

# HIPAA CASE STUDIES: A SURVEY OF 10 HEALTH SYSTEMS' HIPAA COMPLIANCE EFFORTS



*Presented by:*

*Margret Amatayakul, RHIA, FHIMSS*

*margretcpr@aol.com*

*Steven S. Lazarus, PhD, FHIMSS*

*sslazarus@aol.com*

# BOUNDARY INFORMATION GROUP



- ◆ Virtual Consortium of health care information systems consulting firms founded in 1995
- ◆ Internet-Based
  - Company website: [www.boundary.net](http://www.boundary.net)
  - BIG HIPAA Resources: [www.hipaainfo.net](http://www.hipaainfo.net)
- ◆ Senior Consultants with HIPAA Leadership Experience Since 1992
- ◆ Clients include:
  - Hospitals and multi-hospital organizations
  - Medical groups
  - Health plans
  - Vendors

# Workgroup on Electronic Data Interchange



- ◆ Nonprofit Trade Association, founded 1991
- ◆ 206 organizational members
  - Consumers, Government, Mixed Payer/Providers, Payers, Providers, Standards Organizations, Vendors
- ◆ Named in 1996 HIPAA Legislation as an Advisor to the Secretary of DHHS
- ◆ Website: [www.wedi.org](http://www.wedi.org)
- ◆ Strategic National Implementation Process (SNIP) - [www.wedi.org/snip](http://www.wedi.org/snip)
- ◆ WEDI Foundation formed in 2001
- ◆ Steven Lazarus, WEDI Chair

# UPDATE ON PRIVACY & SECURITY

## ◆ Privacy

- ◆ Published December 28, 2000  
*Effective April 14, 2003*  
*Guidelines to clarify and moderate issued July 6, 2001*
- ◆ NPRM for modification expected December 2001

## ◆ Security

- ◆ Proposed rule August 12, 1998
- ◆ Final rule expected 2001- 2002
- ◆ Language to be reconciled with privacy, redundancy removed.
- ◆ Will apply only to electronic and progeny
- ◆ No substantive changes.
- ◆ Separate rule for paper possible.
- ◆ Broader rule for electronic signatures in all industries, or PKI may come later.
- ◆ *One privacy standard is security*



# BIG HIPAA ASSESSMENT PROCESS

## ◆ Interviews

- Individuals & groups - all workforce members
- Purpose:
  - Ensure awareness
  - Respond to questions/concerns
  - Obtain information about current practices
  - Learn about future plans

## ◆ Observations

- Tour data center(s), file area(s), and key areas where transactions and individually identifiable health information used/disclosed
- Purpose:
  - Validate policy and procedure
  - Assess overall workflow
  - Establish context within which to make recommendations

# BIG HIPAA ASSESSMENT PROCESS

- ◆ Limited testing
  - Impersonation w/case studies to determine:
    - Help desk response
    - Release of information response
  - Shoulder surfing
  - Various logs and records reviewed
  - Key door locks tested
  - Check paper waste in trash bins
  - Third party authorization
  - Test workstations for:
    - Location
    - Password
    - Virus protection
    - Internet use, screen savers, etc.

# BIG HIPAA ASSESSMENT PROCESS



- ◆ Document review
  - Comprehensive review of policies, procedures, forms, etc.
    - Determine existence
    - Determine revision date
    - Determine internal consistency
    - Compare to HIPAA standards
- ◆ Comparison to industry practice
  - Results of security and privacy readiness are compared with findings from consultants' pool of other covered entities

# SECURITY & PRIVACY COMPLIANCE ISSUES/BENEFITS

## ◆ Security

- Revised and new policies, procedures, business associate contracts, documentation
- Significant practice changes
- Potential physical layout changes
- Technical measures to be installed

## ◆ Privacy

- Revised and new policies, procedures, consents, authorizations, agreements, notices, documentation
- Distribution of notices
- Significant culture changes: use and disclosure, patient rights, business associates
- Exercise of patient rights uncertain impact
- Does not preempt more stringent state laws

## ◆ Security standards

- Establishes baseline for all to follow, minimizing liability
- Reduces risk of wrongful disclosure
- Reduces risks associated with data integrity problems
- Promotes adoption of lower cost Internet-derived technology
- Promotes connectivity to provide availability of information

## ◆ Privacy standards

- Engages consumer in responsibility for accuracy and potentially reduces misunderstandings and potential lawsuits
- Reduces risk of wrongful disclosure and resultant harm



# DISCLAIMER



- ◆ None of the findings described herein should be attributed to any one specific BIG client or to or all BIG clients.
- ◆ These findings are representative of those commonly found in 2000-2001.

# COMMON SECURITY FINDINGS

- ◆ Information Access Control (§142.308(a)(5))
- ◆ Technical Access Control (§142.308(c)(1) (i))
  - Who authorizes access to information?
  - How is access established?
  - When is access modified?
  - Is there emergency mode access?
  - On what is access based?
- ◆ Common Findings
  - IS assigns network access
  - Mix of formal (supervisor) authorization and less formal verification approaches used for applications
  - Access modification (when workforce members change jobs) often not performed
  - Minimal role-based access is most common; user-based for physicians (and no "break glass" access)

# COMMON SECURITY FINDINGS

## ◆ Entity Authentication (§142.308(c)(1) (v))

- Is there automatic logoff?
- Is there two-tiered authentication?

