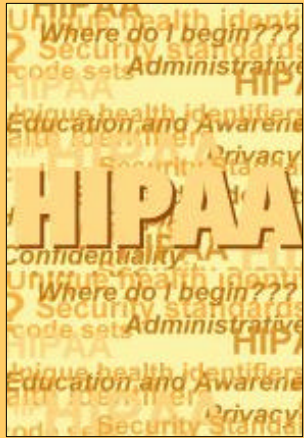
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SECURITY – WHAT′S REQUIRED?

To ensure data integrity, confidentiality, and availability, and guard against unauthorized access - HIPAA defines minimum security standards for the use of protected health information including:

- **Administrative Security Procedures**
- **Physical Security Safeguards**
- **Technical Security Services**
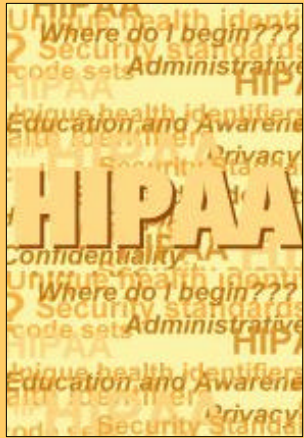- **Technical Security Mechanisms**

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SECURITY – ADMIN. SECURITY PROCEDURES

- Security Management Process (Strategy / Risk Management / Sanctions)

- Certification

- Data Storage, Retention and Transmission Policies

- HR Policies (Corrective Actions / Termination)

- Training and Awareness Programs

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SECURITY – ADMIN. SECURITY PROCEDURES

- Systems Management (Install / Virus / Security Testing)

- Chain of Trust Agreements

- Audit Control Processes / Incident Reporting

- Contingency Plans / Testing

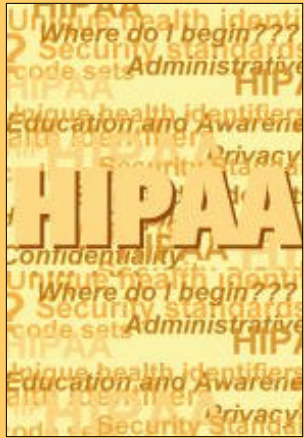- System Access Policies (Add / Change / Delete)

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SECURITY – PHYSICAL SECURITY SAFEGUARDS

- Assigned Responsibilities (Security Compliance Office / Committees / Enforcement)

- Physical Access (Data Center / Equipment Closets / Visitor Policies)

- Data Media Controls (Backups / Storage / Disposal / Tracking)

- Work Station (Use & Location Guidelines)

- Disaster Recovery Plans (Business Continuity / Emergency Operations / Restoration)
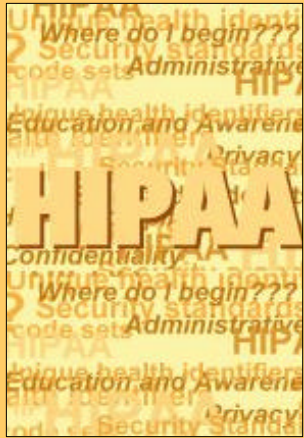
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SECURITY – TECHNICAL SECURITY SERVICES

- Access Controls (Emergency Access / User, Context or Role-Based Access / Encryption)

- Audit Controls

- Authorization Controls (Access Consent by User or Role-Based Access)

- Data Authentication (Check Sum / Message Authentication Codes / Digital Signature)

- Entity Authentication (Passwords / ID's / Biometrics / Tokens / Telephone Callback)

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SECURITY - TECHNICAL SECURITY MECHANISMS

- Review Communications Infrastructure to Validate Technical Services Documentation, including:

  - Servers / Midranges / Mainframes

  - Firewalls / Remote Access / Email Servers / Other External Comm.

  - IP Address / FTP Access Procedures

  - Internet / Extranet / Email Activity

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STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

FINAL RULE

PUBLISHED 12/28/00

Take Effect April 2003!!!
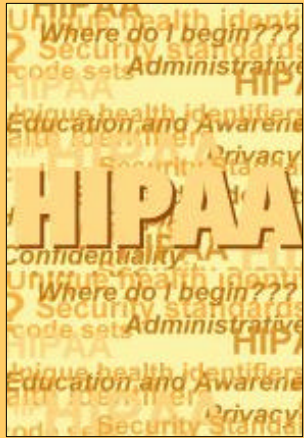
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PRIVACY – WHAT′S REQUIRED?

