

HIPAA and Academic Medical Centers, Colleges and Universities

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Introduction

- HIPAA Challenges for AMCs, Colleges and Universities
- Addressing HIPAA at Harvard
- Impact of HIPAA on Research

Compliance Strategies

- Why identify covered entities, hybrid entities and covered components?
 - Entities/components subject to HIPAA compliance requirements
 - Workforce of entities/components subject to HIPAA compliance training
- Status of University and AMC
 - University is a “hybrid entity”
 - Primary purpose is education

Compliance Strategies

- AMC organized as a separate legal entity is a covered entity
- If AMC is not organized as a separate legal entity, AMC is a covered component (at least in part) of a hybrid entity
- NPRM - eliminates primary purpose test
 - AMC may be a hybrid entity with covered (and noncovered) components

Compliance Strategies

- Potential hybrid entities and covered components
 - Medical school/dental school
 - Clinic services
 - Clinical education
 - Research related treatment
 - Faculty practice plans
 - School of Public Health
 - School/Department of Social Work
 - School/Department of Psychology

Compliance Strategies

- School/Department of Nursing
- Student Health Centers/Infirmaries
- Employee Clinics
- Department of Athletics
- On-site day care
- Student counseling services
- Human Resource Department
 - Employer sponsored health and dental plans
 - Self-insured health and dental plans
 - Flexible spending accounts

Compliance Strategies

- Medical co-payment reimbursement programs
 - NPRM - providers who do not engage in standardized transactions need not be included in covered component
- Offices/workforce that provide “business associate” functions for hybrid entity or covered component
 - legal staff
 - IS staff

Compliance Strategies

- Accounting staff
- Risk management/compliance
- Patient advocate programs
- Volunteers
- Deans?
- Senior management?
- Governing board?

Compliance Strategies

- FERPA (Family Education and Privacy Act) exception for student health/education records
 - Status of prospective students, summer students, recent graduates, visiting parents, other visitors

Compliance Strategies

- Single vs. multiple privacy officers/
compliance offices
 - Reporting line/access to governing board
- Designation and documentation
requirement
 - Designation by vote of governing board
 - Who has authority to designate for public
University/AMC?

Compliance Strategies

- Facilitating flow of PHI within University
 - Affiliated Covered Entities (ACEs) -- common ownership (5% or more) or control
 - Organized Health Care Arrangements (OHCAs) -- clinically integrated care setting or held out to public as joint arrangement for UR, QA or financial risk sharing purposes
 - ACEs and OHCAs can use joint Consents and Notices
 - Can share PHI for TPO purposes of disclosing entity

Compliance Strategies

- ACEs need unified administration of patient rights
- NPRM - would eliminate Consent requirement/would require acknowledgement of receipt of Notice
- The Problem of Faculty Practice Plans
 - May not be ACE
 - May not be an OHCA for office-based services
 - Medical staff and AMC are an OHCA for hospital-based services
 - May need separate Consents and Notices

Compliance Strategies

- The Problem of Voluntary and Part-time Faculty
- The Problem of Physicians-In-Training, including rotations from outside institutions
 - Covered workforce?
 - Business associates?
 - OHCA?
 - Implications for training and compliance responsibility
- Business Associate Contracts

Addressing HIPAA at Harvard