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*

*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