- Specific policies and procedures for the appropriate use and disclosure of protected health information

- De-identification (Not practical, HHS list 19 identifiers that must be stripped away in order to be de-identified.)

- Agreements with Business Partners

- Minimum necessary use and disclosure

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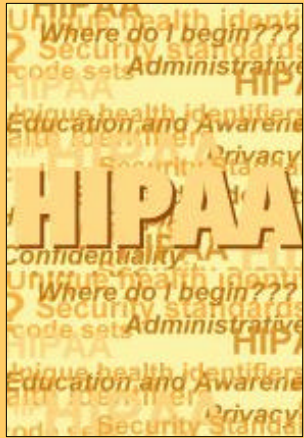
PRIVACY – WHAT'S PROTECTED?

HIPAA protects information that:

- is created or received by a healthcare provider, health plan or health clearinghouse; and

- relates to past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual.

PRIVACY – WHEN IS THE INFORMATION PROTECTED?

- Protection begins when information becomes electronic*, and continues for as long as the information is in the hands of a covered entity

* *Information is covered when it is being sent electronically, generated from or maintained in a computer, or the paper copy of electronic information. Information does not lose its protections simply because it is printed out of the computer (HIPAA protects the information, not the media)*

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PRIVACY – WHEN IS THE INFORMATION PROTECTED?

- The information must be "identifiable." If the information has any components that could be used to identify the subject, it is covered

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PRIVACY –
PROPER USE OF INFO

Protected Health Information (referred to as PHI) can be used or disclosed only:

- as authorized by the patient, or

- as explicitly permitted by the regulation – such as for purposes of health care treatment, payment and operations, and for specified national policy activities under conditions tailored for each type of such permitted use or disclosure

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PRIVACY – BASIC RIGHTS

HIPAA provides individuals with several basic rights regarding their PHI including the rights to:

- receive a written notice of information practices from health plans and providers

- obtain access to their PHI, including a right to inspect and obtain a copy of the information

- request amendment or correction of PHI that is inaccurate or incomplete

- receive an accounting of non HIPAA-allowed disclosures

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CONSENT VS. AUTHORIZATIONS

- Providers must obtain consents from individuals before using individually identifiable health information for purposes of treatment, payments, and health care operations.

- Providers also must obtain authorizations from individuals to use individually identifiable health information for any purpose not otherwise permitted or required by the rule.

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ADDITIONAL NPRMs

Health Claim Attachments

Enforcement

Electronic First Report of Injury

NPRMs in development
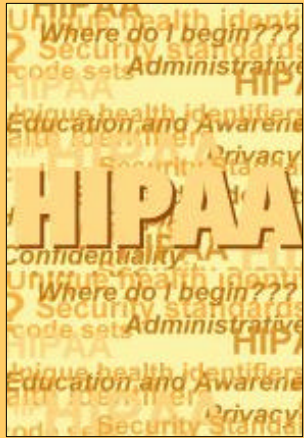
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WORKING WITH OUTSIDE PARTIES

- How do I deal with my business partners (vendors)?

- What is a Chain of Trust Agreement?

- What is a Business Partner Agreement?

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VENDORS – WHO ARE THEY?

BUSINESS PARTNERS

- Defined in the privacy regulations, but as of yet has not been defined in the security regulations – *Check for a final definition when the rules are published*
- It is believed that the following relationships will need to be covered:
  - Contractors who receive information from covered entities (attorneys, auditors, billing companies, Clearinghouses, etc.)
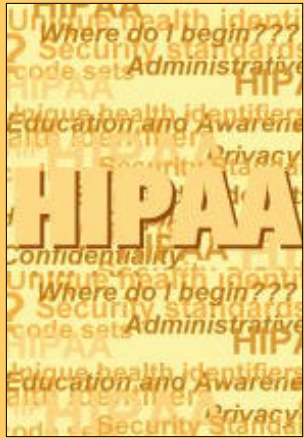 - Computer Applications Vendors

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VENDORS – HOW TO PROCEED?

- Contact each of your vendors and request information regarding their compliance efforts

- Evaluate their responses & act accordingly

- Maintain contact with the vendors as you track their progress

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CHAIN OF TRUST AGREEMENTS

WHAT IS IT?

- Also referred to as "COT" or "CTA"

- COTs are executed between an organization and their business partners

- COTs ensure that business partners agree to protect the integrity & confidentiality of transmitted health information with the same level of security as the organization

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CHAIN OF TRUST AGREEMENTS

WHY ARE THEY IMPORTANT?

