The Sixth National HIPAA Summit

HIPAA Policies, Procedures and Training

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Privacy Training

The Regulation

"*A covered entity must train all members of its workforce on the policies and procedures with respect to PHI required by this subpart, as necessary and appropriate for the members of the workforce to carry out their function.*"

(45 CFR 164.530(b))

Deadlines

- Training must be provided:
  - No later than April 14, 2003 (2004 for small health plans)
  - To new hires within a reasonable period
- Retraining must be provided
  - After change in job functions
  - After change in policies and procedures

Documentation

- Training must be documented--
  - Maintained in written or electronic form for 6 years.
- What is not required
  - Employee acknowledgment or certification
  - Refresher training

What The Regulation Requires

- The security requires security awareness and training for all personnel, including management, with the following "addressable" implementation specifications:
  - Periodic security reminders
  - Education on virus ("malicious software") protection
  - Log-in monitoring
  - Password management
  - (45 CFR 142.308(a)(5))

Who Must be Trained?

- Privacy
  - Workforce must be trained
    - Employees
    - Volunteers
    - Students
    - Independent contractors with assigned workstations (if CE chooses)
    - Occasional workers
  - What about others?
    - Medical staff
    - Business associates

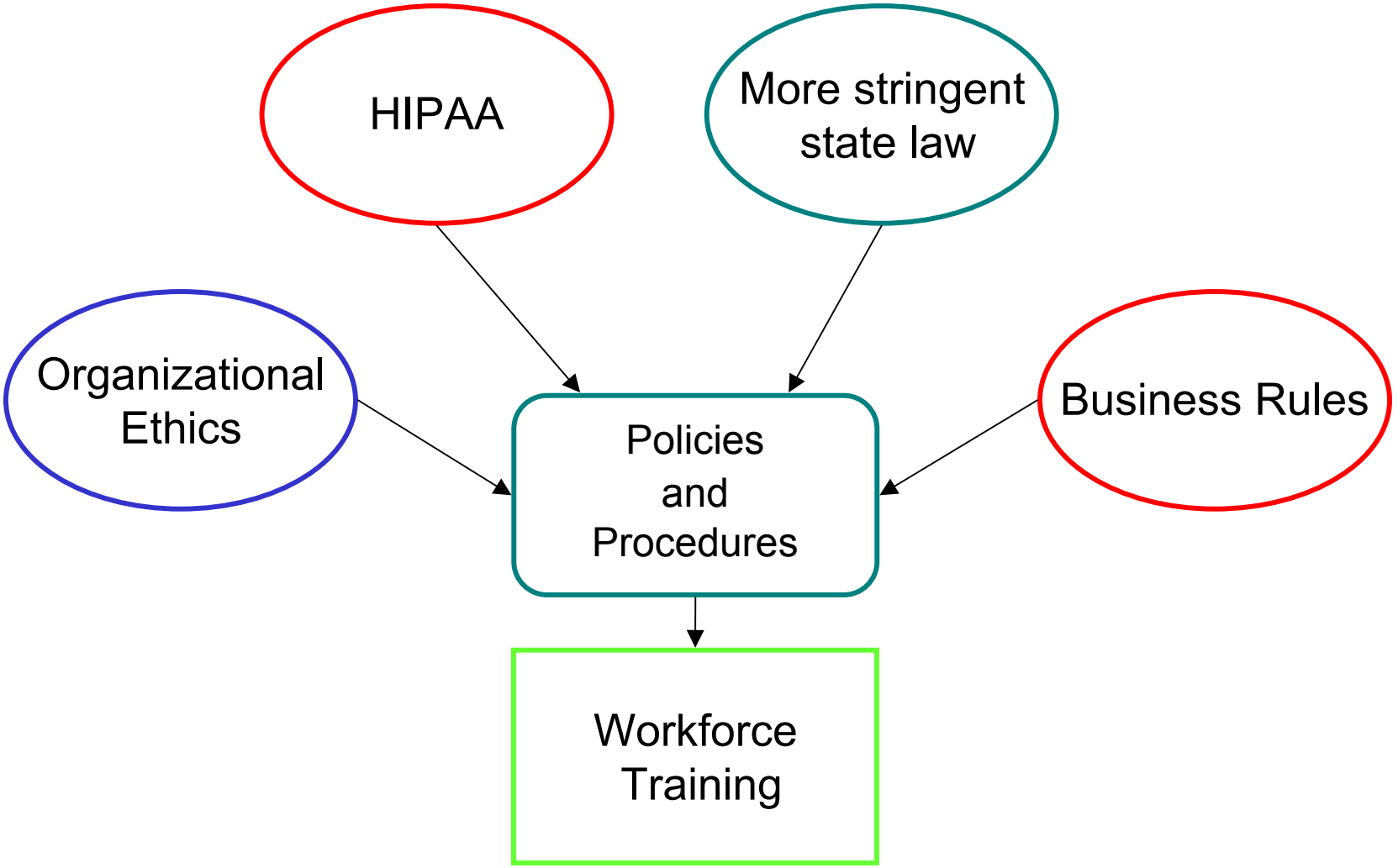
Who Must be Trained?

