The HIPAA Summit West

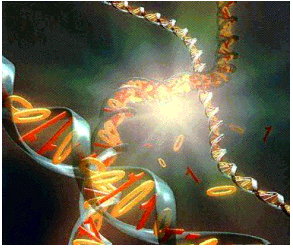## Operational Management and HIPAA Compliance

Becky Busch, RN, MBA, CCM, CFE, FHFMA

President, MBA, Inc.

Oakbrook, IL

June 22, 2001

What's the big deal about PRIVACY?

➢ **The explosion of access to electronic information leaves us all vulnerable to abuse**

➢ **Search your own name on the Internet – you may be surprised where your personal information shows up**

➢ **Many other industries have already responded to the privacy crisis with special policies and provisions to protect the individual's right to privacy**
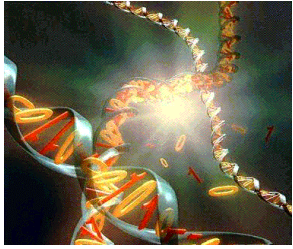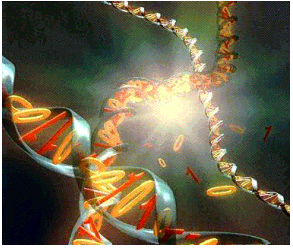
A Case in Point
HIPAA Summit West 2001

The *www.HIPAASummit.com* Web Site is sponsored by the National HIPAA Summit (the HIPAA Summit)

The HIPAA Summit Privacy Policy explains how they may collect, use and aggregate personal information about you on their Web Site.

"The HIPAA Summit respects your personal privacy and is committed to protecting it."

The conference registration form *requires* you to give them personally identifiable information, including your name, title, address, phone, fax and e-mail address (i.e., Contact Information).
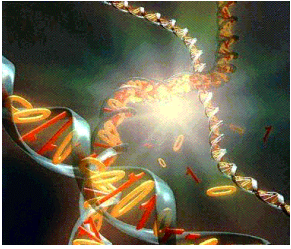
"We do share Contact Information with associations, organizations and publications which sponsor the HIPAA Summit."

History of Privacy
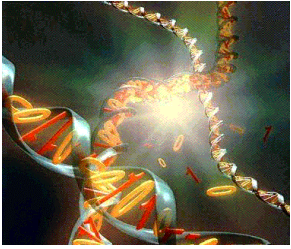## 24+ legislated Privacy Mandates

- 1965 the House of Representatives created a special subcommittee on Invasion of Privacy
- 1970 Fair Credit Reporting Act addressed individual privacy issues
- 1973 The Department of Health, Education and Welfare issues the Code of Fair Information Practice Principles establishing a baseline for information privacy in the U.S.
- 1974 Federal Privacy Act & Family Educational Rights and Privacy Act
- 1978 Right to Financial Privacy Act
- 1980 Privacy Protection Act
- 1986 The Electronic Communications Privacy Act
- 1988 Video Privacy Protection Act
- 1988 Employee Polygraph Protection Act
- 1991 The Telephone Consumer Protection Act
- 1994 The Drivers Protection Act

History of Privacy Continued
24+ legislated Privacy Mandates

➢ 1995 The European Union (EU) adopted a data privacy directive

➢ 1996 The Telecommunications Act & HIPAA (public law 104-191)

➢ 1997 The Advisory Commission on Consumer Protection and Quality in the Health Care Industry recognized the need for privacy in its Consumer Bill of Rights and Responsibilities

➢ 1997 Congress enacted the Balanced Budget Act which added language to the Social Security Act to require Medicare + Choice organizations to establish safeguards for the privacy of individually identifiable information

➢ 1998 Children's Online Privacy Protection Act (protection of children interacting with web sites)

➢ 1998 Identity Theft and Assumption Deterrence Act

➢ 1999 Financial Modernization Bill (financial privacy protections for consumers)

➢ 2000 Executive Order #13145, banning the use of genetic information in federal hiring and promotion decisions

➢ 2001 HIPAA Sections 126-264 known as Administrative Simplification provisions adopted; Section 262 contains the simplification provisions
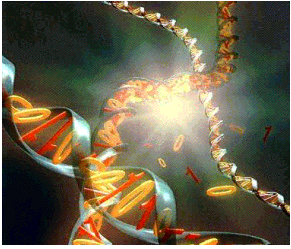
HIPAA and PRIVACY

Health Insurance Portability & Accountability Act of 1996:

Second Final Regulation - Standards for Privacy "Individually Identifiable Health Information may not be disclosed"