- Required security measure for HIPAA

- Organizations must have a COT agreement with any business partner they electronically exchange health information with

BUSINESS PARTNER AGREEMENTS

WHAT IS IT?

- Also referred to as "BPA"

- Required between entities that share protected health information – whether in talking, writing, copying, faxing, electronically, or in any other way

WHY ARE THEY IMPORTANT?
Required privacy measure for HIPAA

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BUSINESS PARTNER AGREEMENTS

- Are with any business that perform or assists functions of activities involving the use or disclosure of individually identifiable health information on behalf of a covered entity;

- Perform or assist in the performance of any other functions or activity regulated by HIPAA on behalf of the covered entity.

- Examples: Transcription Service, Billing Service, Consulting Services, Computer System Vendors.
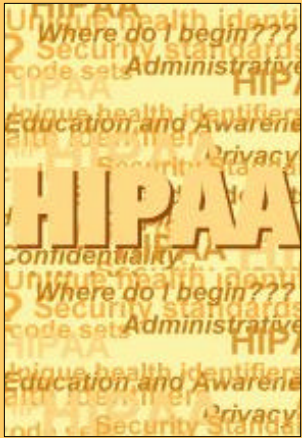
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COTs VERSUS BPAs

HOW DO THEY DIFFER?

- BPAs address specific accountabilities and must include specific provisions which are defined in the privacy regulations (Ex: disclosure and use of protected information)

- COTs are about defining acceptable security measures and how the two entities will communicate information electronically

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QUESTION - Are COTs or BPAs needed between Physicians and Hospitals?

- Physicians **are not** required to have a COT or BPA with a Hospital.

- Physicians are however required to comply with the hospital's confidentiality agreements and a security awareness training.

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WHERE DO I BEGIN?

**1) Internet Access is Necessary**

2) Risk Assessment

3) Project Plan

4) Initial Budget

5) Plan Implementation

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RISK ASSESSMENTS - BEFORE YOU BEGIN

Identify current information available

- Inventory all information systems that contain or process health information

- Identify all security/privacy policies and procedures

- If available, use the following items: Y2K Inventory, prior Risk Assessments, and/or Contingency Plans

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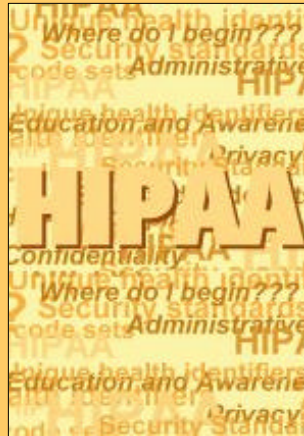
RISK ASSESSMENTS – RECOMMENDED STEPS

- Review all applications programs with respect to standards and contact vendors, as necessary

- Review current policies and procedures (**privacy, security, transmission and coding**), compare to standards and note deficiencies

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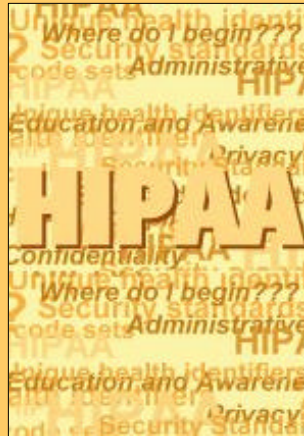
RISK ASSESSMENTS – RECOMMENDED STEPS

- Conduct an inventory of information systems and EDI connections, compare against the standard transaction set implementation guides, and note Enterprise-wide deficiencies

- Assess compliance levels using detailed inventory

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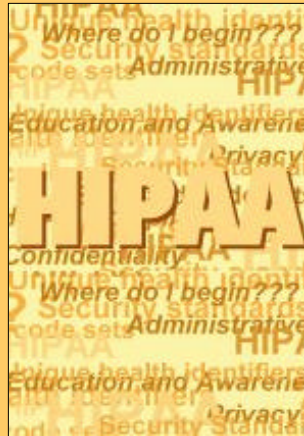
DOCUMENTATION FOR REVIEW

- Application System Documentation
- Hardware Installation/Maintenance Procedures
- Application System Maintenance Procedures
- Hardware Inventory
- Application System Restoration Procedures
- Human Resources Policies/Procedures

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DOCUMENTATION FOR REVIEW

- Backup/Offsite Rotation Procedures
- Internal/External Audit Reports
- Building Maintenance Records (Security)
- IS Operations Procedures
- Building Security Policies/Procedures
- Network Diagrams
- Business Impact Analysis
- Network Restoration Procedures

