

The Spirit of HIPAA

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The eHealth Colloquium

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The Ministry of the Spirit of HIPAA

Brother and sisters, come with me to the promised land of privacy, security and safety. Surely goodness, mercy and good healthcare will be with you for all the days of your life, if your individually identifiable health information is safe from prying eyes. And surely, so protected, you will dwell in the House of HIPAA forever. HALLELUJAH. PRAISE HIPAA.

Take the HIPAA Pledge

“I pledge to preserve, protect, and defend the security, privacy & confidentiality of individually identifiable health information to the best of my ability & and in furtherance of the best interests of patients.”

The Rest Is Commentary



The HIPAA typically sleeps during the day & maintains activity at night. HIPAAs are extremely graceful in the water, despite their clumsy appearance. They can sink to the bottom of rivers & literally walk or run along the bottom. HIPAAs may occur singly or in groups of up to 30. The central core of HIPAA social groups appears to be females with their dependent offspring. Adult males vie for control of these herds. Aggression between HIPAA males is intense. Losing males are often relegated to a solitary HIPAA existence.

Law & Policy

- **President Clinton, 1997 State of the Union Address: “Now we should connect every hospital to the Internet so that doctors can instantly share data about their patients with the best specialists in the field.”**



Confidentiality

- **Technology vs. DTM (Dead Tree Media)**
- **Electronic medical records**
- **Store & forward vs. real time: back-up & purge**
- **Encryption, decryption & authentication**
- **Hospital elevators**
- **Internet**

The Internet Is The Network

Individual PC

Local/Wide
Area Network

Servers/BackUp

The Internet

The diagram illustrates the Internet as the central network. At the bottom, the text 'The Internet' is written in blue. Three arrows originate from this point: a purple arrow pointing left towards 'Individual PC', a green arrow pointing up towards 'Local/Wide Area Network', and a yellow arrow pointing right towards 'Servers/BackUp'. The background is a dark red gradient with a curved white line at the top.



On the Internet, nobody knows you're a dog

HCFA Internet Security

- **5 USC Sec. 552a "(e) Agency Requirements. - Each agency that maintains a system of records shall - (10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained...."**

HCFA Internet Security Policy

- **1998 Internet Communications Security & Appropriate Use Policy**
- **An acceptable method of encryption**
- **Authentication or identification procedures**
- **Temporary measure in anticipation of HIPAA implementation**

HIPAAhopping: Introduction

- **Health Insurance Portability and Accountability Act of 1996**
- **“Administrative Simplification”**
- **Standards for electronic exchange of medical information**
- **Unique health identifiers for individuals, employers, health plans, & providers**

HIPAAhopping: Safeguards

- **Transmission of health information in electronic form**
- **Ensure integrity & confidentiality of information**
- **Protect against reasonably anticipated threats/hazards to security/integrity**
- **Prevent unauthorized use/disclosure of information**

HIPAAhopping: Applicability

- **Health plan**
- **Health care clearinghouse**
- **Health care provider**
- **Will affect all who deal with them**
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HIPAAhopping: Single Security Standard

- **“There is no recognized single standard that integrates all the components of security (administrative procedures, physical safeguards, technical security services, and technical mechanisms) that must be in place to preserve health information confidentiality and privacy as defined in the law. Therefore, we are designating a new, comprehensive standard, which defines the security requirements to be fulfilled....”**

HIPAAhopping: Electronic Security Standards

- **AUG 12, 1998 proposed security rule**
- **Applicability**
- **Administrative**
- **Software**
- **Hardware**
- **Peopleware**

The Media Is The Message

- **Floppy disks**
- **Hard drives**
- **Cache**
- **Zip, Tape, Optical**
- **Cellular**

Software Security

- **Encryption & decryption**
- **eSign: electronic signature**
- **Authentication**
- **Public key infrastructure – PKI**
- **Java & cookies & ice cream**

Out Out Damn Bits

- **Delete**
- **Hide**
- **Overwrite**
- **Remove**
- **Destroy**
- **Smash, burn and bury**

HIPAAhopping: Privacy Rule

- **Preemption**
- **Business partners**
- **Third party beneficiaries**
- **Privacy official**
- **Sanctions policy**
- **Surveys**
- **Record keeping**
- **Minimally necessary disclosure**

“I am an icon....”



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Penalty For Failure to Comply With Requirements & Standards

- **Not > \$100 for each violation - total for violations of identical requirement or prohibition during any calendar year is not > \$25,000**
- **Except if did not know, and a person exercising reasonable diligence would not have known, that such person violated such provision**
- **Penalty may be waived if failure due to reasonable cause & not to willful neglect**

Wrongful Disclosure Individually Identifiable Health Information

- **Knowingly & in violation of Part C**
 - **Uses or causes to be used unique health identifier**
 - **Obtains IIHI relating to an individual**
 - **Discloses IIHI to another person**

