

HIPAA and Washington State Privacy Laws



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HIPAA Privacy



- ❁ Covers providers, plans, clearinghouses, and business associates
- ❁ Identifiable health information in any form
- ❁ Requires consent, minimum necessary
- ❁ Right of access, notification, correction
- ❁ Individual accounting of disclosures
- ❁ Individual authorizations required

HIPAA Privacy



- ❁ Exempt from Individual Authorization:

Health care operations, public health, health oversight, law enforcement, banking and payment, any other uses required by law

- ❁ Privacy official
- ❁ Privacy policies and notice
- ❁ Security safeguards
- ❁ Significant civil and criminal penalties

Uniform Health Care Information Act (1991)



- ❁ Covers state licensed providers
- ❁ Identifiable health information in any form
- ❁ No mandatory consent or minimum necessary requirements
- ❁ Right of access, notification, correction
- ❁ Individual accounting of disclosures
- ❁ Individual authorizations required

Uniform Health Care Information Act (1991)



- ❁ Exempt from Individual Authorization:
Health care operations, public health, health oversight, law enforcement, financial, any other uses required by law
- ❁ No privacy official
- ❁ Privacy notice but no policies
- ❁ Security safeguards
- ❁ Limited civil penalties

Patient Bill of Rights (2000)



- ❁ Applies to insurers and third party payers
- ❁ Makes insurers subject to provisions of Uniform Health Care Information Act
- ❁ Incorporates GLB financial privacy requirements for health insurers
- ❁ Exemptions from authorization are broader for insurer activities
- ❁ Does require privacy policies
- ❁ Penalties same as UHCIA

Governors Executive Order on Privacy (2000)



- ❁ Applies to all state government agencies and contractors
- ❁ All readily identifiable information
- ❁ Limits collection/retention of personal info
- ❁ Requires procedures to allow individual review and correction
- ❁ No authorizations or disclosure accounting

Governors Executive Order on Privacy (2000)



- ❁ Prohibits sale of personal info and release of lists for commercial purposes
- ❁ Internet privacy notice
- ❁ Agency privacy policies
- ❁ Agency privacy contacts
- ❁ Penalties for state employees include disciplinary action up to and including dismissal

Departmental Policies



- ❁ Employee Handling of Confidential Information
 - Requires agency education and training
 - Requires detailed written policies at all levels
- ❁ Release of Confidential Data/Information
 - Provide guidelines for handling and release
 - Includes data sharing templates for both internal and external release
- ❁ Web Site Consumer Privacy
 - Requires privacy notice on all agency sites

General Conclusions



- ❁ WA law has many similar privacy provisions
- ❁ WA law covers fewer entities, so some groups will need to start from ground zero
- ❁ HIPAA increases penalties and adds consent requirement
- ❁ HIPAA imposes more internal health info management requirements
- ❁ State EO requires many agencies that are exempt from HIPAA to meet similar administrative requirements

WA State Approach



- ❁ Coordinated attorney general review to release a single opinion on state laws and HIPAA privacy
- ❁ Cross connection with Washington State Bar Association
- ❁ State agencies coordinating on decisions and responses to HIPAA privacy
- ❁ Coordinated public-private sector outreach for communication on all aspects of HIPAA

Resources



Washington State Laws:

Uniform Health Care Information Act (70.02)

<http://wsl.leg.wa.gov/wsladm/rcw.htm>

Patient Bill of Rights/GLB Privacy rules

<http://www.insurance.wa.gov/tableofcontents/newrules/2000-08103.pdf>

Governor's Executive Order

http://www.governor.wa.gov/eo/eo_00-03.htm

Internet Privacy policy language

<http://www.doh.wa.gov/disclaim.htm>