

6th National HIPAA Summit

**JCAHO and NCQA and HIPAA
Business Associates**

Friday, March 28, 2003

The Players

- Sue Miller, Moderator
 - HIPAA Certified LLC
 - Co-chair WEDI SNIP SPWG
 - Chair Advisory Committee, NCQA, Business Associate Privacy Certification Program
- Patricia Pergal, JD, Director Program Compliance, NCQA
- Anthony J. Tirone, JD, Director, Federal Relations, JCAHO

What is HIPAA ?

- **Health Insurance Portability and Accountability Act**
 - aka “Kennedy-Kassebaum Act”
 - Adopted August 21, 1996

Why HIPAA ?

- **Improve *efficiency* and *effectiveness* of healthcare through *standardization* of all shared electronic information**
- **Protect the *privacy* and *security* of patient information stored and exchanged electronically**
- ***Reduce* the *cost* of *exchanging* information among healthcare partners**

What does HIPAA apply to?

- **Health Insurance Portability**
- **Standards for Electronic Claims Submission**
- **Privacy and Security Protection**

Who does HIPAA apply to?

- **Applies to Covered Entities**
 - **Health care providers who transmit any health information in electronic form**
 - **Health plans**
 - **Health care clearinghouses**

HIPAAeze

(speak the language)

- **PHI – Protected Health Information = demographic, clinical & financial information**
 - **medical record**
 - **x-rays**
 - **insurance information**
 - **demographic intake sheets**
 - **transmitted by, maintained in electronic media**
 - **transmitted by, maintained in any other form or medium**

HIPAAeze

(speak the language)

- **CE** – Covered Entity = Doctor, Dentist, Hospital
- **BA** – Business Associate = Accountant
- **P&P** – Policies & Procedures = staff rules and practices
- **NPP** – Notice of Privacy Practices = how use PHI
- **TPO** – Treatment, payment & health care operations

When did HIPAA Happen?

Transaction and code sets published August 17, 2000

- **Effective Date Transaction and Code Sets
October, 2002**
- **With Extension Implementation date: October 2003**

Privacy Rule published December 28, 2000

- **August 14, 2002 PMFR**
- **Implementation date: Privacy Rules April 14, 2003**

When did HIPAA Happen?

Data Security published February 20, 2003

- Implementation date: April 21, 2005**

National Employer Identifier published May 31, 2002

- Implementation date: July 30, 2002**

Yet to Come

- **Claims Attachments**
- **Unique Identifiers**
 - **National Provider Identifier (NPI)**
 - **Health Plan Identifier**
- **Enforcement**

HIPAA Covers

- **Paper**
- **Oral**
- **Electronic Transmissions**

HIPAA Privacy Penalties

Civil

- Not more than \$100 for each violation
- No more than \$25,000 for all violations of identical type during calendar year
- “Loss of reputation”

HIPAA Privacy Penalties

Criminal

- **Improper use of unique health identifiers, or**
- **Improperly obtaining or disclosing individual health information are**
 - **subject to maximum of both:**

• Knowingly	\$ 50,000	1 year
• False pretenses	\$100,000	5 years
• For profit, gain or harm	\$250,000	10 years

Business Associate Definition

- **Does a CE function**
- **Does a function per privacy regulation**
- **Other than workforce**
 - **lawyer**
 - **data aggregator**

Disclosures to Business Associate

A covered entity may disclose PHI to a business associate with documentation of satisfactory assurances by written contract

Business Associate Contract

- **PMFR: sample business associate contract provisions**
- **Make available PHI per 164.524, 164.526, 164.528**
- **Internal books and records open for review**
- **Termination of contract**

**WARNING: Dangerous HIPAA!
Please Keep Her Quiet By Keeping
All Health Information Confidential**

