

Managing HIPAA Privacy in a Value-based Environment

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Agenda

- Heightened data sharing needs in value-based payment (VBP)
- Where data sharing “fits” into privacy management
- Ways your organization can protect privacy in a data sharing environment

Value-based Payment

- VBP goes by many names; and may be offered in a variety of delivery structures (e.g., ACO, PCMH, CIN)
- Whatever names or structures, the goal of health reform is to increase the value of health and healthcare
- HHS vision* for health reform is to achieve:
 - High-quality care
 - At lower costs
 - To create a healthy population
 - With engaged people

*Federal Health IT Strategic Plan: 2015-2020. Available at: https://www.healthit.gov/sites/default/files/9-5-federalhealthitstratplanfinal_0.pdf

Value

- Value is the sum of quality and cost
 - We seek products and services that afford the highest possible quality at the lowest possible cost
- Value can be subjective, and varies from person to person, and no one is necessarily better:



- Achieving value,
 - Includes risk; e.g., “FOBO” (fear of better options)
 - Requires additional effort ; e.g., for patients to determine the best option, for providers to improve quality and reduce risk, for health plans to assure revenues that support payments

To be Successful in VBP

- Many changes need to be made, but most rely on data:
 - Data for administration of VBP
 - Provider attribution
 - Patient risk stratification/acuity scoring
 - Patient identification
 - All-payer claims data for price comparison
 - Data for clinical care
 - Quality metrics
 - Quality measurement
 - Real time data
 - Data that are easy to understand
 - Data sharing across continuum of care
 - Data on social determinants of health

Data Sharing Examples

- Bundled Payment for hip or knee replacement
 - Primary care provider
 - Hospital
 - Orthopedic surgeon
 - Physical therapy
 - Trainer in gym
 - Pharmacy

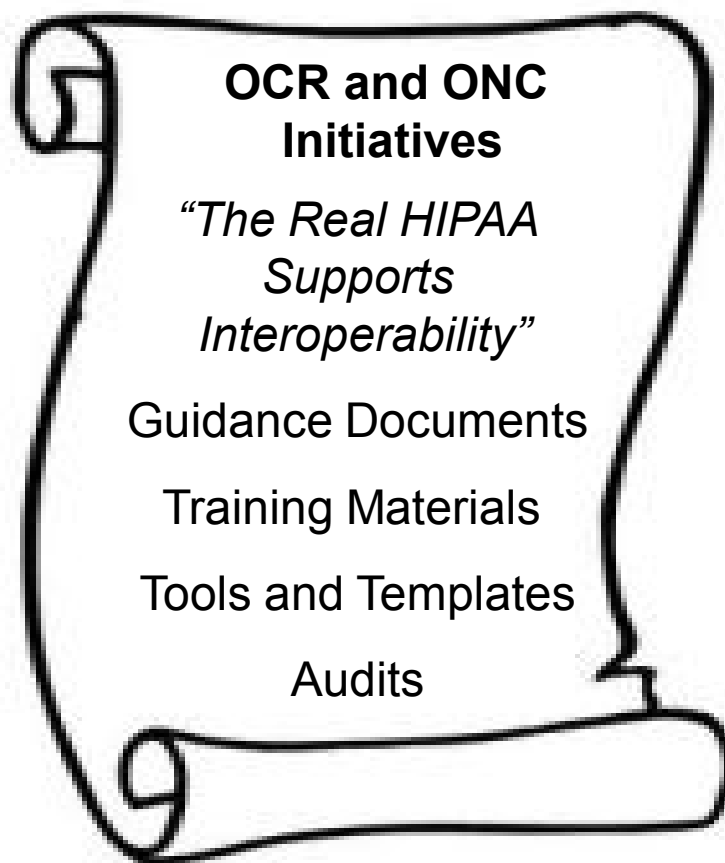
- Shared risk arrangement needing to limit ED and readmissions for an elderly, forgetful patient with chronic conditions, poly-pharmacy, living alone, and fixed income
 - Primary care provider
 - Endocrinologist
 - Cardiologist
 - Pharmacist
 - Behavioral health specialist
 - Emergency department
 - Telehealth provider
 - Care coordinator
 - Home health aide
 - Neighbor
 - “Uber” driver
 - Public health nurse
 - Faith-based support group
 - Social services

