

Overcoming Organizational Resistance to HIPAA Compliance

Anna Slomovic

Vice President for Public Policy

FHC Health Systems

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Organizational "physics"

An organization at rest tends to stay at rest and an organization in motion tends to stay in motion with the same speed and in the same direction **unless acted upon by an unbalanced force**

With apologies to Sir Isaac Newton

"We don't have to worry about HIPAA"

- "We don't deal with medical records"
 - Explain the definition of PHI
- "I am not a clinician"
 - Define everyone's responsibilities
- "We give data to customers because it's their data"
 - Discuss data control provisions
- "We already worry about patient privacy"
 - The One Minute Assessment

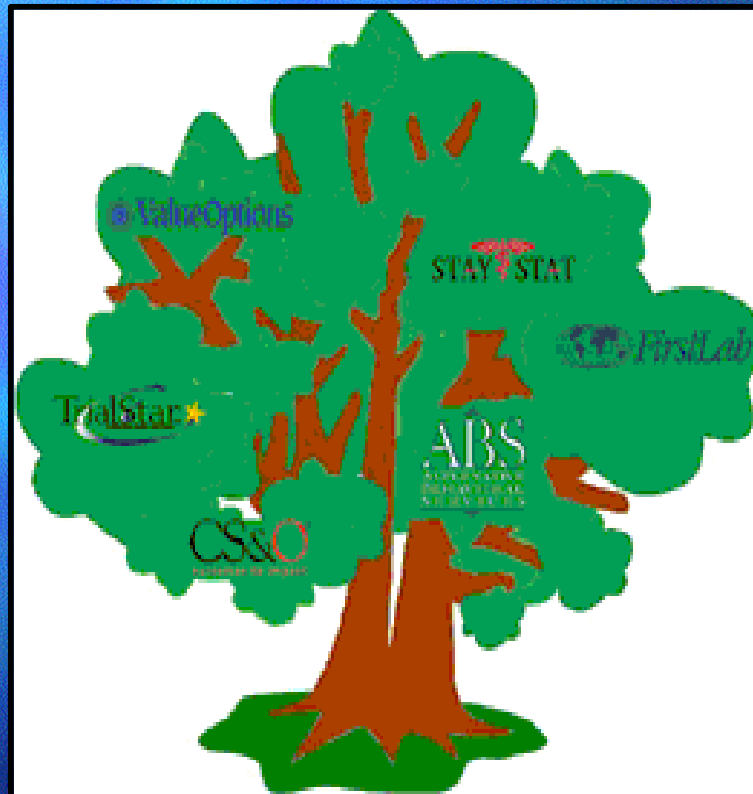
Outline

- EHC Health Systems and ValueOptions
- Approach to HIPAA implementation
- From implementation to compliance

FHC Health Systems

ValueOptions:
managed behavioral health, including mental health, substance abuse and workplace services

