

HIPAA Layered Privacy Notices



HIPAA Layered Privacy Notices

- HHS has “encouraged” use of a “layered notice”
 - A short notice that briefly summarizes relevant information
 - Longer notice contains all required elements

Layered Privacy Notices

- Two functions of a privacy notice:
 - Accountability function
 - Communications function
- Legally complete, long notice satisfies accountability function
- Highlights notice serves communications function
 - Contains key elements
 - Provides clear understanding of how PHI is used/disclosed and rights of individuals

Important to get HIPAA notices right or risk losing critical trust of patient

HIPAA Highlights Notice

- Short
 - No more than 7 elements
- Simple vocabulary
 - No need to translate or work hard to read
- Graphically-designed format for ease of reading and comparison
 - Competing styles and formats make notices difficult to process

HIPAA Highlights Notice Project

- Center for Information Policy Leadership at Hunton & Williams led group of health care privacy leaders to prepare Highlights Notice Template
 - Hi-Ethics
 - WellMed
 - VHA
 - OTN (BMS subsidiary)
 - American Specialty Health
 - Emory University
- Developed prototype

HIPAA Highlights Notice Template: Challenges

- Determined which categories are critical
 - What do health care consumers want to know?
 - What is it important for covered entities to tell consumers?
- Distilled 30-plus required categories into 5 key categories
- OK to issue notice that is not legally compliant?

HIPAA Highlights Notice Template

- Used simple words to define complex terms
 - “Health care operations”
 - “Accounting”
- Long deliberations to choose appropriate phrases and vocabulary

HIPAA Highlights Notice Template

- Preamble: Explanation and reference to complete notice
- Categories:
 - Scope
 - Difficult to describe various structural relationships (e.g., ACE's, OHCA's)

HIPAA Highlights Notice Template

– Uses and Disclosures

- Distilled all possible PHI uses/disclosures into a few key entries
 - TPO
 - Research
 - Public health uses
 - Fundraising
 - Marketing (or not)
- Any other use/disclosure requires permission

HIPAA Highlights Notice Template

- Your Rights and Choices
 - Access, amendment, accounting
- Other Important Information
 - Optional: Could discuss fundraising, marketing, seal programs
- How To Reach Us
 - 3 methods

HIPAA Highlights Notice Template: Next Steps

- HHS has vetted Template in several meetings
 - Template incorporates HHS suggestions
- Preparing User's Guide and Design Guide
- Focus group testing conducted on Template by Electronic Ink
- Discussions with trade and industry associations, health care advocates, state and federal regulators



Questions?

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