- Security
  - Was employees, agents and contractors, now just workforce (including management).
  - Role-based training optional.
  - Contractors must be aware of security policies, but do not need training.

Policy and Procedure Training

- Responsibility of Privacy Official is “development and implementation of the policies and procedures of the entity.”
- Cover—
  - Privacy administration
  - Physical protection
  - Technical safeguards
  - Use and disclosure
  - Sanctions and mitigation
  - Individual rights

Policy and Procedure Development



Policy and Procedure Development

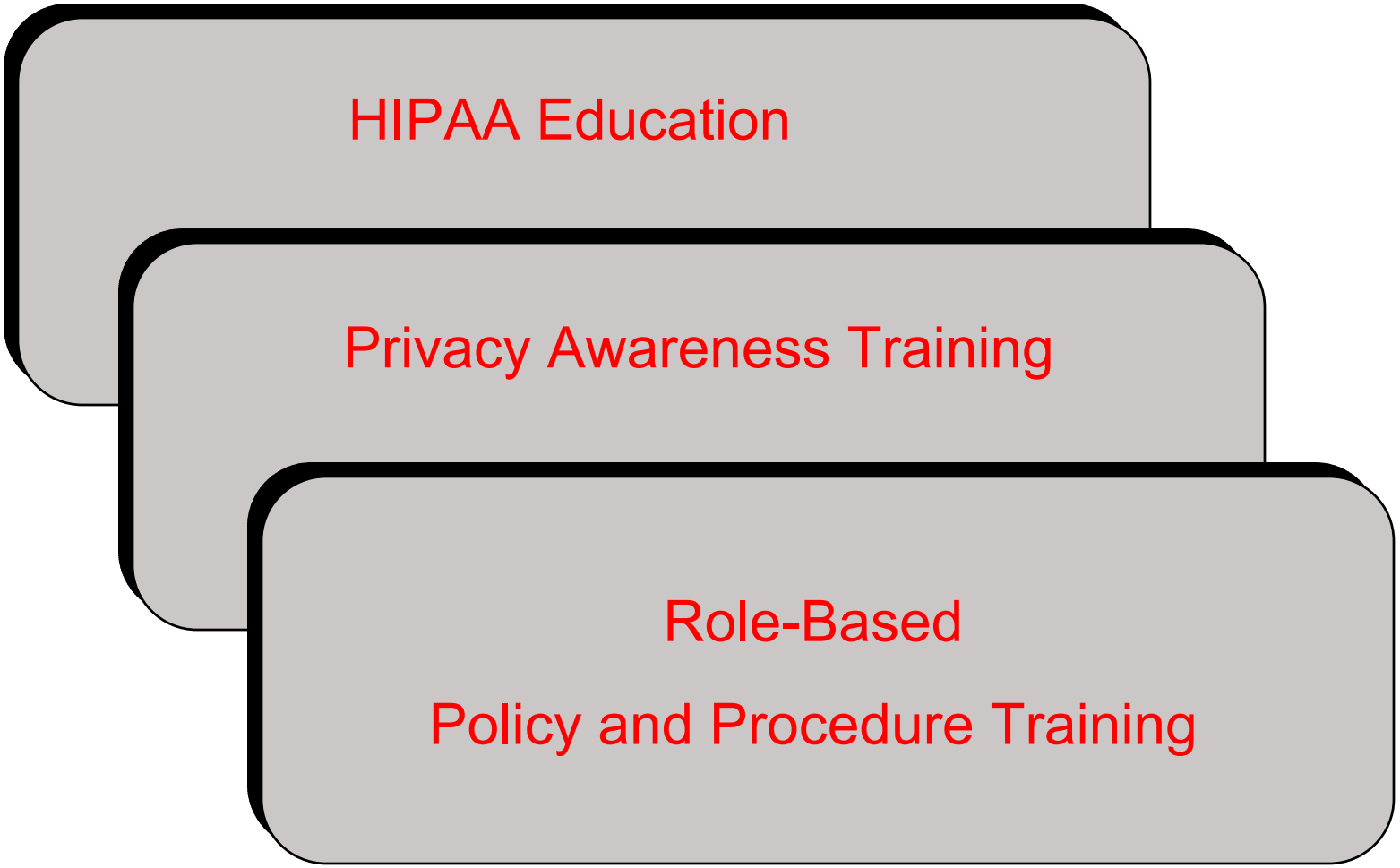
- A HIPAA-Based Policy:

  "We restrict the use and disclosure of all individually identifiable health information. Individually identifiable health information is information that identifies or could be used to identify an individual, and that contains information about the individual's health condition or health care, including payment for health care."