HIPAA Wrongful Disclosure Fines & Imprisonment

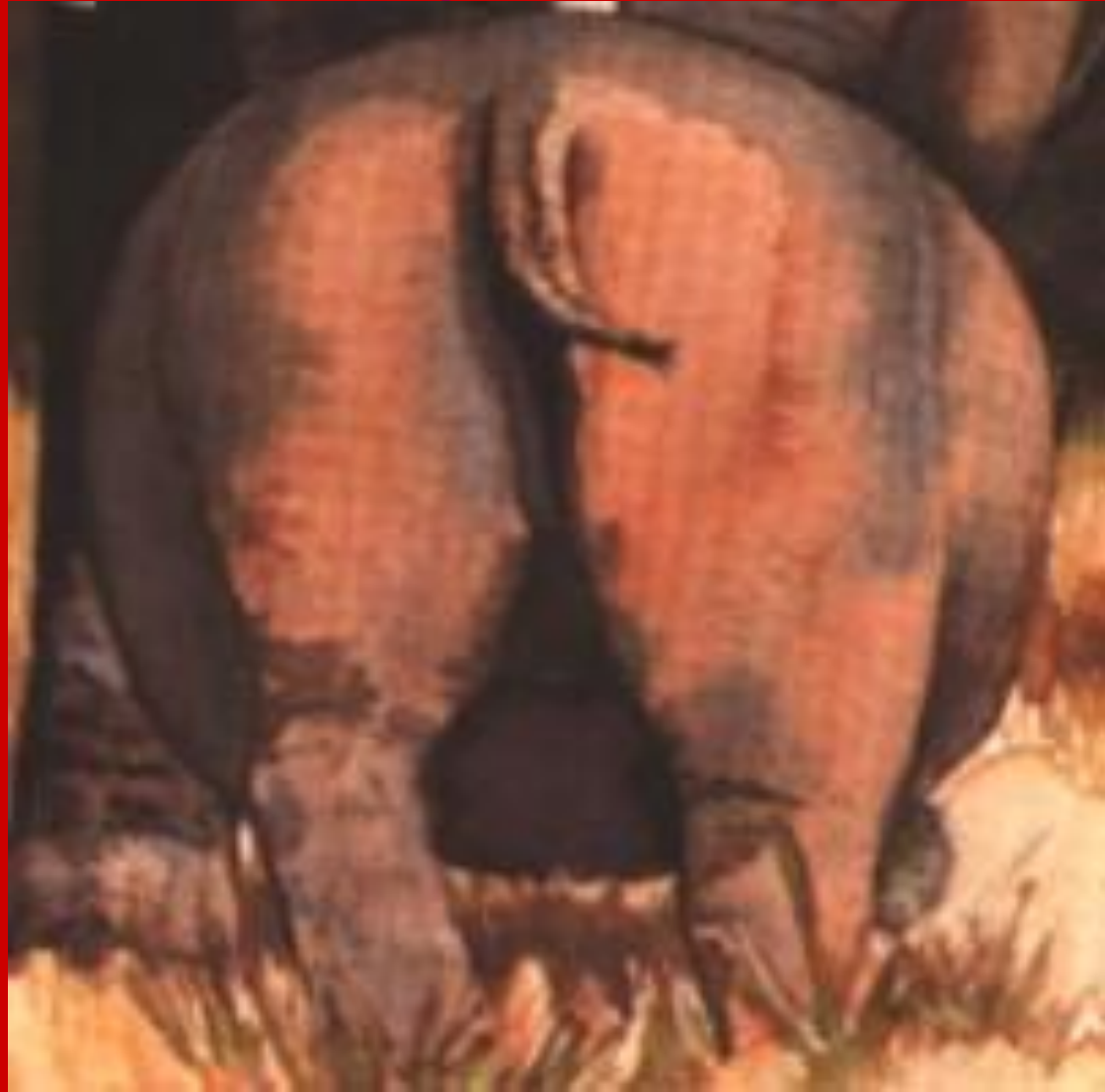
- **Fine of not > \$50,000 or imprisoned not > one year, or both**
- **If under false pretenses, fine not > \$100,000 or imprisoned not > five years, or both**
- **If with intent to sell, transfer or use PHI for commercial advantage, personal gain, or malicious harm, fine not > \$250,000, imprisoned not > ten years, or both**

“How’m I doing?”



HIPAAhopping: Corporate Compliance Program

- **Dept. of Justice Sentencing Guidelines**
- **Reduces Non-compliance Costs**
- **Reduces Potential Penalties**
- **Reduces Likelihood of Enforcement Action**



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Words of Wisdom

- "So far, the Internet seems to be largely amplifying the worst features of television's preoccupation with sex and violence, semi-literate chatter, shortened attention spans, and near-total subservience to commercial marketing...." The Librarian of Congress, James Billington

Words of Wisdom

- "Never make forecasts, especially about the future." Sam Goldwyn.
- "Long range planning does not deal with future decisions, but with the future of present decisions." Peter F. Drucker.
- "In the times of rapid change, learners inherit the Earth, while the learned find themselves beautifully equipped to deal with a world that no longer exists." Eric Hoffer.
- "You already have zero privacy; get over it." Scott McNealy.

Be A HIPAA HERO



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