➢ Privacy is a fundamental right

➢ To improve the efficiency and effectiveness of health care system

➢ To develop a health information system for electronic transmission of certain health information

➢ To establish standards and protections for health information systems

Why we needed HIPAA

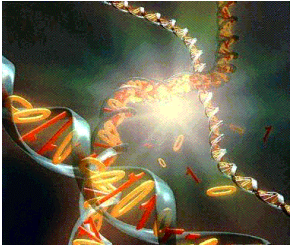## Three Major Purposes:

➡ **Provide consumers access to their health information and control inappropriate use of that information**

➡ **Restore trust in the health care system to improve the quality of health care**

➡ **Create a national framework for health privacy protection**
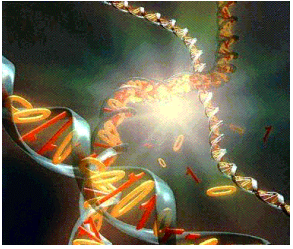
Why else we needed HIPAA

➡ **Electronic storing and transmitting of health information allows for greater breach of privacy**

➡ **Many state rules fail to provide basic protections such as patient's legal right to see own medical record**

➡ **Average of 150 people have access to patient's medical records during typical hospitalization (e.g., nursing staff, x-ray techs, billing clerks)**

Who must comply?

➡ **Health care plans**

➡ **Health care clearing houses**

➡ **Health care providers**

Why Comply?

➡ A fine of not more than $50,000 and/or imprisonment of not more than 1 year

➡ If offense under "False Pretenses," a fine of not more than $100,000 and/or imprisonment of not more than 5 years

➡ If offense is "With intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm," a fine of not more than $250,000 and/or imprisonment of not more than 10 years
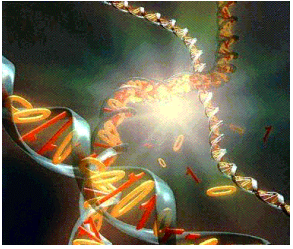
How to comply?

An Enterprise Approach to
HIPAA IMPLEMENTATION
STRATEGY...

➡

➡ **Security risk management**

➡

Key OPERATIONAL ISSUES in managing HIPAA RISK

➡ **Identify your Health Information Pipeline**

➡ **Internal & External Exchanges of Verbal information**

➡ **Internal & External Exchanges of Written Information**

➡ **Internal & External Exchanges of Electronic Information**

What OPERATIONAL ACTIVITIES require the use of "INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION"?

- Administrative Functions

- Patient Care Functions

- Managed Care Functions

- Financial Management Functions

- Research Functions

- Community Service Functions

Examples of HEALTH CARE OPERATIONS that use PATIENT IDENTIFIABLE INFORMATION

60+ Operational Activities

QA, outcome measurements, clinical pathways, cost studies, protocol development; case management; care coordination; contacting health care providers and patients with treatment alternatives; population based studies, conducting training; reviewing competence or qualifications of health care professionals, evaluating practitioner and provider performance; health plan performance; conducting training programs; accreditation; certification; licensin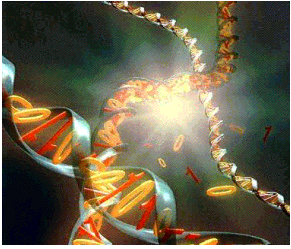g; credentialing; underwriting; premium rating; creation, renewal or replacement of contract health insurance or health benefits; ceding securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance) conducting medial reviews, legal services, auditing functions, including fraud and abuse detection, compliance program; business planning and development, cost-management studies; planning-related analyses related to managing and operating the entity, including formulary development and administration; development or improvement of methods of payment or coverage policies; and business management and general administrative activities of the entity including but not limited to: management activities relating to implementation of and compliance, customer service, resolution of internal grievances, due diligence in connection with sale or transfer, fundraising benefits, and marketing activities.

How does IDENTIFIABLE PATIENT INFORMATION move through HEALTH CARE?