- An Alternative:

  "We treat all health care related information as confidential, whether or not it identifies an individual, or could be used to identify an individual."

Policy and Procedure Training



Requirements

- Flexible and scalable
- You decide content and delivery
  - Classroom instruction
  - Videos
  - On-line training
  - Handbooks
- HHS says one hour per employee, on average

Training Case Studies:
What Works and What To Watch Out For

Margret Amatayakul, RHIA, CHPS, FHIMSS

President, Margret\A Consulting, LLC

Organization

- Senior Management Oversight
- Delivery Network Oversight
- Focused Committees:
  - Privacy
  - Security
  - EDI
  - Education
- Coordination through central project manager
- Monthly meetings to address issues

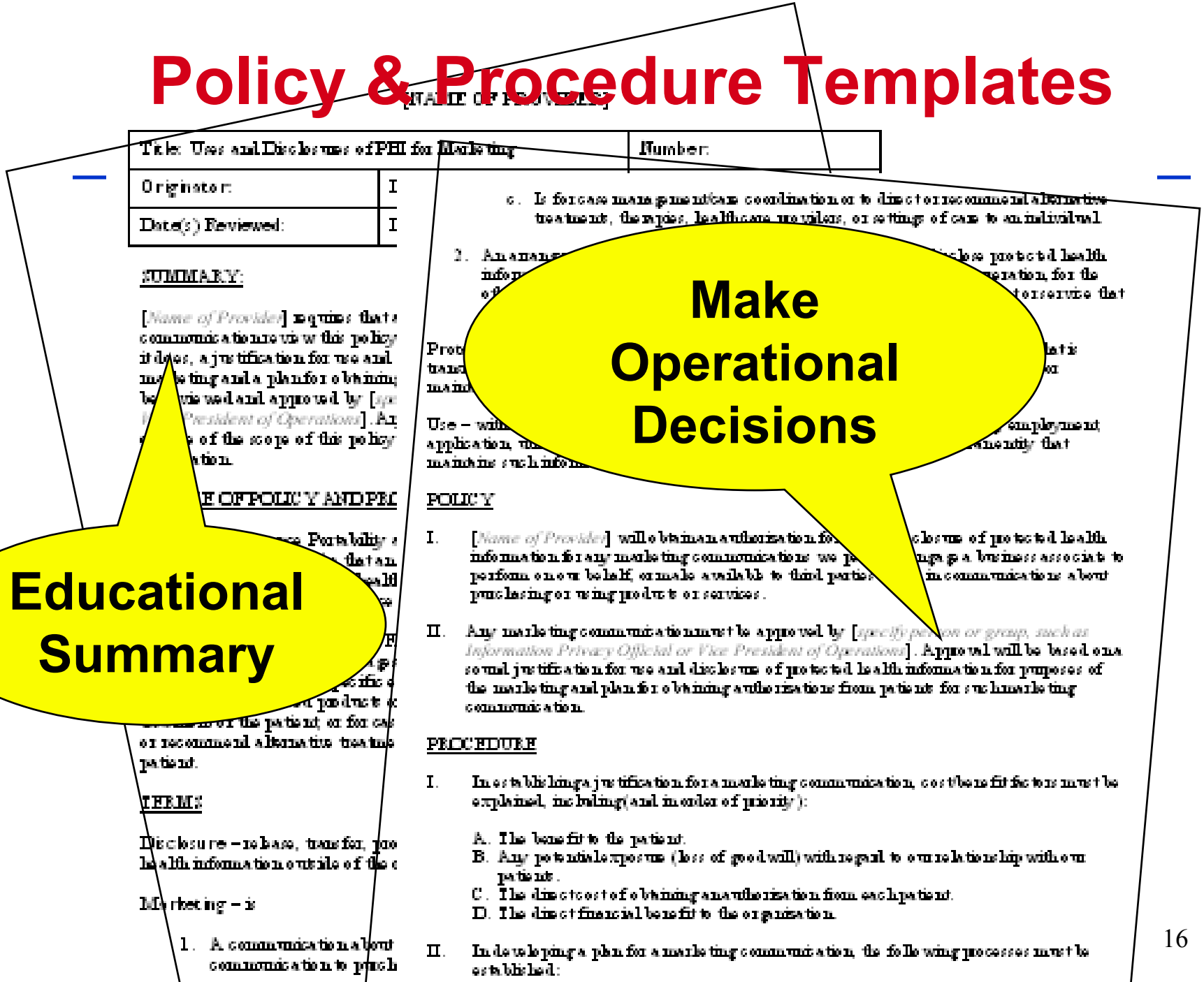
Monthly Reporting

- Project Status Summary
  - Task
  - Due Date
  - Percentage Complete*
  - On Target (Y/N)
- Accomplishments
- Next Steps
- Issues/Concerns/Barriers

