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

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March 15, 2002

BOUNDARY INFORMATION GROUP

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

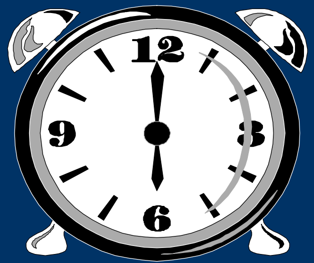
Workgroup on Electronic Data Interchange

- 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
- Strategic National Implementation Process (SNIP) - www.wedi.org/snip
- WEDI Foundation formed in 2001
- Steven Lazarus, WEDI Chair (2001-2002)

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 early 2002

- Security
  - Proposed rule August 12, 1998
  - Final rule expected 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
  - User ID 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-vie* 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 References

- DHHS Administrative Simplification
  - aspe.os.dhhs.gov/admnsimp
- WEDI SNIP
  - snip.wedi.org
- Boundary Information Group
  - www.hipaainfo.net

HIPAA READINESS