Identify your Organization's

Health

Information

Pipeline

The HEALTH INFORMATION PIPELINE

Bed Request

Pre-Admission

Admission

In-house

Discharge

22% of Medicare recipients have 2 chronic conditions

Average of 3.2 MD's are involved per diagnosis

Discharged - Not final billed / coded

Bill printed

Billed A/R

Bill submitted

Account Follow-up

Account Collection

Account Resolution

$ $ $ $ $ $

Providers

MBA, Inc. Copyright, 2001.
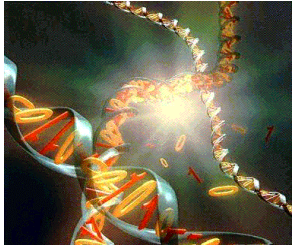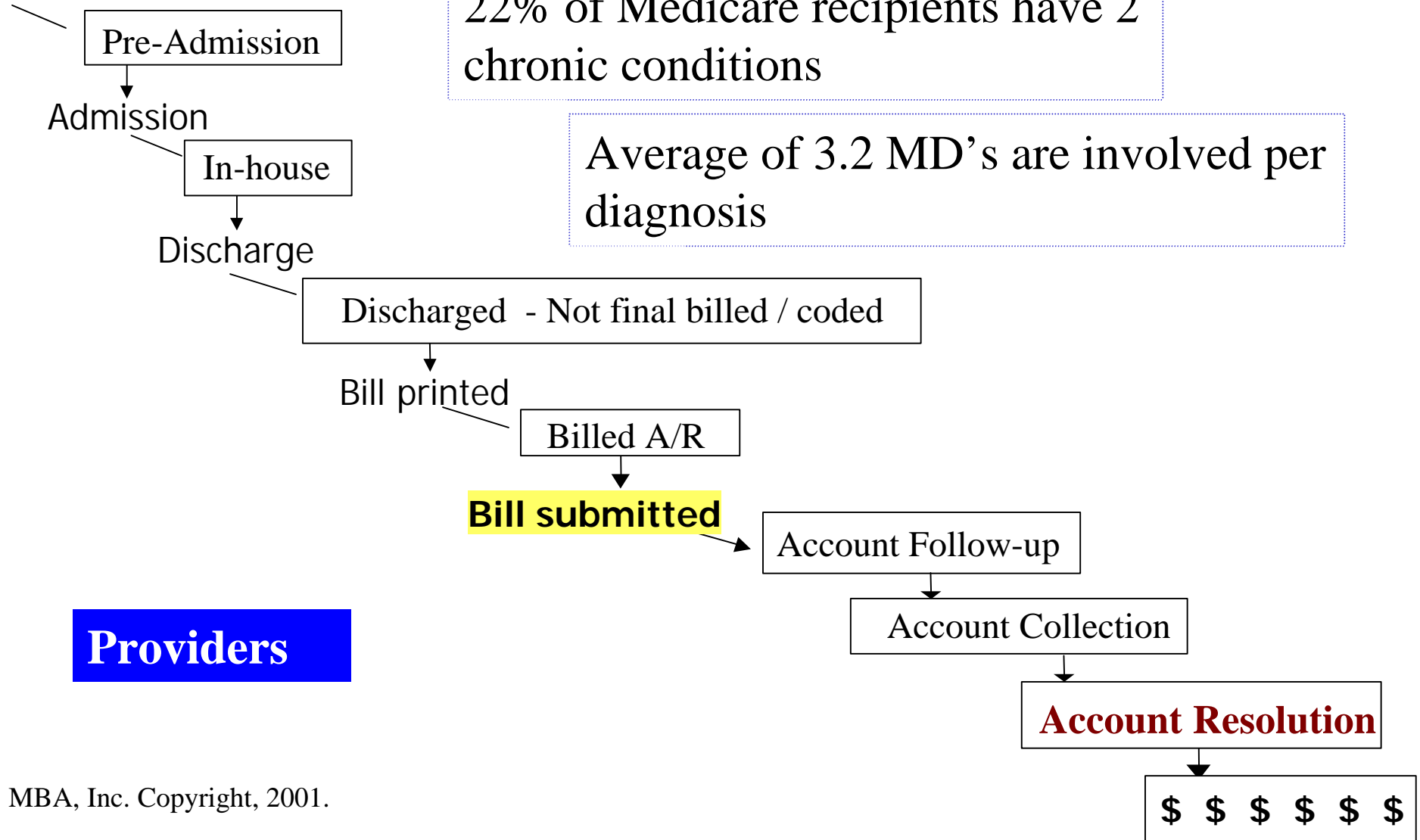
What drives the HEALTH INFORMATION PIPELINE?