* Percentage Complete

100% = Final Draft Approved
95% = Summary to Education Committee
90% = Operational Issues Resolved and Second Draft Completed
75% = Work Flow and Forms Developed
50% = First Draft Completed
35% = First Draft Submitted for Review
25% = Document Template Reviewed and Questions Generated
10% = Document Template Received
0 = Not Started

Policy & Procedure Templates


[NAME OF PROVIDER]

Title: Uses and Disclosures of PHI for Marketing	Number:
Originator:	I
Date(s) Reviewed:	I

SUMMARY:

[Name of Provider] requires that
communications must review this policy
it does, a justification for use and
marketing and a plan for obtaining
be reviewed and approved by [
Vice President of Operations]. A
of the scope of this policy
ation.

F OF POLICY AND PRO

Portability
that an
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ve

ific
products
or the patient, or for
or recommend alternative treatme
patient.

TERMS:

Disclosure – release, transfer, pro
health information outside of the

Marketing – is

1. A communication about
communication to purch

c. Is for case management or coordination to direct or recommend alternative treatment, therapies, healthcare providers, or settings of care to an individual.

2. An arrangement
information
of
disclose protected health
ization, for the
to or service that

Prod
trans
maint

Use – with
application, re
maintains such info

employment
entity that

POLICY

I. [Name of Provider] will obtain an authorization for
disclosure of protected health information for any marketing communications we pe
ngage a business associate to perform on our behalf, or make available to third parties
communications about products or services.

II. Any marketing communication must be approved by [specify person or group, such as Information Privacy Official or Vice President of Operations]. Approval will be based on a formal justification for use and disclosure of protected health information for purposes of the marketing and plan for obtaining authorizations from patients for such marketing communication.

PROCEDURE

I. In establishing a justification for a marketing communication, cost/benefit factors must be explained, including (and in order of priority):

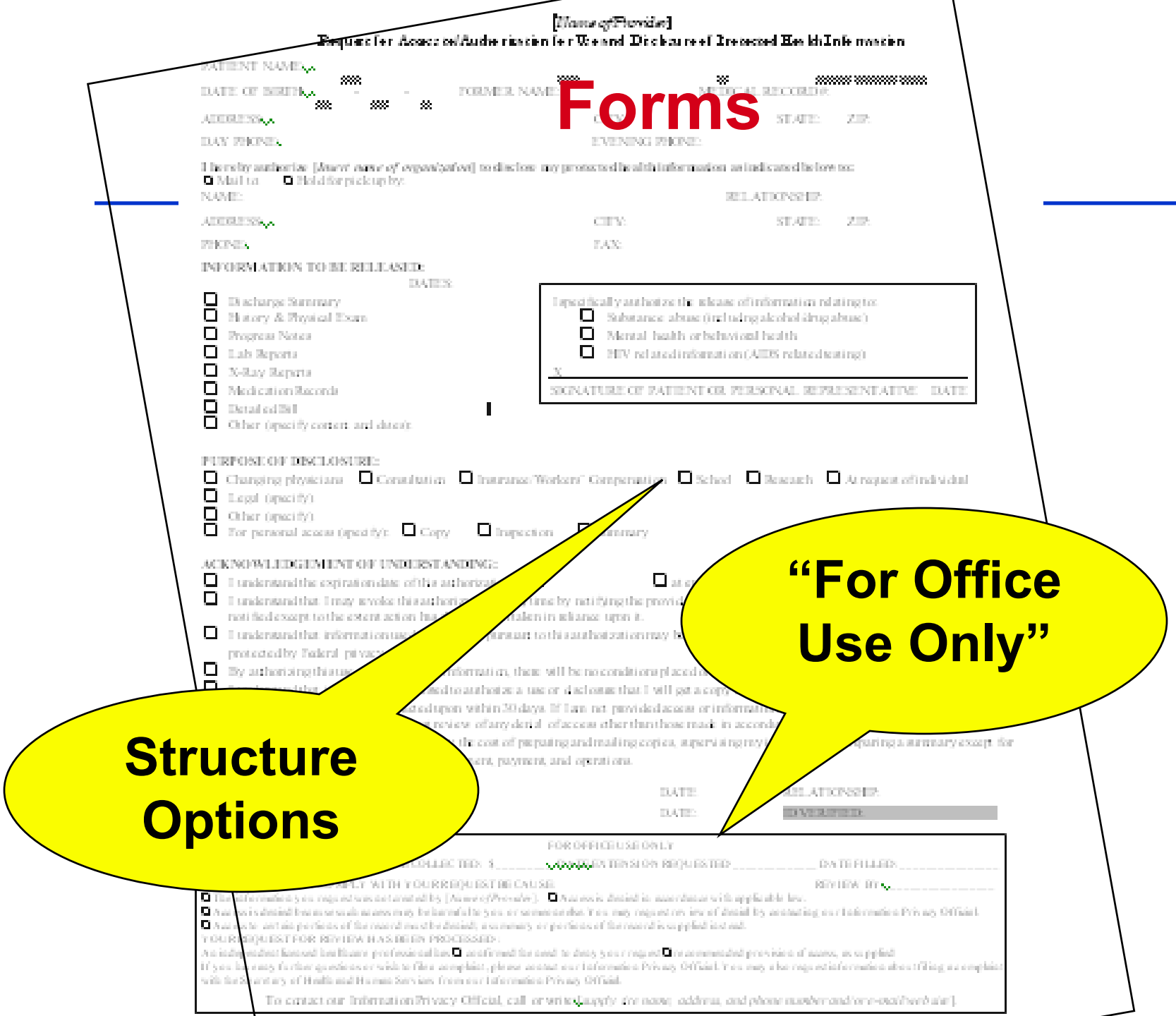
A. The benefit to the patient.
B. Any potential expense (loss of good will) with regard to our relationship with our patients.
C. The direct cost of obtaining an authorization from each patient.
D. The direct financial benefit to the organization.