## ◆ Common Findings

- Automatic logoff is generally in use, though often set for fairly long time in clinical areas
- UserID and password most common
  - Virtually no training on strong password selection
  - Multiple passwords for applications; virtually no single sign on
  - Often too frequent password change or no password change
  - Often weakest passwords and no change for network access

# COMMON SECURITY FINDINGS

## ◆ Security Incident Procedures (§142.308(a)(9))

- Is there a central place to report security incidents?
- Is it used?
- Written policy, training?

## ◆ Common Findings

- Several places to report *information security* incidents
  - Help desk
  - Security Officer
  - Compliance Officer
  - Supervisor
  - (Often not risk management)
- No written policy
- No training
- No incident tracking, trending, or monitoring

# COMMON SECURITY FINDINGS

- ◆ Termination Procedures (§142.308 (a)(11))
  - How are workforce user accounts removed?
  - Is there continuity of confidentiality requirement?
- ◆ Common Findings
  - Employment Exit check lists often not used
  - No or ineffective communication between Human Resources and I.S.
  - Check list and notification process not automated
  - Best for involuntary terminations
  - Often months to remove voluntary and contractor terminations
  - Rarely exit interview includes:
    - Reaffirmation of confidentiality agreement
    - Solicitation of security issues

# COMMON SECURITY FINDINGS

## ◆ Media Controls (§142.308(b)(2))

- Are all systems backed up? Where are backups stored?
- How is confidential paper handled? trash handled?
- Is fax receipt verified?

## ◆ Common Findings

- Often only some systems are backed up
- Usually critical system backups are stored off site; some backups stored in (removable) fireproof box on site, or even "laying around" server
- "Bee Alert" system in a few locations; most everyone has addressed white boards, marquees, and sign-ins
- Very good PHI trash control in California, lax in other areas
- Fax machine acknowledgement ■ recipient verification
- One fax best practice: return cover sheet to acknowledge receipt

# COMMON PRIVACY FINDINGS

## ◆ Sanctions (§164.530(e)(1))

- Are workforce sanctions for breaches applied fairly and consistently?
- Are they documented?

## ◆ Common Findings

- "Subject to disciplinary action, up to and including termination" standard statement
- Escalation more common than zero tolerance
  - Usually no specific escalation procedures documented
- In hospitals, sanctions process is different for physicians than for the rest of the workforce
- Volunteers are usually subject to the same sanction as employees

# COMMON PRIVACY FINDINGS

## ◆ Individual Rights (§164.520 - .528)

- Are individual rights afforded today?
- How are individuals informed of their rights?
- Is there documentary evidence of due process?
- What technical measures support privacy rights?

## ◆ Common Findings

- (.520) No one has instituted Notice of Privacy Practices (Patients Rights and Responsibilities Notice)
- (.522(a)) Restrictions not well-accommodated in systems
- (.522(b)) Confidential communications (not well understood) and not well-accommodated in systems
- (.524) Access is most commonly granted right (although somewhat begrudgingly); but no policy on or due process for denial
- (.526) Amendment is occasionally granted; but no policy on or due process for denial
- (.528) Accounting for disclosure is least common



# COMMON PRIVACY FINDINGS

- ◆ Consent (§164.506)
- ◆ Authorization (§164.508)
- ◆ Opportunity to Agree/Object (§164.510)
- ◆ Uses & Disclosures Not Requiring (§164.512)
  - Are these documents consistent with HIPAA?
  - Do individuals understand these documents?
- ◆ Common Findings
  - Virtually everyone has a consent, though generally for release of information for payment
  - Virtually everyone has authorization forms and policies/procedures when authorization is not required
  - Virtually no one gives patients opportunity to object

# COMMON PRIVACY FINDINGS



- ◆ Minimum Necessary (§164.502(b))
  - Is PHI limited to intended purpose?
- ◆ Common Findings
  - Most still are confused as to what this pertains to
  - Few understand how they will carry out minimum necessary

# COMMON PRIVACY FINDINGS



- ◆ Organizational Relationships (§164.504)
  - Are organizational relationships clear?
  - Are they documented?
- ◆ Common Findings
  - Most providers understand they are covered entities
  - Many organizations are confused concerning relationships to other organizations *vis-à-vis* business associates, especially affiliated physician groups

# COMMON SECURITY/PRIVACY ADMINISTRATIVE FINDINGS

- ◆ Information Security Responsibility (§142.308(b)(1))
- ◆ **Information Privacy Official** (§164.530)
  - Have these been appointed?
  - To whom do they report?
  - Do all members of workforce know who they are?
- ◆ Common Findings
  - Appointment and reporting relationship varies
  - Many seem to think they know who they are!
- ◆ Training and Awareness
  - Little *information* security training or awareness
  - Good *information privacy* awareness; less training

# HIPAA READINESS