↓

↓

Other Activity

The HEALTH INFORMATION PIPELINE

Bed Request

Pre Admission

Admission

In house

Discharge

Discharged   Not final billed / coded

Bill printed

Billed A/R

Bill submitted

Account Resolution

$$ $$ $$

Employee Issues: background checks NY case registration clerk downloaded patient demographic information for credit card fraud. An employee of the Tampa, Florida health department took a computer disk containing the names of 4,000 people who had tested positive for HIV (USA Today, October 10, 1996) A patient in a Boston-area hospital discovered that her medical record had been read by more than 200 of the hospital's employees (The Boston Globe, August 1, 2000)

In 1993, the Boston Globe reported that Johnson and Johnson marketed a list of 5 million names and addresses of elderly incontinent women (ACLU Legislative Update, April 1998)

A Utah-based pharmaceutical benefits management firm used patient data to solicit business for its owner, a drug store (Kiplingers, February 2000)

Vendors such as onsite renal dialysis, outsourcing entities that provide direct and indirect patient care: pharmacies, rehab services.

Right to audit clauses.

Amendment procedures by patients and or others

MBA, Inc. Copyright, 2001.

Who Shares Private Information?

consulting physicians
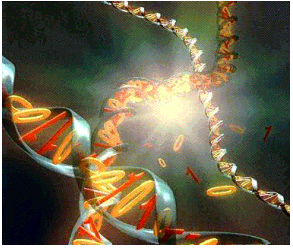
➡

➡

➡

➡   -insured employers
pharmacies
➡ pharmacy benefit managers
➡ clinical laboratories
➡ accrediting organizations
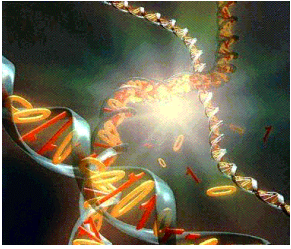➡ state & federal statistical agencies
➡ medical information bureaus

Who Gets Private Information?

community-
➡ nurses
➡ hospitals
➡ health care organizations & institutions
➡ employer benefit plans
➡ payers
➡ third party administrators
➡ government agencies
➡ employer benefit plans
➡ suppliers of products and services
➡ pharmaceutical companies & pharmacies
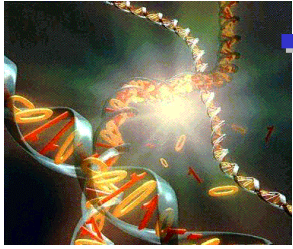➡ educational institutions

How does a BREACH occur?