II. In developing a plan for a marketing communication, the following processes must be established:

Educational Summary

Make Operational Decisions

Forms

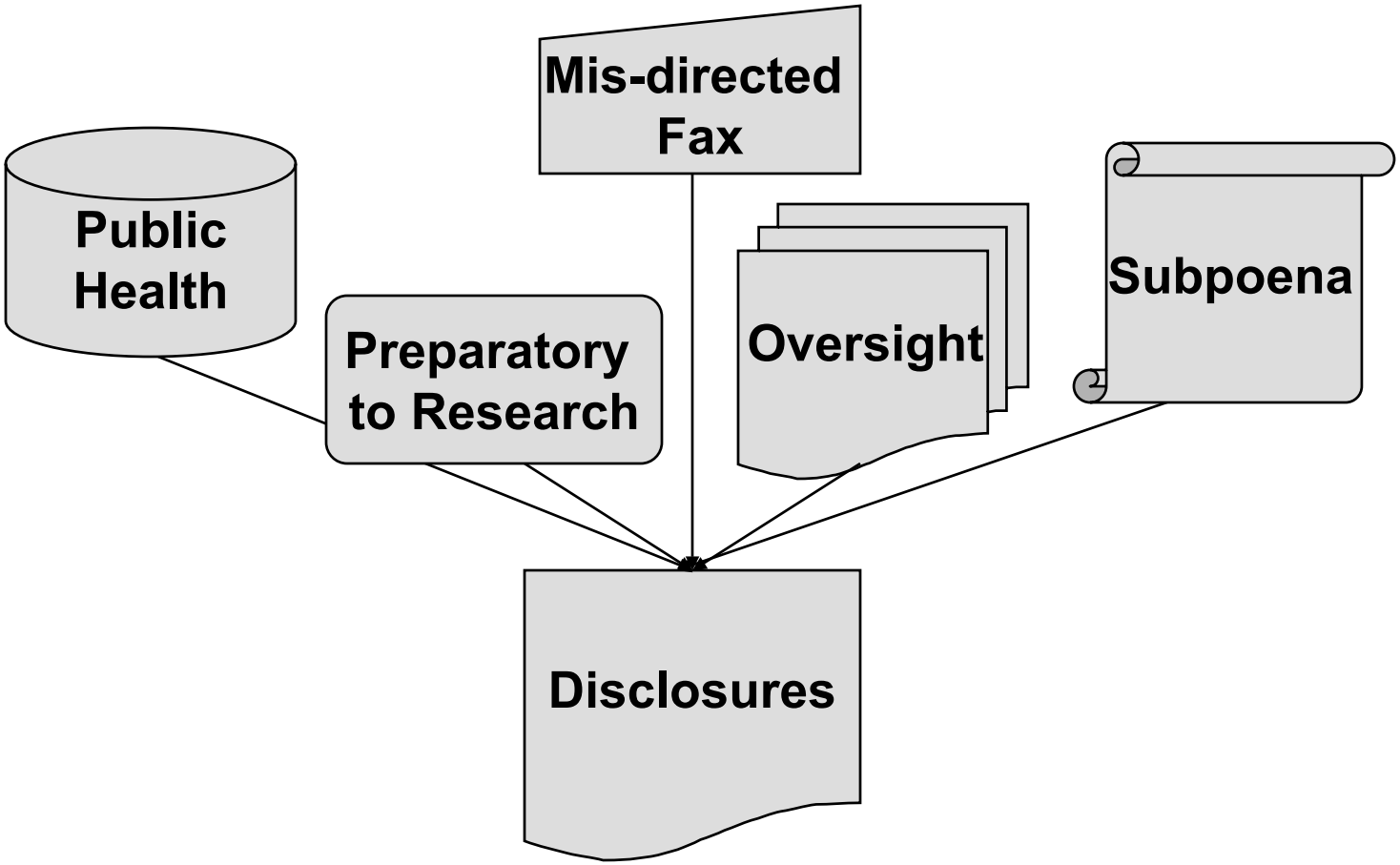


Structure Options

"For Office Use Only"

Work Flow

Accounting for Disclosures



Examples

Marketing	Not Marketing Communication
A communication about product or service that encourages recipients to purchase or use product, unless . . .	**Covered entity describes health-related product or service, or makes a face-to-face communication/ provides promotional gift of nominal value.**
Provider allows diaper company sales rep to visit new mothers.	**Provider distributes diaper samples and/or coupons to new mothers.**
Provider gives list of patients on certain medications to pharmaceutical company for them to market drugs	**Providers gives sample drug, tells patient about certain drug, or sends brochure about certain drug to patients who would benefit from taking drug**
Provider sells list of patients to a local community college for them to sell smoking cessation and weight loss programs.	**Provider sends information about smoking cessation program it is providing to patients who are determined to be smokers.**

Anticipate and Script

- **If:**
  - Patient refuses to sign
  - Patient refuses to accept
  - Patient asks what this is
  - Patient asks for restrictions
- **Then:**
  - Check “no sign” in computer
  - Check “refused” in computer
  - Explain that this is …
  - Provide Request for Restrictions Form and refer to Supervisor

Gaining Approval

Policy Name:	**Type:**	**Number:**
Executive Sponsor:	**Status: ❑ New ❑ Revision**	**Date:**

Summary: ***Essence of policy and procedure in two to three sentences.***

Impact:

<u>Affected Components:</u> ***Identifies classes of workers/units most impacted.***

<u>Operations:</u> ***Critical elements that positively and/or negatively change the way the organization functions.***

<u>Financial:</u> ***Operational and capital cash outlays required as well as any return on investment and/or loss avoidance that can be quantified.***

Risk Assessment:

Briefly describes the risk of not implementing the policy and procedure, and the residual risk after implementation.

Reason: ***Describes why the policy and procedure is created/revised.***

Decision Table

Request for Restriction	Yes	No	Document
Mail EOB to alternative address	X		Billing System
Appointment Reminder	X		PMS
Restrict Use to Dr. Smith Staff	X		EMR
Restrict Use by Dr. Smith Nurse		X	
Self Pay	Refer to Bus Mgr		Billing System