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DOCUMENTATION FOR REVIEW

- Contingency/Disaster Recovery Plan

- Security Policy/Program Documentation

- Data Access Policies/Procedures

- Security Risk Analysis

- Data Security Reporting/Response Procedures

- Security Training Programs/Materials

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DOCUMENTATION FOR REVIEW

- Data Security Training Material
- Software Inventory
- Department Contingency Plans
- Software Maintenance Procedures
- Department Policies/Procedures
- Virus Protection Policies/Procedures
- Data Security Policies/Procedures
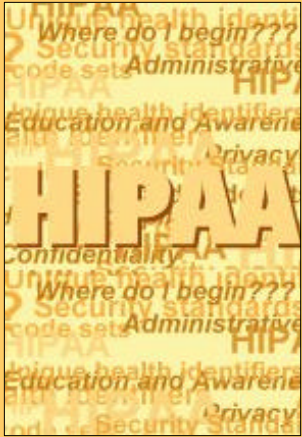- Security Testing Policies/Procedures

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DOCUMENTATION FOR REVIEW

- Emergency Mode Operation Plan
- Visitor Access Policies/Procedures
- Employee Handbook
- Workstation Security Policies/Procedures
- Employee Termination Procedures
- Workstation Use Policies/Procedures
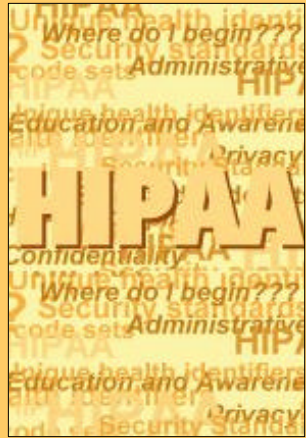
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RISK ASSESSMENTS – FINAL STEPS

- Prepare final report which details areas of potential risk

- Review assessment and discuss with key staff

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DEVELOP PROJECT PLAN

- Identify tasks related to each standard or regulation (include all tasks identified in the Risk Assessment and/or suggestions from vendors)

- Prioritize activities

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DEVELOP PROJECT PLAN

- Assign tasks

  - Assess your ability to implement the project plan *(Resource constraints, Vendor dependencies, Consultant involvement)*

- Re-evaluate project plan & progress made on a periodic basis-reprioritize as needed

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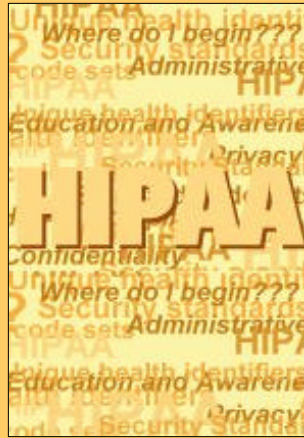
DEVELOP INITIAL BUDGET

- Develop cost of internal staff

- Develop cost of external outsource staff

- Identify cost of IT products

- Review cost comparisons with more 'Make Vs. Buy' effort or more 'Buy Vs. Make' decisions

- Determine Estimated Budget Total

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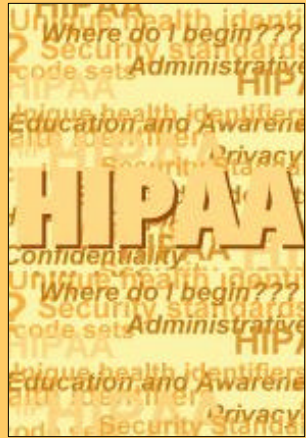
ACTION PLAN (IN ENGLISH)

- You will need to form a committee to address HIPAA.

- This committee should consist of people you trust and are hard workers. Consider including your Office Manager, Legal Counsel, IS, and maybe your vendor.

- A Chairperson will need to be appointed.

- You will need to educate the committee and staff about HIPAA.

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ACTION PLAN (IN ENGLISH)

- A comprehensive inventory of the individually identifiable electronic health information maintained in the office should be performed. You need to include information kept on personal computers and in databases.

- You should conduct a risk assessment to evaluate potential risks and vulnerabilities to individually identifiable electronic health information. You need to look at the possibility of outside attacks to the systems. A tactical plan to address the identified risks, placing highest priority on the areas of greatest vulnerability would then be developed.
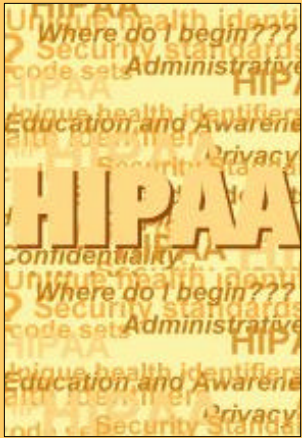
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ACTION PLAN (IN ENGLISH)

- Collect **existing security policies** and evaluate them to see if they're current, consistent, and provide adequate protections. Develop a checklist to identify policies that we need to develop.