➡ P hysical exchange of paper

➡

➡

➡ Intranet and Internet exchanges

➡

The HEALTH INFORMATION PIPELINE

Bed Request

Pre-Admission

Admission

In-house

Discharge

Discharged - Not final billed / coded

Billed A/R

Bill submitted

Account Follow-up

Account Collection

Account Resolution

$ $ $ $ $ $
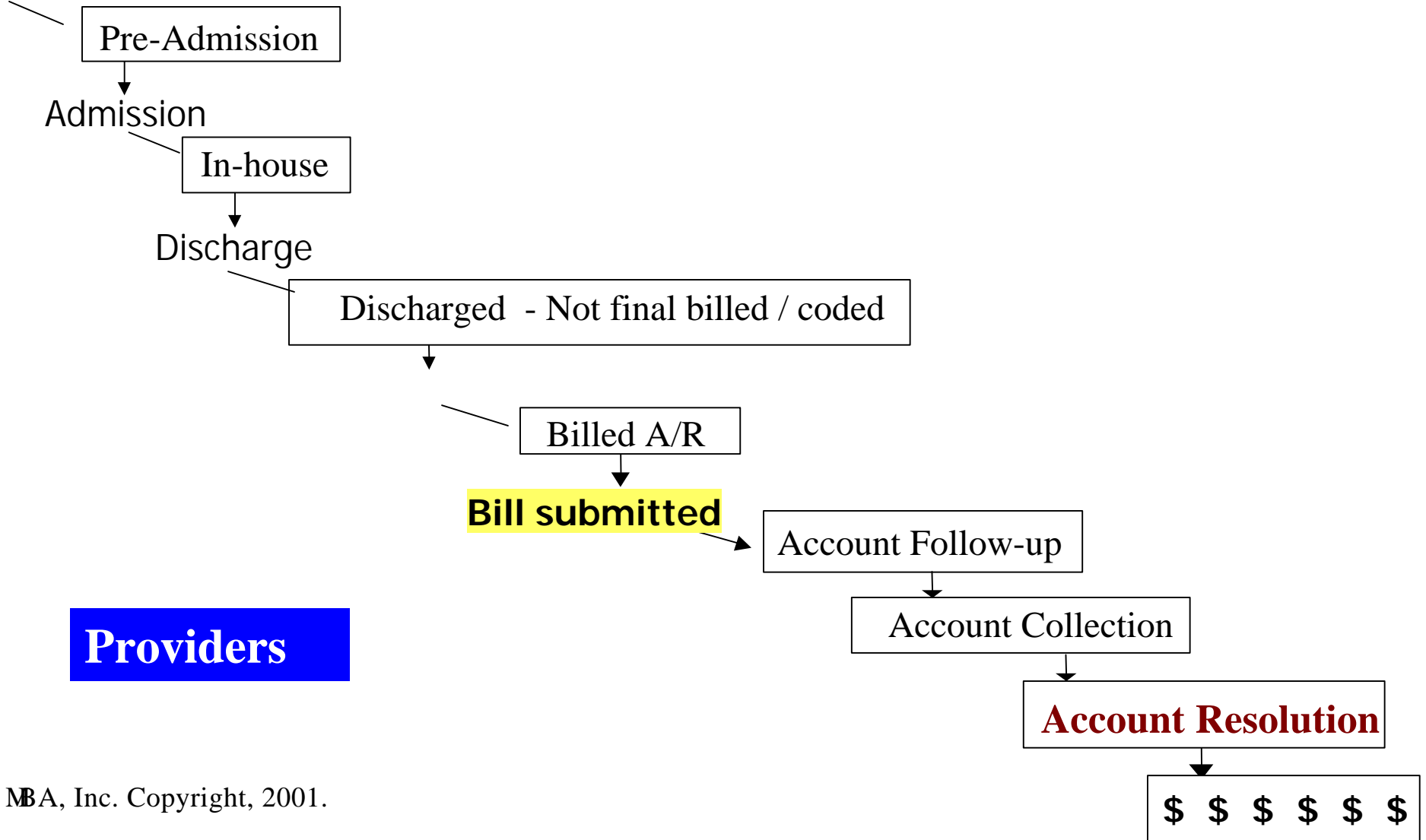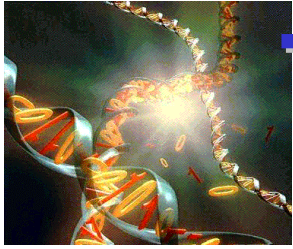
Providers

