HIPAA

Administrative Simplification: Privacy

Today is a Watershed Date:
- Where Should We Be
- How to Get There

William R. Braithwaite, MD, PhD
"Doctor HIPAA"

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PRICEWATERHOUSECOOPERS

Why HIPAA Privacy is Important…

Privacy important to consumers

- a fundamental component of high-quality, patient-centered healthcare.

When individuals worry about misuse of their personal health information, they take steps to circumvent the system to protect their privacy.

Principles of Fair Info Practices

Notice

- Existence and purpose of record-keeping systems must known.

Choice – information is:

- Collected only with knowledge and permission of subject.
- Used only in ways relevant to the purpose for which the data was collected.
- Disclosed only with permission or overriding legal authority.

Access

- Individual right to see records and assure quality of information.
  - accurate, complete, and timely.

Security

- Reasonable safeguards for confidentiality, integrity, and availability of information.

Enforcement

- Violations result in reasonable penalties and mitigation.

Individual's Rights

Individuals have the right to:

- A written notice of information practices from health plans and providers.
- Inspect and obtain a copy of their PHI (DRS).
- Obtain an accounting of disclosures.
- Amend their records.
- Request restrictions on uses and disclosures.
- Accommodation of reasonable communication requests.
- Complain to the covered entity and to HHS.

Enforcement by HHS

Enforcement by investigating complaints.

• not HIPAA police force -- OCR not OIG for privacy.

Fines by HHS are unlikely (and small).

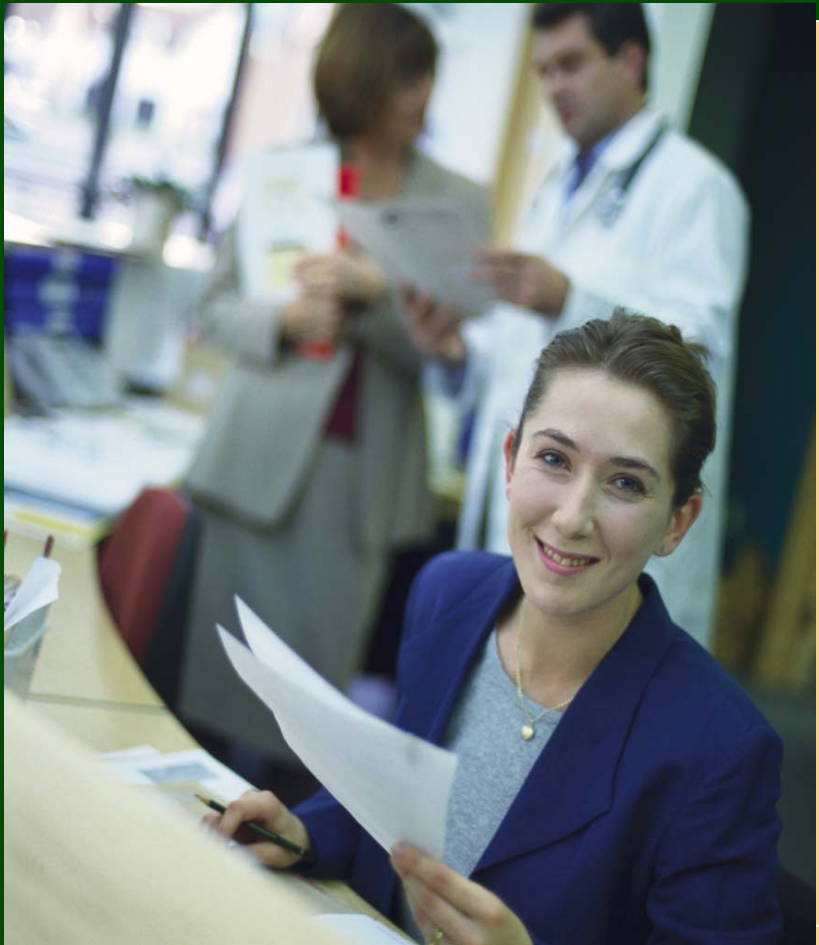**Fines and jail time possible from DOJ.**

• Where intent can be proven.