Data Sharing Failures

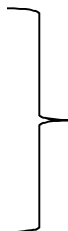


Requirements for Successful Data Sharing

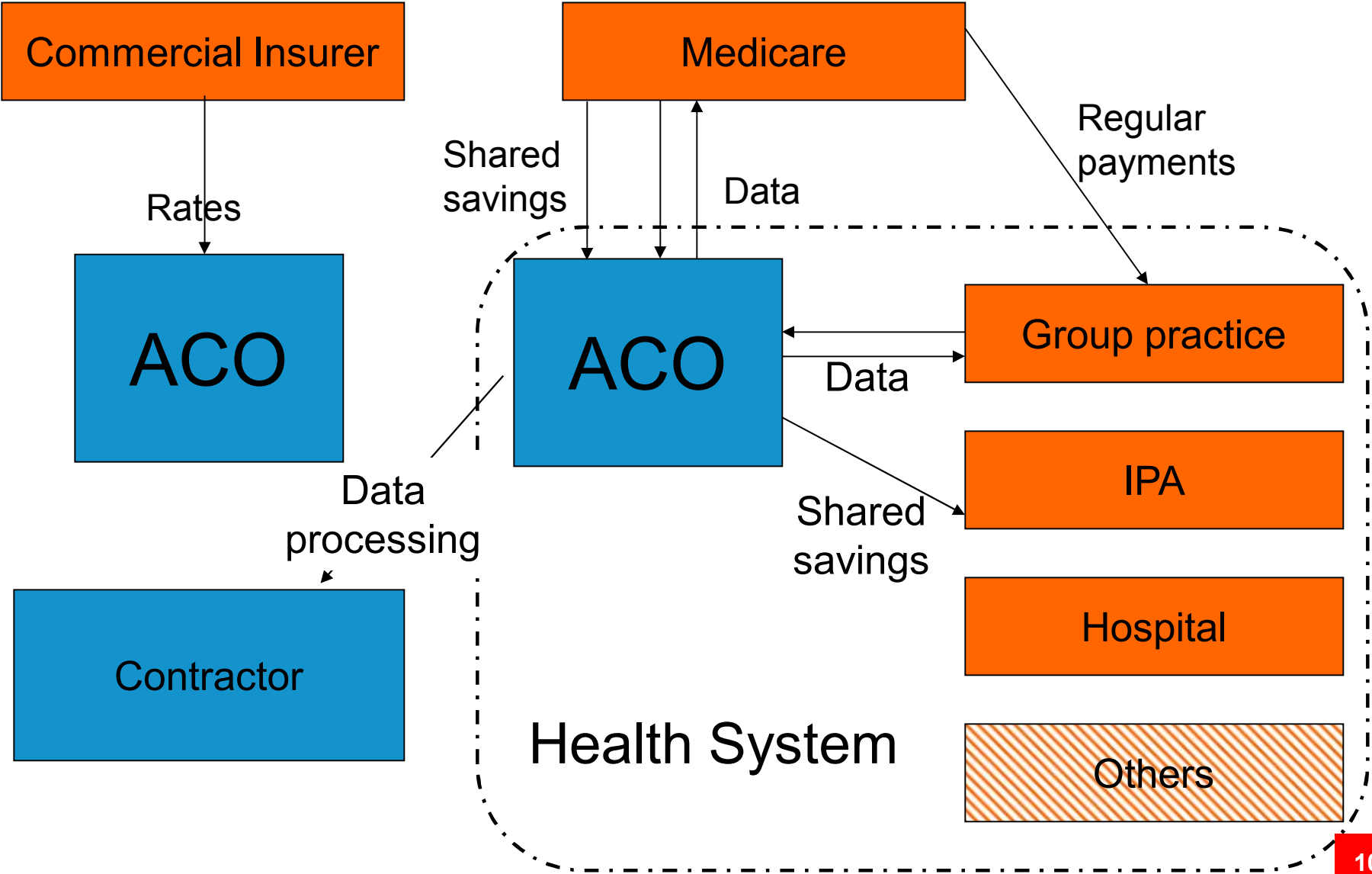
- Data governance
- Patient-centered data home (PCDH)
- Data standards
- Data definitions
- Data normalization
- Data provenance
- No data blocking
- Data analytics
- Data visualization
- Data transparency
- Data protection