The HEALTH INFORMATION PIPELINE

Provider Bill Submitted

Repricing firm/TPA receives bill

Re Pricing Firms

In-house contract processing

Resubmit to Payor/TPA

Adjudication

Denial/Approval

Payment

Provider Processing

Provider Follow Ups

Account Resolution

$ $ $ $ $ $
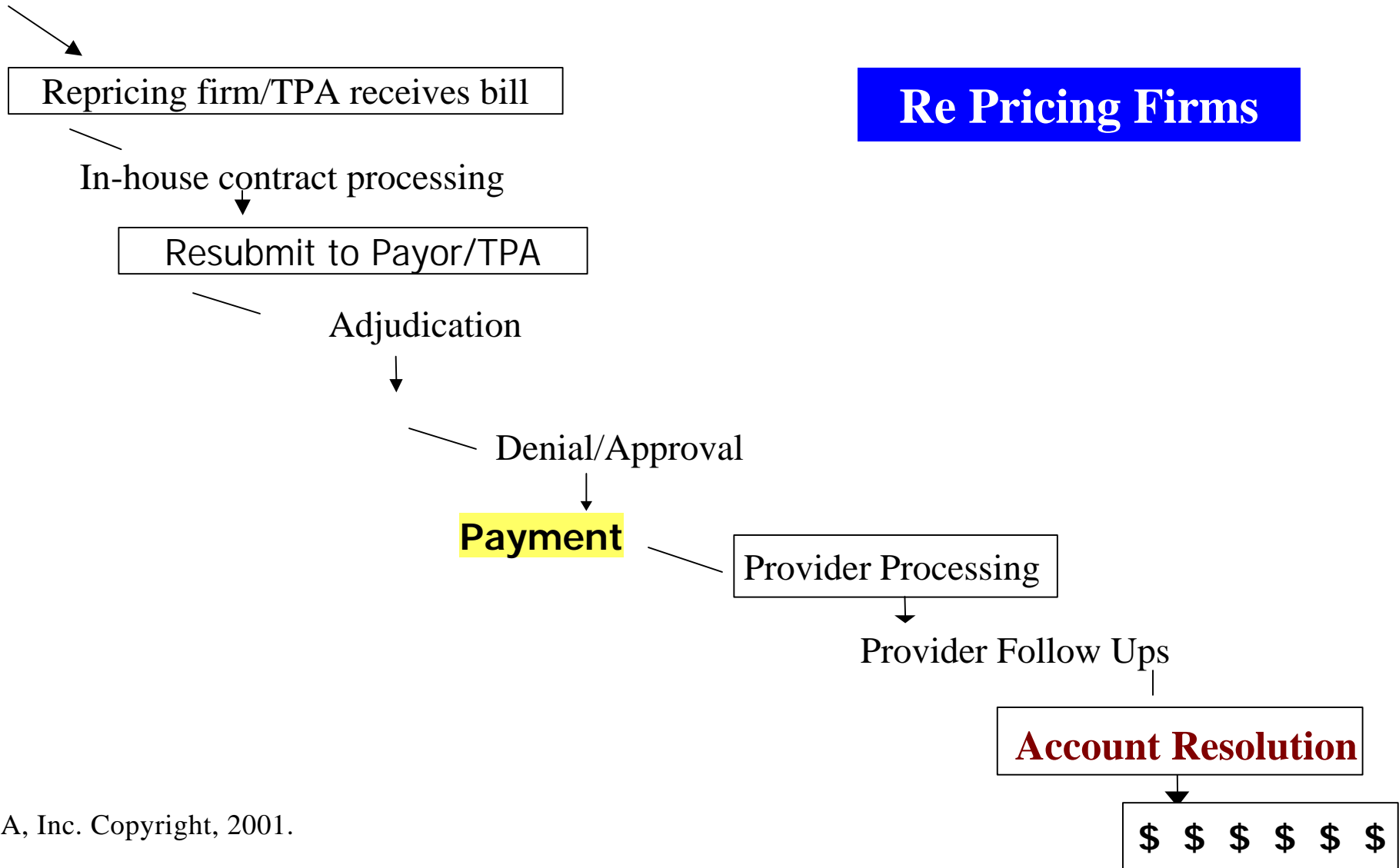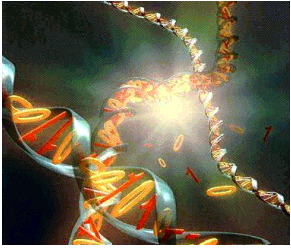
Examples of EXCEPTIONS to the RULE