BUT, real risk comes from

• Civil liability from private lawsuits.
• Federal Trade Commission (Eli Lilly).
• New privacy laws (federal and state).

Registration: What does HIPAA require?

Give the patient a copy of the Notice of Privacy Practices.

Make a good faith effort to obtain a patient's written acknowledgement of receipt of the Notice.

The registration clerk must have been <u>trained in privacy</u>.

The system the registration clerk uses must have <u>security settings</u> to allow minimum access and to prevent unauthorized access.

<u>Public access must be limited</u> in areas where medical records are visible.

Follow verification procedures to ensure the identity and authority of individuals requesting medical records.

Patient requests to exercise their rights are initiated at the Reception Area:
- ✓ Request for Alternative Communications
- ✓ Request for Access to Records
- ✓ Amendment Request Form
- ✓ Complaints
- ✓ Accounting of Disclosure
- ✓ Request for Further Restriction

Clinicians: What does HIPAA require?
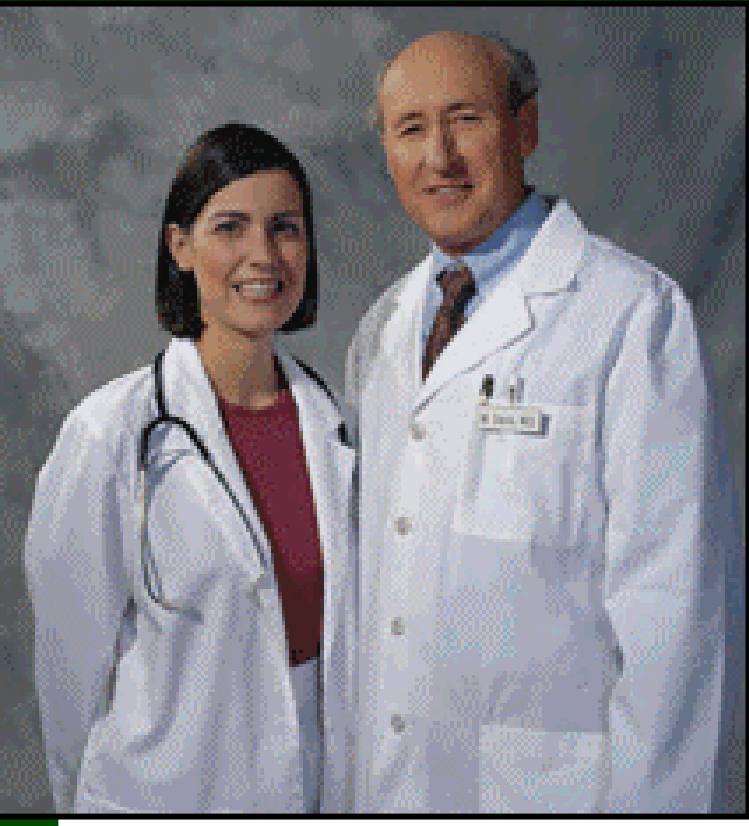
<u>Authorization</u> is necessary for the use or disclosure of protected health information for purposes other than treatment, payment or health care operation.

- ✓ **Requests for access to psychotherapy notes, HIV/AIDS information will require special protections and always require an authorization.**

The <u>minimum necessary standard</u> does not apply when treating patients.

The patient may approach the treating physician to request amendment or correction of information they believe to be incorrect in their medical record or other designated record set.

- ✓ **The physician who wrote the entry can immediately amend the medical record to reflect the patient's request if the physician considers the request valid or**

- ✓ **The physician can request the patient put the request in writing preferably using an Amendment Request form.**

Keys to Compliance

Data Flow
- Where and how is PHI is stored and transmitted.

Job Descriptions
- Accuracy required to refine role-based access.

Policies & Procedures
- Focus on those needed to support patient rights.
- All workforce members must be trained to know them & follow them.

Enforcement
- Administrative commitment to consistently monitor and enforce privacy/security incidents.

Questions?

William.R.Braithwaite@US.PwCglobal.com