Target Training

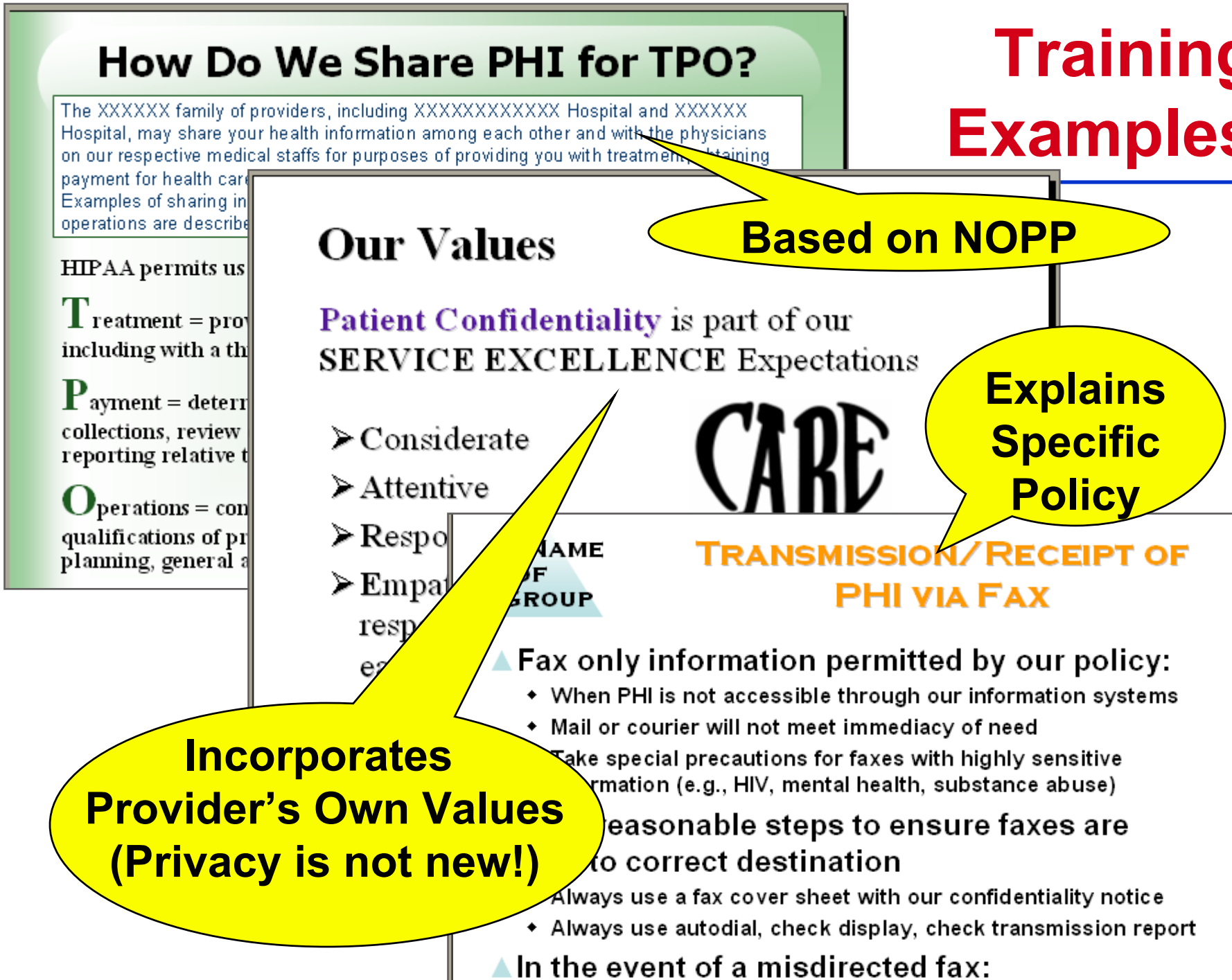
	A	B	C	D	E	F	G
1			Additional General Information About Topics				
2	**Keywords/ Education-Training-Awareness Content**	**Core Content for All Workforce**	Nursing Personnel as Designated by Departments	Other Caregivers as Designated by Departments	Non-Clinical Administrative/ Financial	All Medical Staff	Board of Directors Senior Mgt
3	**HIPAA in General**						
4	Administrative Simplification	X					
5	Affiliated Covere tity						X
6	C-I-A (Confide tegrity-Availability)	X					
7	Compli	X					
8		X					
					*		X
							X
			X	X	X		X
12					*		X
13	Heal				*		X
14	Hybrid Entity						X

Categorize by: Keywords or Policies & Procedures

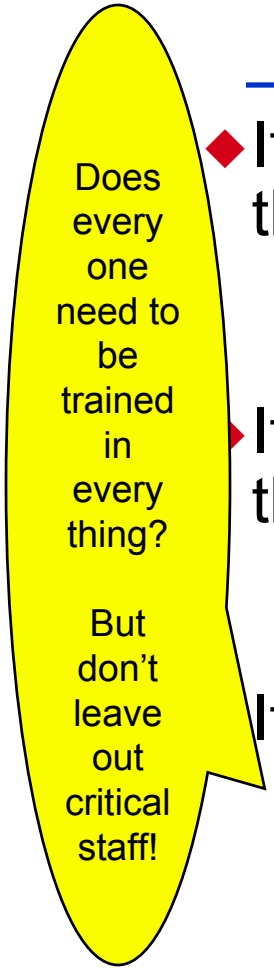
Organize Training

- **Standards**
  - Integrate policies and procedures
  - Refer to/link to policies and procedures
- **Notice of Privacy Practices**
  - Topics
  - Categories
- **General Topics**
  - Avoid focusing too much on HIPAA
  - And not enough on your operations

Training Examples



What to Watch Out For!