Consent Issues:

➡ disclosure of health information for treatment and related purposes

➡ utilization review and similar activities

➡ obtaining payment

➡ emergency care

➡ disclosure to government entities

➡ law enforcement

➡ coroners

➡ business operations

➡ oversight & research disclosure

The HEALTH INFORMATION PIPELINE

Bed Request

Pre-Admission

Admission

In-house

Discharge

Discharged - Not final billed / coded

Bill printed

Billed A/R

Bill submitted

Account Follow-up

Account Collection

Account Resolution

$ $ $ $ $ $

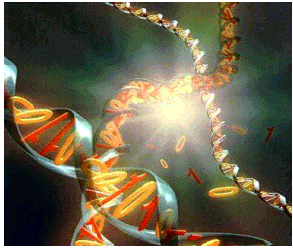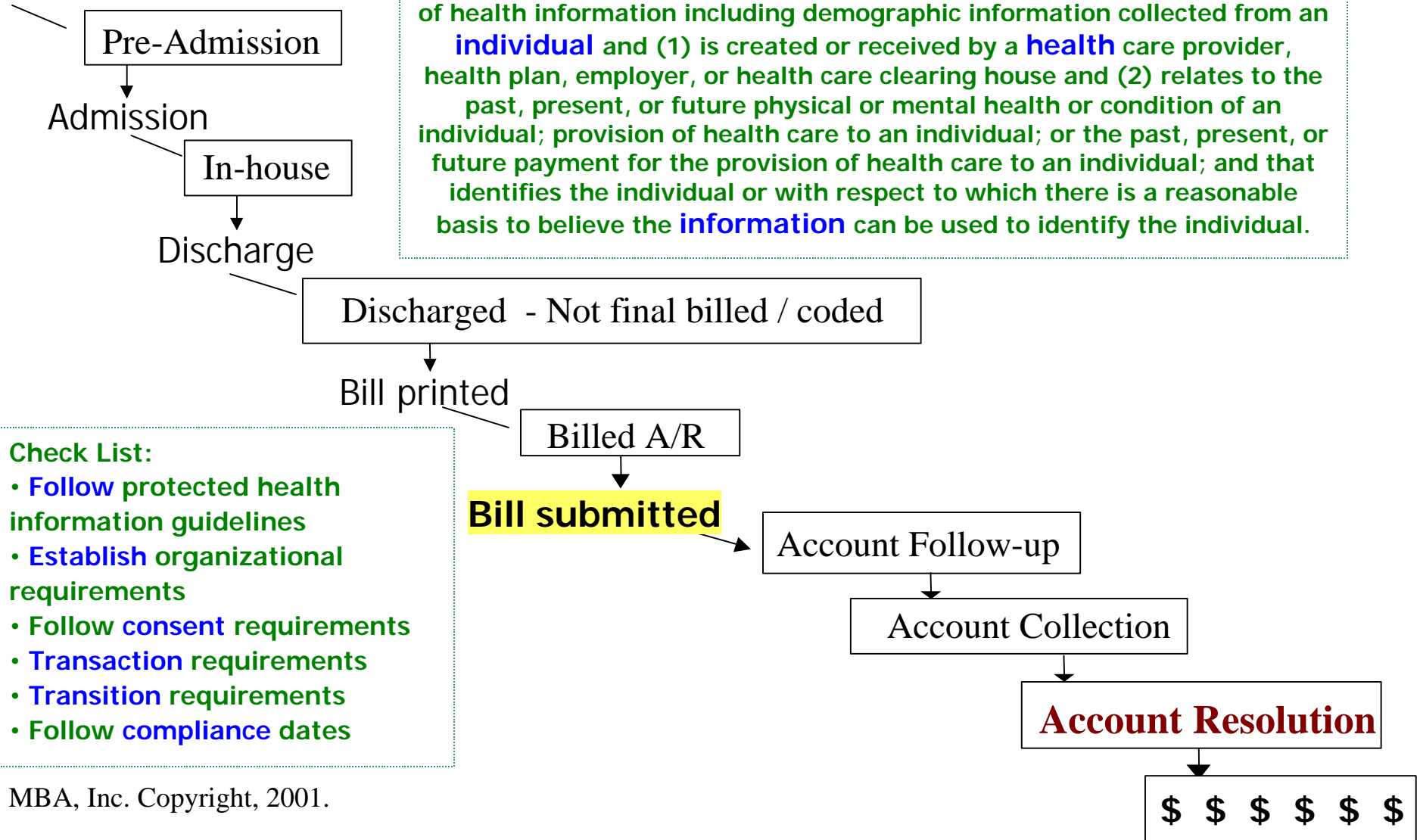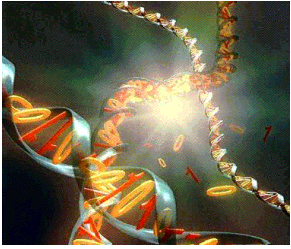Individually **identifiable** health information is information that is a subset of health information including demographic information collected from an **individual** and (1) is created or received by a **health** care provider, health plan, employer, or health care clearing house and (2) relates to the past, present, or future physical or mental health or condition of an individual; provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the **information** can be used to identify the individual.

Check List:
• **Follow** protected health information guidelines
• **Establish** organizational requirements
• **Follow** consent requirements
• **Transaction** requirements
• **Transition** requirements
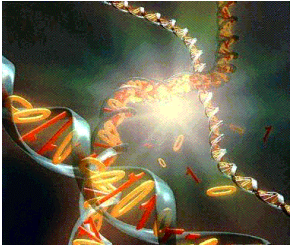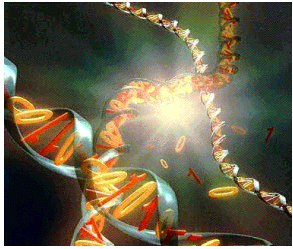• **Follow** compliance dates

MBA, Inc. Copyright, 2001.

REVIEW: How measure your OPERATIONAL ACTIVITIES?

✓ **Identify Your Organization's Health Information Pipeline**

✓ **Perform Operational Assessment to identify potential "weakest links" for Individually Identifiable Health Information**

✓ **Develop an Implementation Strategy that includes processes for both identified and de-identified health information**

MBA, Inc. Copyright, 2001.

