



## HIPAA FINAL SECURITY

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# *Basic HIPAA Security*

- **Maintain reasonable & appropriate administrative, technical, & physical safeguards to --**
- **(A) ensure the integrity and confidentiality of the information;**
- **(B) protect against any reasonably anticipated--**
  - (i) threats or hazards to the security or integrity of the information; &
  - (ii) unauthorized uses or disclosures of the information; &
- **(C) otherwise to ensure compliance with this part by the officers & employees of such person.**

# ***HIPAA For Dummies***

- Civil sanctions for violation of standards
  - Except if you *did not know* &
  - Exercising *reasonable diligence* you *would not have known* of violation
- Penalty waived if violation due to *reasonable cause* & *not willful neglect*
- 30 days+ to cure & technical advice
- \$100 for each violation or \$25,000/year

# ***HIPAA For Crooks***

- ***Knowingly***: unlawful use or disclosure
- \$250,000 + 10 years in jail if with ***intent*** to sell, transfer or use health information for commercial advantage, personal gain, or malicious harm

# *Bad HIPAA Conspiracy*

- **Could a non-person conspire with a covered entity to cause a violation of HIPAA for crooks?**
- **Defendant charged with conspiracy to violate HIPAA need not be able to violate HIPAA**

# *Bad HIPAA*

## *Misprison of a Felony*

- **Could a non-person, having actual knowledge of commission of a HIPAA felony, fail to notify HHS & take affirmative steps to conceal?**
- **Defendant charged with misprison of a HIPAA felony need not be able to violate HIPAA**

# *Bad HIPAA*

## *Obstruction of Justice*

- **Could a non-person obstruct justice by interfering with the enforcement of HIPAA?**
- **Defendant charged with obstruction of justice need not be able to violate HIPAA**

# *Bad HIPAA*

## *“Knowingly”*

- **Has actual knowledge of actions**
- **Deliberate ignorance or reckless disregard of truth**
- **Mere intent to act instead of specific intent to violate law**
- **Not innocent mistake or negligence**



# ***Bad HIPAA***

## ***“Intent”***

- **Has actual knowledge that actions would violate HIPAA**
- **Need not intend specific result**
- **Result of actions inevitable**
- **Voluntary act or omission**

# *Business Associate*

- Covered entities are not required to provide training to business associates or anyone else that is not a member of their workforce.

# *Security Rule Preemption*

- The general rule is that the security standards in this final rule supersede contrary State law.
- Covered entities may be required to adhere to stricter State-imposed security measures that are not contrary to this final rule.

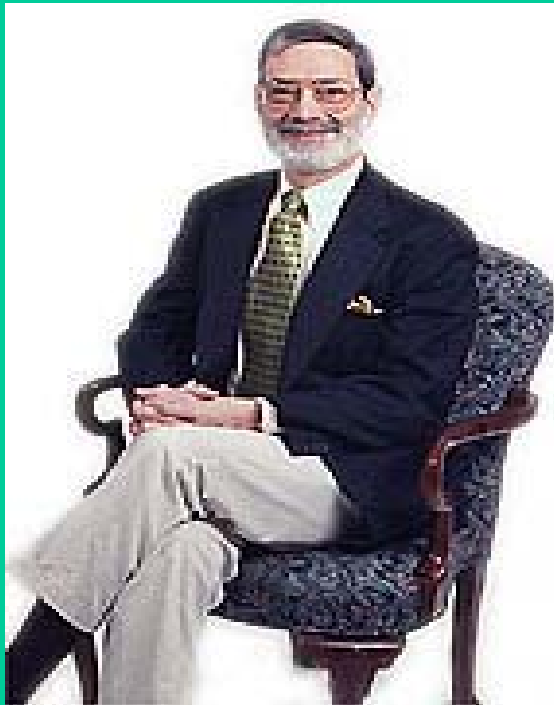
# *Security for Management*

- Standard: Security awareness and training. Implement a security awareness and training program for all members of its workforce (including management)

# *Covered Entity As Business Associate: Double Trouble*

- (3) A covered entity that violates the satisfactory assurances it provided as a business associate of another covered entity will be in noncompliance with the standards, implementation specifications, and requirements of this paragraph and § 164.314(a).

*Why is this man smiling?*  
*Practice Safe HIPAA!*  
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