- It is easy to create policies and procedures that reflect the rules,
  - It is more difficult to create policies and procedures that reflect how things will actually work in your environment
- It is easy to buy, or even develop, training materials that are generic,
  - It is more difficult to efficiently and effectively incorporate your specific policies and procedures into the training
- It is easy to plan a massive training roll out,
  - It is more difficult to achieve full compliance on training,
  - Let alone get everyone to understand what to do,
  - It is even more difficult to ensure that compliance lasts
- Although the Privacy Rule does not require awareness building or reminders, this is critical for ongoing compliance

Advanced Strategies in Complying with the HIPAA Workforce Training Requirement

Steven S. Lazarus, PhD, FHIMSS

Boundary Information Group, President

Train for Compliance, Inc., Vice Chair

Workgroup for Electronic Data Interchange

(WEDI), Past Chair

Achieving Effective Privacy and Security

- Need good Security to achieve Privacy
- Privacy Regulation requires Security
- Reminders, periodic training, and "breach monitoring" reporting and management will be needed to achieve effective Privacy
- Need to train the workforce on the organization's policies and procedures for Privacy and Security

Policies and Procedures

- Privacy Administration
- §164.530(i) and 164.520(b)
- Process for developing, adopting and amending of privacy policies and procedures, making any necessary changes to the Notice of Privacy Practices, and retaining copies

Policies and Procedures

- Including overriding principles (policy)
- Detail practices
  - Identify responsible individual or department
  - Define specific operational processes
  - Require enough detail so that the workforce knows what to do
  - Develop to fit the clinical and business operations of the covered entity
- Must not just repeat or summarize the Regulations
- Privacy policies and procedures must reflect state laws that are more restrictive

Examples of Forms for Policies and Procedures

- Notice of Privacy Practice acknowledgement form
- Notice of Privacy Practice non-acceptance form
- Inventory of Business Associates
- Patient Authorization
- Certificate for completing training
- Incident Report

Organizing Policy and Procedure Development and Revision

- Chief Information Privacy Official
- Chief Information Security Official
- Workgroups
  - Privacy
  - Security
  - Transactions, Code Sets and Identifiers
  - Education/training

Policy and Procedure Development Process

- Gap analysis of existing policies and procedures
- Identify needed changes
- Develop new/revised policies and procedures
- Approve policies and procedures
- Replace former policies and procedures
- Train the workforce on the policies and procedures

Training Issues and Options

- Define workforce categories
  - Few workforce categories
    - Easy to administer
      - Assign workforce to courses
    - Less customization to create and maintain
  - Many workforce categories
    - May be difficult to administer
      - Complex management of workforce to training content choices
    - Potential to highly customize content to workforce categories

Training Issues and Options

- Practical Issues
  - Identify source of workforce lists, identifications and passwords
  - Include employees, physicians, volunteers, long-term contract renewal (e.g., Medical Director in a health plan)
  - Use Human Resource application if capable
    - Names
    - Job categories
    - Identifications and passwords from another source
  - Keep passwords and identifications secure

Training Issues and Options

- Tests
  - Use to document learning for compliance
  - Set passing score
- Consider Continuing Education credits (can not change content significantly and maintain credits)

Training Issues and Options

- Training Options
  - In person – classroom
    - Can customize
    - Questions and answers addressed by trainer
    - Difficult to schedule for new workforce members
    - Can use paper or automated testing

Training Issues and Options

- Video or Workbooks
  - Can not customize
  - No questions and answers
  - Need VCRs and/or supply of Workbooks

Training Issues and Options

- E Learning
  - May be able to customize
  - Limited questions and answers
  - Flexible schedule for training for current and new workforce
  - Can integrate training with organization's policies and procedures
  - There may be technological barriers depending on delivery mode
  - Automated testing and learning reinforcement

Training Cost

- Cost/Budget
  - Product
    - Fixed price
    - Per course per person
    - Maintenance
  - Customized setup
    - Policies and Procedures
    - State Law pre-emption for Privacy
    - CEs
    - Assign courses to individuals

Training Cost

- Workforce training time
  - Salaries and benefits
  - CE offset
- CE value/budget
- Technology
  - Several VCRs, monitors, and rooms, website
  - Support – internal and external
- Administrative
  - Record keeping
  - Management

Setup Issues

- Setup Time and Resources
  - Assignment of internal staff/outsource
  - Initially may require dedicated staff, rooms, and equipment
- Pilot Training
  - Evaluate learning

Achieving Effective Privacy

- Need good Security to achieve Privacy
- Privacy Regulation requires Security
- Reminders, periodic training, and incident monitoring" reporting and management will be needed to achieve effective Privacy

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