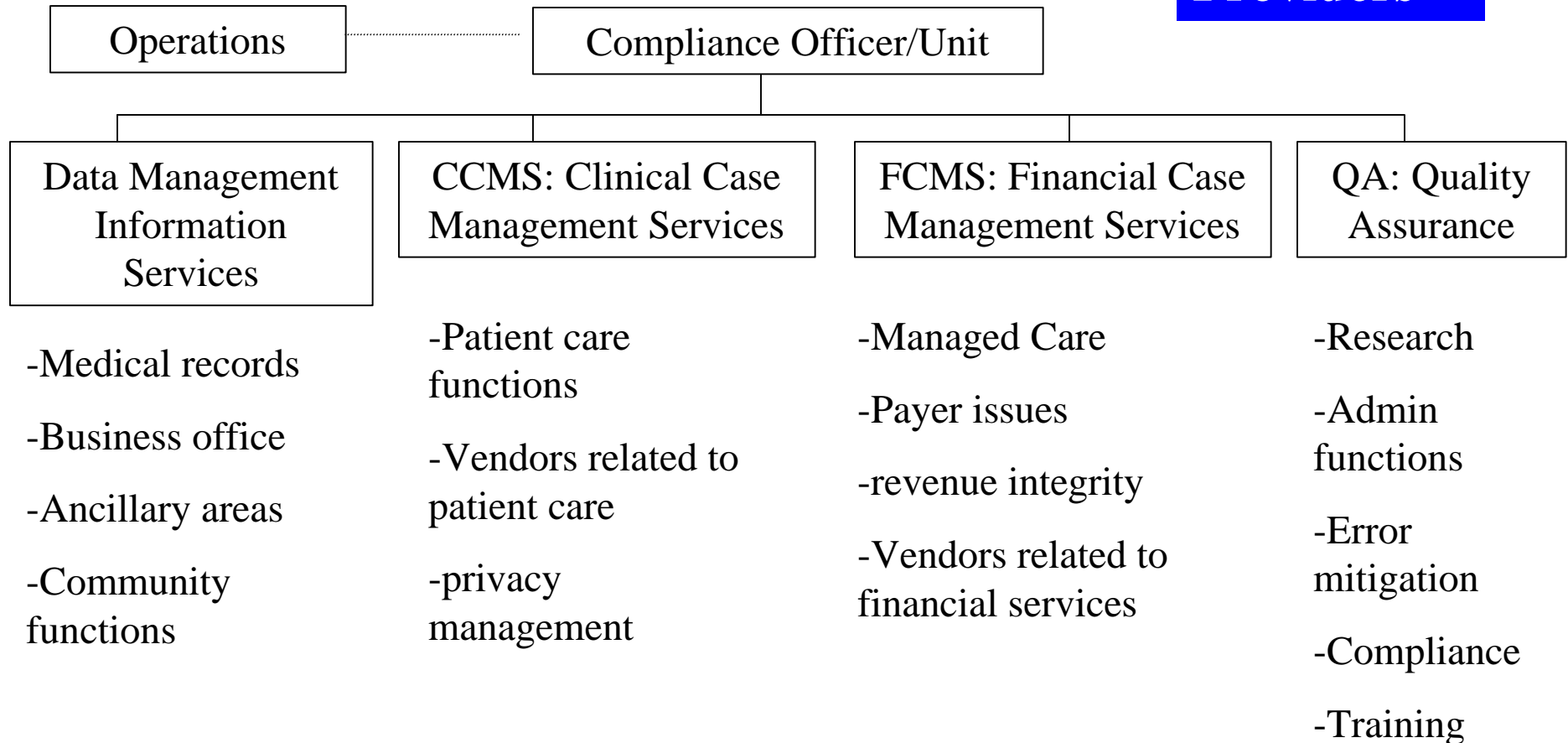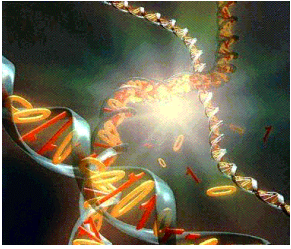# REVIEW: How measure your OPERATIONAL ACTIVITIES?

✓ **Double check your Implementation Strategy with your attorney**

✓ **Seek out governmental resources to verify your compliance**

✓ **Stay on top of amendments to HIPAA policies and procedures**

IDEAL WORLD: A Model to Manage Change

Providers

Operations	⋯⋯	Compliance Officer/Unit

Data Management Information Services	CCMS: Clinical Case Management Services	FCMS: Financial Case Management Services	QA: Quality Assurance

-Medical records

-Business office

-Ancillary areas

-Community functions

-Patient care functions

-Vendors related to patient care

-privacy management

-Managed Care

-Payer issues

-revenue integrity

-Vendors related to financial services

-Research

-Admin functions

-Error mitigation

-Compliance

-Training

Contact Information

Becky Busch, RN, MBA, CCM, CFE, FHFMA

Becky@mbanews.com

Office 630-574-2756
Fax 630-574-2755
Cell 630-816-3648

MBA, Inc.
1301 West 22nd Street, Suite 215
Oak Brook, IL 60523