- Educate the staff about security policies and enforce them. Establish a confidential reporting system, so employees can report security breaches without fear of repercussions. Impose sanctions for violations, and be prepared to deal with system disruptions or data corruption that may result from security violations. **This education has to be done every three years.**

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ACTION PLAN (IN ENGLISH)

- Evaluate the billing system to see if you are using the standards outlined in the Electronic Data Interchange (EDI) transaction standard. You may want to see if more can be done electronically.

- Compare your current procedures for disclosure of health information with the proposed privacy standards. Are individuals allowed to inspect and copy their health information? Are reasonable fees charged for this? Does the organization account for all disclosures of protected health information for purposes other than treatment, payment, or healthcare operations? Is there a procedure in place to allow individuals to request amendments or corrections to their health information? Is there a mechanism for individuals to complain about possible violations of privacy? Do you have a designated privacy officer?

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ACTION PLAN (IN ENGLISH)

- Evaluate the audit trails of the existing information systems. To allow the best protection, audit trails must record every access (including read-only access) to patient information.

- You may want to consider having a consultant come in and perform a security audit.

- Review/revise existing vendor contracts to assure HIPAA compliance. All contracts must ensure that your business partners also protect the privacy of identifiable health information.

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ACTION PLAN (IN ENGLISH)

- Review security for your Office and Computer Systems

- Evaluate new information security technologies. Consider adopting biometric identifiers (such as fingerprints, voiceprints, or retinal scans) for secure authentication of users. Investigate single sign-on technology to eliminate the need for users to manage and protect multiple passwords and logons.

- Develop a Disaster Recovery Plan

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POLICIES & PROCEDURES

The following will need to be developed:

- Chain of Trust Agreement

- Actions to be taken if the Chain of Trust is violated

- The use of e-mail for patient data

- Privacy policy

- Actions to be taken if the Privacy policy is violated

- How health data is handled in the organization

- Develop and define a "Security Officer"

- Develop and define a "Privacy Czar"

- Consent and Authorizations

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PLAN IMPLEMENTATION

Remember…..

- You should continually monitor progress and keep abreast of newly released compliance information

- Follow HIPAA's requirements for auditing and monitoring

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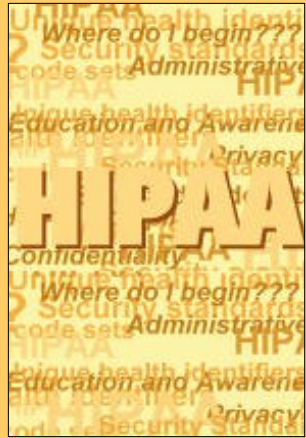
WHAT'S HAPPENING WITH HIPAA NOW?

- The Bush Administration has put a hold on all regulations pending reviews.

- American Hospital Association has asked the Bush Administration to review the Privacy Regulations. They feel the regulations are too stringent and will be to costly to implement.

- Secretary of Health and Human Services Tommy Thompson is opening the HIPAA privacy regulations for a 30-day comment period.

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PHYSICIAN'S OFFICE PATIENT FLOW

1) The patient calls for an appointment.

2) If the office has a computer the patient's Name, Address, Insurance, DX or Complaint are entered into a computer. If there is no computer the info is entered into a log of some type.

– In the case of a specialist they would want all necessary medical data:
Labs, X-rays, Notes, Path Report, etc.

3) At this point the office could do an Insurances Verification check.

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PHYSICIAN'S OFFICE PATIENT FLOW

4) When the patient comes to the office they then fill out the office paperwork.

- – You would collect Demographic info, DOB, SS, Employment info, and a Medical History.

5) The physician sees the patient.

6) Test and/or Procedures are ordered or done.

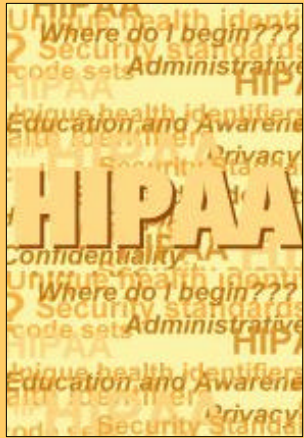7) Lab work is sent out and appointments are booked for other tests by the office staff.