Key HIPAA Data Protection Tools

- Confidential communications
 - Verification
 - Authorization(s)
 - Consent
 - Medicare ACOs assume patients opt in unless opt out
 - State-based HIEs are increasingly requiring patients to opt in
 - Many cross-boundary issues
 - Individual rights
 - Notice
 - Amendment
 - Confidential communications
 - Access
 - Accounting for disclosure
 - Restrictions
 - Security
 - Access controls/audit controls
 - Risk analysis/evaluation
 - Information system activity review
 - Encryption
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Data Sharing in an ACO



CMS Provision of PHI

- CMS provides PHI on condition that---
 - The ACO certifies that—
 - it is a HIPAA covered entity or the BA of ACO participants that are CEs
 - the data is the minimum necessary for the ACO to conduct of population-based activities relating to improving health or reducing growth in health care costs, process development, case management, care coordination and provider evaluation.
 - The ACO signs a data use agreement
 - The beneficiary is given an opportunity to opt out of data sharing

ACO as an OHCA

Sharing of PHI within the ACO

- ACO needs data for
 - Payment
 - Health care operations
- ACO as an organized health care arrangement (OHCA)
 - An organized system of health care in which more than one covered entity participates, and in which the participating covered entities:
 - Hold themselves out as a joint arrangement; and
 - Participate in joint activities including
 - Utilization review
 - Quality assessment
 - Payment activities

Benefits of an OHCA

In an OHCA--

- Participating CEs can have a common notice of privacy practices
- A CE that participates in an OHCA and engages in BA activities for the OHCA is not necessarily the BA of the other CEs in the OHCA
- CEs participating the OHCA may disclose PHI to other CE in the OHCA for health care operations of the OHCA

What YOU Can Do . . .

- Fully understand “TPO,” adopt robust consent management, stop making HIPAA an excuse for not sharing data
- School providers on patient engagement, shared decision-making, and HIPAA’s privacy rights so the right data can be shared
- Build consent structures that work
 - Within an enterprise
 - Across continuum of care
 - Across state boundaries
- Help patients be informed consumers and engage them in supplying data, keeping data current, and providing information on outcomes

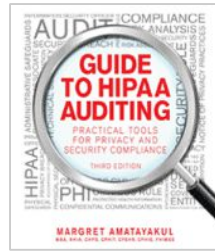
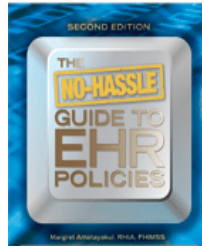
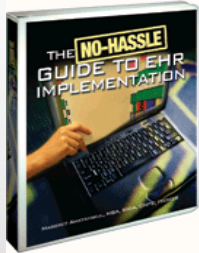
The more patients understand the importance of their data,

- *the more they will be engaged in data protection*
- *and in their health and healthcare*

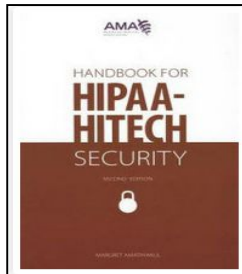
Q & A

References & Resources

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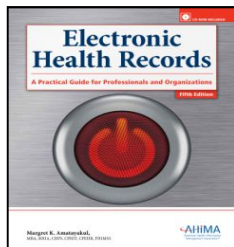


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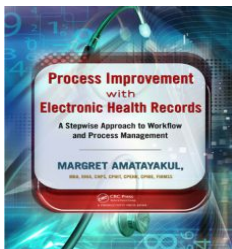
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