CS&O: Internet-based outcomes management, service tracking and survey tools



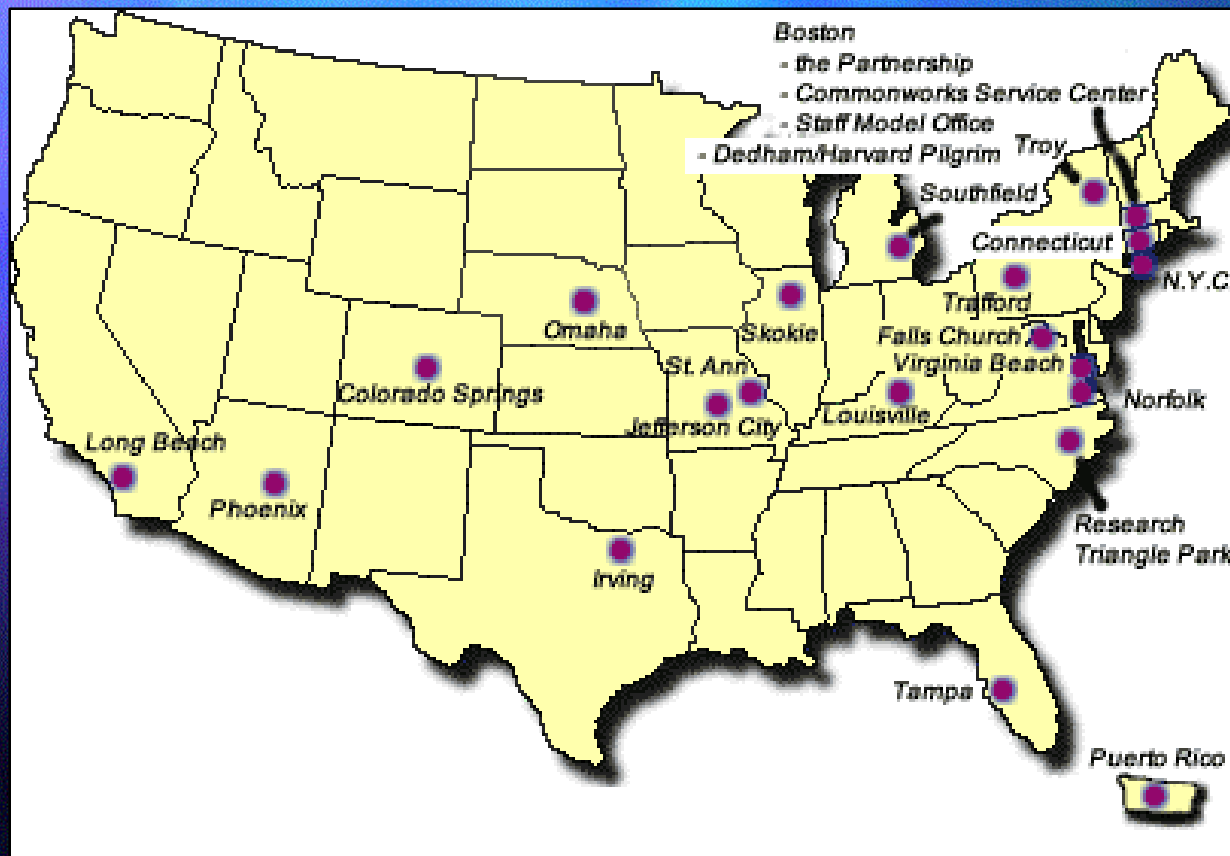
StayStat: personal medical information manager

FirstLab: TPA for drug and alcohol testing programs, Clozapine Support Services, general lab services

ABS: behavioral health services, including acute psychiatric care, residential, therapeutic group homes, therapeutic foster care, alternative and special education.

ABSolute IS: practice management software for behavioral health

ValueOptions



Covered Lives: 23 million
Customers: 1,000+
Contracted Providers: 40,000+
Contracted Facilities: 2000+
Locations: 20
Subsidiaries: 25
Employees: ~4100
Licenses: ~ 75

"Layered" HIPAA-related issues

- Several types of "covered entities" and business associates
- Multiple covered functions within one entity
- Required variations based on market segment and customer requirements
- State law pre-emption

Mental health and substance abuse often have greater protection than other health information

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What Type Of "Covered Entity" Is ValueOptions?

- Provider
 - EAP "staff model"
 - Walk-in clinics
- Health Plan
 - HMO
- Business Associate
 - UM/TPA
 - Case manager
- Not covered
 - Housing
 - Foster placement



*Affiliated
Covered Entity,
Health Plan*

**Relationship varies
in each contract**

Operational Implications of HIPAA Privacy Final Rule

- Agreement on common elements for all operations
 - Notices
 - Policies, procedures and forms
 - Business Associate and confidentiality agreements
 - Product and service offerings
- Operating within a multitude of state and federal laws
 - Service centers serving multiple states
 - Customers with members in multiple states
 - Evolving judicial and regulatory environment and public interest in privacy issues