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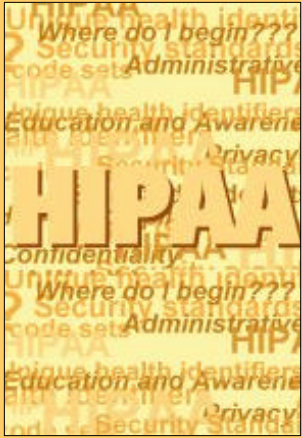
PHYSICIAN'S OFFICE PATIENT FLOW

8) Notes are dictated by the physician and are sent to a transcription service or they dial in and get the dictated notes.

9) The transcribed notes are returned to the physician.

10) In the case of a specialist a copy of the notes and any other medical data is sent back to the referring physician.

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PHYSICIAN'S OFFICE PATIENT FLOW

11) Billing - If you do not have a computer, a copy of the Super Bill is sent to your billing company and they enter into a computer and submit the claim for you.

If you have a computer system, the data is entered into the computer and either you print out the bill (1500 form) and send it to the insurance company or you electronically submit the claim to a clearinghouse.

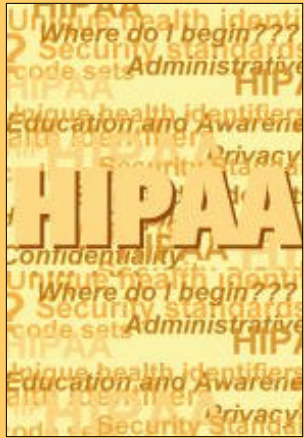**HospITech Solutions**

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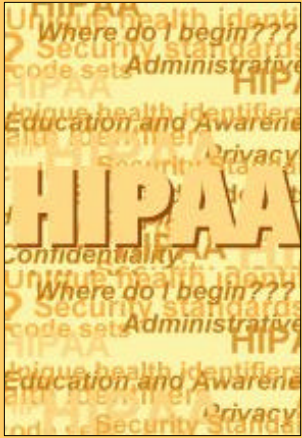
PHYSICIAN'S OFFICE PATIENT FLOW

12) If the bill is rejected you are asked for more information, i.e. office notes. And you resubmit the claim.

If it is not rejected you receive a check and an Explanation of Benefits (EOB).

13) Hospital based practices are subjected to audits.

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HIPAA PLANNING TIP
HIPAA IS LIKE A HURRICANE

Hurricane

- ➢ Hurricanes have a predicted path but that path can change.

- ➢ If you don't plan for a Hurricane you can face major problems.

HIPAA

- ➢ We have a general idea where HIPAA is going, but no one is sure what changes are going to take place.

- ➢ If you don't plan for HIPAA you can face major problems.

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PLAN AND TAKE ACTION NOW, SO YOU ARE NOT CAUGHT IN THE STORM!

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WEB SITES

- The American Health Information Management Association (AHIMA) http://www.ahima.org/

- American Health Lawyers Association www.healthlawyers.org

- HIPAAlive Listserv, www.hipaadvisory.com/live

- Early View www.nchica.org

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WEB SITES - CONTINUED

- Medical Group Management Association (MGMA), www.mgma.com

- US Department of Health and Human Services (HHS) http://aspe.os.dhhs.gov/admnsimp

- American Hospital Association http://www.aha.org/hipaa/hipaa_home.asp (Model HIPAA Notice of Privacy Practices)

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ARTICLES

10 HIPAA Tips for the Physician Office

by Steven S. Lazarus, PhD, FHIMSS

http://ahima.org/journal/features/feature.0102.6.htm

HIPAA on the Job:

Understanding Chain of Trust and

Business Partner Agreements

by Bonnie S. Cassidy, MPA, FHIMSS, RHIA

http://www.ahima.org/journal/features/feature.0010.3.html

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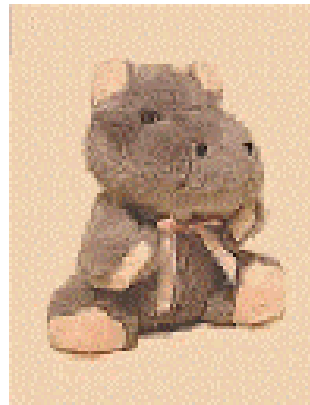# HIPAA'S IMPACT ON PHYSICIAN PRACTICES

HIPAA SUMMIT
March 1, 2001

"HIPAA's Impact on Physician Practices: A Methodology for Compliance"

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Slide 85 of 85

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