

Employers' Responsibilities Under HIPAA

Case Study: Implementing HIPAA in the Control Group Setting

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NORTEK



Implementing HIPAA in the Control Group Setting

- Case study concerns Nortek, a wholly owned subsidiary of Nortek Holdings, Inc.
- Nortek is a leading international manufacturer and distributor of high-quality, competitively priced building, remodeling and indoor environmental control products for the residential and commercial markets.

Implementing HIPAA in the Control Group Setting

- Corporate Headquarters: Providence, R.I.
- 2002 Sales: \$1.89 billion
- Number of Employees Worldwide:
approximately 10,000 throughout 28
subsidiary companies
- Nortek subsidiaries are wholly owned,
located primarily in the U.S., Canada, and
Europe, with a small presence in the
People's Republic of China

Implementing HIPAA in the Control Group Setting

- Degree of Centralization
 - A Control Group can take an Affiliated Covered Entity approach, the benefit of which is simplicity
- Nortek management philosophy - each subsidiary is a separate legal entity and operates on a decentralized basis. Except in “control-group” matters, the day-to-day decisions for policies and benefits are made by the subsidiary. This is true for health plan purchasing, and was the approach to HIPAA implementation as well.

Implementing HIPAA in the Control Group Setting

- Complying with EDI Requirements
 - Because of decentralization, there is no central registry of health plans
 - Carriers and Administrators were not, in all cases, prepared to add their book of business, to their extension filings
 - Established a tracking mechanism

Implementing HIPAA in the Control Group Setting

- Managing the flow of PHI
 - Challenge is to keep the integrity of the flow through the corporate units/locations/ subsidiaries within the confines of the privacy regulations

Implementing HIPAA in the Control Group Setting

- Mapping the flow of PHI
 - Because of decentralization, there is no central registry of health plans
 - Disseminated a diagnostic tool to map the flow of PHI to 21 subsidiaries in 15 states
 - Established a tracking mechanism

Implementing HIPAA in the Control Group Setting

- Privacy Officers - Decentralization determined the path - One for each subsidiary where required
- Choosing to Over-comply - Each subsidiary selected a privacy officer

Implementing HIPAA in the Control Group Setting

- Privacy Notices
 - Reviewed on a Corporate Level
 - Customized for each Subsidiary
 - Three subsidiaries with no self-funded plans had no need to distribute a privacy notice
 - Several subsidiaries who had a mix of self-funded and fully-insured plans had a choice of sending a notice to enrollees in self-funded plans or all benefit eligibles

Implementing HIPAA in the Control Group Setting

- Amending Plan Documents for HIPAA Compliance
 - HIPAA requires a written plan amendment for all HIPAA covered plans;
 - Cross check plan amendments against 5500s to make sure all plans are covered
- Certification
 - Issue Certification to each group health plan

Implementing HIPAA in the Control Group Setting

- Business Associate Agreements
 - Ensure that all business associates have been identified
 - check schedule C of 5500s
 - Draft, Review, and Forward Agreement for Approval of Client
 - Establish a tracking mechanism

Implementing HIPAA in the Control Group Setting

- Training Benefits Staff
 - Utilization of web-cast technology creates
 - consistency of messages
 - cost effective delivery system
 - reinforcement of cooperation between subsidiaries

Implementing HIPAA in the Control Group Setting

- Administrative/Technical/Physical Safeguards
 - Some of the subsidiaries received electronic PHI, which requires special safeguards.
 - Password protections
 - Computer station lockdown
 - Internal system firewalls

Implementing HIPAA in the Control Group Setting

- Control Group Liability?
 - Liability for HIPAA violations may ultimately flow back to the entire control group.

For further information

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