The Importance of April 14, 2003: Where you should be regarding HIPAA privacy policies and procedures and training

Presented by:

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BIG
BOUNDARY INFORMATION GROUP

Boundary Information Group

- ◆ Virtual consortium of health care information systems consulting firms founded in 1995
- ◆ Company website: www.boundary.net
- ◆ BIG HIPAA Resources: www.hipaainfo.net
- ◆ Senior Consultants with HIPAA leadership experience since 1992; administrative and clinical system experience
- ◆ Services include:
  - – Strategic planning
  - – Systems selection and implementation management
  - – Workflow improvement
  - – EMR, clinical and financial IS selection and operating improvement
  - – HIPAA policies, procedures, and forms
  - – Expert witness

Workgroup on Electronic Data Interchange

- **Nonprofit Trade Association, founded 1991**
- **190 organizational members**
  - Consumers, Government, Mixed Payer/Providers, Payers, Providers, Standards Organizations, Vendors
- **Named in 1996 HIPAA Legislation as an Advisor to the Secretary of DHHS**
- **Website: www.wedi.org**
- **Strategic National Implementation Process (SNIP) – snip.wedi.org**
- **WEDI Foundation formed in 2001**
- **Steven Lazarus, WEDI Past Chair and Foundation Trustee**

Where Should we be Today on our Privacy Policies and Procedures?

◆ **Before April 14, 2003, Privacy policies and procedures should:**

- Be drafted
- Take into account state pre-emption
- Approved/revised for operational reasonableness
- Approved by all administrative and governance steps required in your organization
- Have a legal review for HIPAA and other Federal and State Laws
- Be published and accessible to all members of the workforce

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**

Privacy Policies and Procedures

◆ Must address <u>every</u> aspect of HIPAA Privacy

◆ Must be consistent with the Notice of Privacy Practice

◆ Must replace previous policies and procedures which were in conflict, incomplete, or unclear

Privacy Policies and Procedures

◆ **Common Shortcomings**

- The procedures must be operational – the workforce must know what to do

- PHI must be safeguarded – Security

- Incidental disclosures are not incidental if they are routine for you

- Private patient action in State court may be more damaging than OCR's penalties – consider how the patient views your policies and procedures

- Too little "training" for effectiveness

Training for Privacy: General

- Must be on your policies and procedures
- Must be completed by the entire workforce
- Must be documented
- Must include safeguards for PHI - Security

Training Issues and Options

◆ Media

- – Videotape
- – Workbooks
- – Classroom with live instructor
- – E-learning – Internet or Intranet
- – May utilize multiple media approaches

Training Goals

- ◆ **Compliance – No OCR actions**
- ◆ **Effective**
  - – Workforce knows what to do
  - – Receive few patient complaints
  - – All OCR or private actions resolved without penalties or court action
  - – Gaps are routinely identified and addressed
- ◆ **Privacy incidents are categorized and reported in the "internal" annual HIPAA compliance report**

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)**

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**

Recommended Actions if not Fully Ready on April 14, 2003

- ◆ **Complete compliance readiness ASAP -- 30 to 60 days**
- ◆ **Redo Privacy policies and procedures, and training, for operations effectiveness (if needed)**
- ◆ **Revise Privacy polices and procedures, and training, in light of Security final rule**
- ◆ **Measure and report training completeness**
  - – **Set goal at 100%**
  - – **Make executives, department heads and supervisors accountable**
  - – **Include a training administration system in your training management resources**

HIPAA READINESS

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HIPAA training: www.trainforhipaa.com
HIPAA Regulations and Policies and
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