Tools, Strategies & Lessons Learned to Address Unique HIPAA Issues for Universities and AMCS

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Presentation Overview

What's Your HIPAA Structure and When's the Last Time You Evaluated It? Process for Assessing Your Privacy Program's Needs and Doing More with Less Tools to Help Perform Privacy Program Assessments

What's Your HIPAA Structure & When's the Last Time You Evaluated it?

POLL:

Is your entity a:

A. Single Covered Entity

B. Hybrid Covered Entity

C. Covered Entity that is part of an Affiliated Covered Entity

D. No Idea - that's why I came this session

HIPAA Regulations on Hybrid Entities

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Hybrid entity
- Single legal entity that is
- A covered entity (healthcare Provider, Health plan, Healthcare Clearinghouse)
- With both covered and non-covered functions and
- Designate its health care components

Covered functions

Those functions of a covered entity the performance of which makes the entity a health plan, health care provider or health care clearinghouse.

Regulations on Hybrid Entities

Business units of the organization that engage in activities that would make them a business associate if they were a separate legal entity must be included in the health care component of the hybrid entity to the extent they engage in those BA activities.

The health care component may include a component only to the extent it performs covered functions.

What are your health care components?

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Key areas of contention
• Research
• Student Health

Self-pay health care functions
 Shared services

Defining research activities

- Research

 Distinction between research involving treatment that is billable

 Research on healthy subjects with services performed within the health care component

 Is IRB/Privacy Board inside or outside the covered component?
- Committees with dual purposes
 Radiation Safety
 Biosafety

Assessing the Student Health Center

- Who are its patients? Students Only? If students only, then data is not PHI but covered by FERPA Consider what happens if with students take a leave or matriculate but still have student insurance
- Staff
- Health Center Would need to be inside the covered component if billed using standard transactions
 Health Center Would need to be inside the covered component if billed using standard transactions
 Health Center Would need to be inside the covered component if billed using standard transactions

What notice is required? • FERPA for students

HIPAA NPP for non-students
 Both?

Assessing Self-Pay Health Care Functions

Are there components that engage in the delivery of health care services that are only self-pay? • Psychology clinic

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 Autism assessment center · Audiology and Speech Therapy

Will these business units be required to comply with the organization's HIPAA policies?

Assessing Shared services

Are there components that engage in the delivery of health care services that are delivered by other parties? Clinic within the School of Public Health but services are contracted through the faculty practice group and billed by them

Defining Other Relationships

Do you know if your organization is part of one or more of the following HIPAA relationships Answers A.1 only B.2 only 1. Organized Health Care Arrangement C. 3 only 2. Affiliated Covered Entity D At least two of these relationships 3. Business Associate Description

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What type of agreements/relationships might exist?

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Affiliated Covered Entity (ACE) Organized Health Care Arrangement (OCHA) Business Associate

Affiliated Covered Entity

Legal separate covered entities that are affiliated designate themselves as an ACE i.e. become a single covered entity for purposes of HIPAA

May designate the separate covered entities or any health care component of the CE

Required common ownership or control - What Does this mean? How will you demonstrate it? Designation must be documented What about Liability Considerations?

Organized Health Care Arrangement

45 CFR 160.103 - A clinically integrated care setting in which individuals typically receive health care from more than one health care provider

An organized system of health care in which more than one covered entity participates and all participating CEs • Hold themselves out as a joint arrangement

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Participate in joint activities that include at least one of the following:
 Utilization review
 Quality assessments
 Payment activities

Business Associates

Any component of a covered entity that is a hybrid entity must include those business functions performing BA type activities in the health care component of its hybrid entity. · Thus no business associate agreement is required.

Entities that are part of an OHCA may be a business associate of another covered entity participating in the OCHA

Business Associates

Need for process to identify external BA relationships before the engagement is entered and to monitor during the engagement to assure • The risk profile is considered • The confine obligations are understood • Breach notification is properly addressed.



Lessons from the Trenches

Process for Evaluating your structure

Look at the organization chart • Assure it is up to date • Assure everyone understands the functions within the different components • Don't assume there are not covered functions because based on the name or traditional activity of the business unit, college or school

Don't assume the business unit engages in covered functions simply because health care services are provided

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Structure Evaluation

Conduct a survey

- Assure it gives adequate descriptors and definitions for the person answering the question to provide meaningful information.
- Remind everyone that simply providing healthcare services does not make one a covered entity healthcare provider under HIPAA
 Talk to legal counsel regarding relationships with third parties and the legal relationships of the AMC.

Logistics

Don't believe everything you read on your own website.

Membership in the covered entity may be viewed as a status symbol.

Documentation is key!

Remember to keep your materials updated as you make changes to your organization. Think about Policy Updates and New training.

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Fall Out

Process for Assessing Your Privacy Program's Needs & Doing More with Less

POLL:

How Often DO You Assess Your Privacy Program:

- A. Annually
- B. Quarterly
- C. Monthly
- D. When There's Time

Process for Assessing your Program

- Effective Compliance
 Program Elements
 Standards and

 - Procedures
- Education and Training
- Oversight Monitoring and Auditing
- Reporting
- Enforcement and Discipline
- Response and Prevention
- •Other Assessment Elements • Goals / Objectives of your Privacy Program
- Challenges / Obstacles
- Culture / Risk Tolerance

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• Next Review/Assessment Period

Poll: How do you evaluate the effectiveness of your program?

- A. # of Incidents / Investigations
- B. HIPAA Annual Training Pass Rate
- C. # of Requests amendment, accounting of disclosures, medical information etc.
- D. # of Reportable Breach Incidents
- E. Incident Trends
- F. All of the Above
- G. It's Complicated

Doing more with less

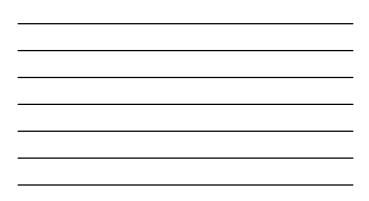
- Policy and Procedures
- Training opportunities

- Training opportunities
 Newsletters and other communication
 Department champions recognition
 Peer workgroups share best practices
 Privacy role within the organization

 Membership on other committees and workgroups
 Human resources, quality, HIM, research

Tools to help perform privacy program assessments

| anuary - December | | | | |
|--|---|--|--|---|
| Privacy Incidents | | Business Associate Agreements (BAA) | | |
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| Amendment Requests Status Total Incidents Denies 3 Total Requests 3 | There have been 2 amendment requestato date. | туре "Сположите | Disclosure Request Total Request 3 | There was 1 disclosure request |
| Prospective Authorizations | | 30 Live Education Sections | Education | le calendar year |
| Department - Olvision Total Variation A | There were 15 (<13) prospective authorisation revocation revocation extension • Natione • Natione • Oddyn | Education Sectors Privacy Secure (3) HERA HERA INFAA | Destantion Research Compliance Usicons Compliance Usicons Managed Care Neurology ObdYN Students/Faculty Multiple Multiple | Total Attendees 30 30 22 25 26 26 26 26 26 26 26 26 26 26 26 26 26 |



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Questions?