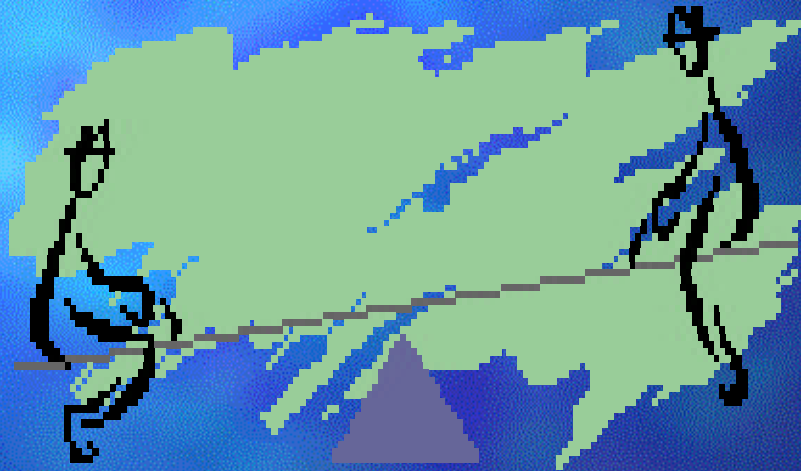
Specific Operational Issues

- Data communicated to clients
 - Reporting what and to whom
 - Under what conditions (e.g., employer certifications)
- Member access to own information
 - Data set that can be inspected
 - Process for processing inspection requests
 - Process for allowing member to request amendment to own record or to insert note of disagreement with refusal
- Audit (6 years)
 - Tracking that valid authorization has been received
 - Tracking who accessed record and for what purpose
- “Minimum necessary” disclosure
 - Defining “role-based” access
 - Defining and reviewing releases based on type of request

Designing An Implementation Program

Centralized

Decentralized



Guidance from the center
Details from the field
Maximum peer-to-peer interaction

Chosen Approach: A Privacy Program

*Privacy Coordinators
Network (PCN)*

Service centers
Corporate departments



- Central project plan, updated twice a month
- Dedicated project manager
- Group meets by phone twice a month
 - Working sessions
 - Overall updates
- Project detail added by PCN for own function or SC

Break Large Effort Into Segments

Relationships with members

- Notice of practices
- Consent, authorization, opportunity to object
- Access, accounting, amendment
- Alternative communication
- Restriction on further disclosures
- Personal representatives
- Problem resolution

Relationships with other entities

- Business associate provisions
- Routine disclosures
- Responding to RFIs

Relationships with providers

- Consent and authorization
- Secure data exchange



Internal operations

- Confidentiality policies
- Disclosure by computer, phone, fax
- Use of information off-site
- Role-based access
- Security enhancements
- Review of uses
- Verification of identity
- De-identification of data
- Staff training
- Mitigation of breaches
- Revision of ERISA docs and HR operations

Relationships with customers

- Releases by customer type
- Applicability of state laws
- Contractual arrangements

Corporate Center's Role in HIPAA Implementation

- Remediate information systems for Transactions and Code Sets
- Deploy systems capabilities to meet privacy and security requirements
- Guide and coordinate the PCN
- Update project plan and report to executive sponsors
- Develop templates for tools and training materials
- Develop policies, procedures and forms when centralization makes sense
- Coordinate state law preemption analysis
- Coordinate HIPAA initiatives with other corporate initiatives

Field Office Roles in HIPAA Implementation

- Understand the regulations
- Track HIPAA developments in the state and share with PCN and Corporate
- Work on implementation with the PCN
 - Modify tools and forms as necessary
 - Collect information about operations
 - Implement policies and procedures developed by PCN
- Work with Corporate IT on Transactions and Code Sets remediation, privacy and security
- Educate service center workforce and other stakeholders

Peer-to-Peer Interactions

- Market segment work groups (employers, health plans, public sector)
 - Discuss issues and examples
 - Design Designated Record Sets
 - Review draft policies and procedures
 - Create uniform processes and work flows
- Share what works across work groups
 - "HIPAA tickets"
 - Training experience and materials

The Balancing Act

Advantages:

- Drives understanding through the organization
- Uses local knowledge
- Integrates with corporate initiatives



Challenges:

- Time-intensive
- Difficult to balance with other job responsibilities for PCN
- Logistically complex

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Does Your Organization Need A Privacy Function?

Privacy Officer

- Track privacy laws, regulations and court cases in multiple industries
- Balance business and privacy concerns
- Participate in new product development
- Work on breaches of privacy

Compliance Officer

- Track healthcare laws, regulations and court cases
- Balance business and all compliance considerations
- Participate in new product development
- Work on compliance problems, including breaches of privacy

Privacy is highly visible among regulators and plaintiff's lawyers!

Fold Privacy Into General Compliance

- Incorporate HIPAA requirements into existing P&Ps
- Use the same coordination and approval mechanisms when appropriate
- Use the same training and implementation processes when appropriate

HIPAA is an opportunity to examine and improve existing compliance structures

Create Many Experts

- Local privacy and compliance committees
- Databases of answers
 - Proposals
 - Questionnaires
 - Contract clauses and forms
- Easy access to centralized resources
 - HIPAA implementation team
 - Intranet-based information
 - External resources

*It's much easier to provide evidence of compliance
if everyone knows how to spell HIPAA!*

"An Unbalanced Force"

Become an expert

Be patient and persistent

Make noise

Help with the work

Questions? Comments?



Anna.Slomovic@fhchealthsystems.com