



HIPAA Basics:

Training for Employee Benefits Staff

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What We're going to Cover

- Important HIPAA concepts
- HIPAA Privacy Rule requirements
- Safeguarding HIPAA
- Common HIPAA problems
- HIPAA penalties



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IMPORTANT HIPAA CONCEPTS

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What Is HIPAA?

H **I** **P** **A** **A**

Health Insurance Portability and Accountability Act of 1996.

- Limits who may use or disclose PHI.
- Limits the purposes for which PHI may be used or disclosed
- Limits the amount of information that may be used or disclosed (Minimum Necessary rule)
- Requires use of safeguards over how PHI is used, stored and disclosed


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Protected Health Information

- Individually identifiable health information used by a health plan or health care provider
- Any form: written, electronic or oral
- Includes information relating to:
 - Physical health
 - Mental health
 - Payment for health care


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Protected Health Information

- Examples of PHI:
 - Health plan claims records
 - Health insurance policy numbers
 - Claims appeal information
 - Questions if procedures are covered by the plan
- Always assume that information you are handling is PHI!


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HIPAA Regulations

- HIPAA Privacy Rules
- HIPAA Security Rules
- HIPAA Transaction Rules
- HIPAA Breach Notification Rules

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WHAT PLANS ARE SUBJECT TO HIPAA?

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Health Plans Subject to HIPAA

- Medical plans
- Dental plans
- Vision plans
- Health flexible spending accounts
- Employee assistance programs
- Wellness programs

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What Is Not A “Health Plan”?

- Employment records
- Leaves of absence, FMLA records
- ADA claims
- On the job injuries
- Workers’ compensation
- Fitness for duty exams
- Drug screening

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What Is Not A Health Plan”?

- Life insurance
- Disability (STD & LTD)
- Some wellness programs

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COMPLYING WITH HIPAA

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Restrictions on PHI

- May not use or disclose PHI unless:
 - The Privacy Rule specifically allows the use/disclosure; or
 - The individual who is the subject of the PHI specifically allows it.


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Who May Use PHI?

- Workforce members trained on HIPAA privacy.
 - You are only given access to PHI if you need it in order to perform your job
 - You must agree to protect the confidentiality of the information
 - You are subject to discipline if you violate your employer's privacy policies and procedures.


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Permitted Uses of PHI

- "TPO"
 - Treatment
 - Payment
 - Health care operations
- Complying with law (but privacy officer must first approve)
- Any other use or disclosure generally requires authorization


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Treatment

- Providing, coordinating & managing health care
- Includes:
 - Direct treatment of patient
 - Consultation among health care providers
 - Indirect treatment (for example, laboratory testing)
 - Patient referral from one provider to another

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Payment


- Activities by health plan to determine premiums and to pay claims
 - Pre-certification
 - Claims determination (including medical necessity determinations)
 - Resolving claims appeals
 - Coordination of benefits
 - Determining COBRA rates

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Health Care Operations

- Activities directly related to payment and treatment:
 - Case management, auditing, quality assessment, training programs
- Supporting activities
 - such as computer systems support
- Administrative and managerial activities
 - such as business planning, resolving complaints, and complying with HIPAA.


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Minimum Necessary Rule

- Except for treatment purposes, must limit uses and disclosures of PHI to the minimum amount necessary to accomplish the intended purpose.
 - Do not disclose more information than required
 - Do not access information you don't need


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Business Associates

- Person or organization who:
 - Performs a function or activity for the health plan; or
 - Assists employer (or its business associate) in performing a health plan function or activity; and the
 - Function or activity involves use, access, creation or disclosure of PHI.
- Employees are not business associates
- HMOs/insurers are not business associates


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Examples of Business Associates

- Third-party administrators (TPAs)
- Outside attorneys and accountants
- Computer service technicians
- Software vendors
- Cloud computing vendors
- Subcontractors of business associates


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Individual Rights

- Access to PHI
- Request amendments of PHI
- Accounting of disclosures
- Request additional restrictions
- Request confidential communications
- Right to notification in the event of a breach

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SAFEGUARDING PROTECTED HEALTH INFORMATION

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Safeguarding PHI

- People consider health information their most confidential information, and we must protect it accordingly
 - Do not access PHI that you do not need
 - Do not discuss PHI with individuals who do not need to know it.
 - Do not provide PHI to anyone not authorized to receive it
- Misusing PHI can result in discipline, legal penalties and loss of trust


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Safeguarding PHI

- When using PHI, think about:
 - Where you are
 - Who might overhear
 - Who might see


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Safeguarding PHI

- Avoid:
 - Discussing PHI in front of others who do not need to know.
 - Leaving records accessible to others who do not need to see them
 - Positioning monitors/mobile devices where others can view them
 - Using printers located in public or unsecured areas


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Safeguarding PHI

- Only share what needs to be shared (minimum necessary rule)
 - What is the intended purpose for sharing the information?
 - What is the least amount of information necessary to achieve the intended purpose?


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Safeguarding PHI

- Communicating with health plan participants
 - Do not leave detailed voicemail messages
 - Avoid putting PHI in unencrypted email
 - Use cover sheet when faxing PHI


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Safeguarding PHI

- Follow safe practices for your computer system ID and password
 - Use strong passwords—see your area administrator for guidelines
 - Keep your user ID and password confidential and secure
 - if you need to write it down, keep it in your wallet
 - Do not allow anyone else to access the computer system under your ID


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Safeguarding PHI

- Handle health plan participant records with care:
 - Secure storage
 - Store paper records in rooms, cabinets, drawers that are locked when unattended.
 - Keep devices that access electronic records secured/password protected
 - Follow check-out/check-in requirements
 - Do not leave records (or devices that can access records) lying around unattended
 - Handle records to avoid disclosing information to others.


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Safeguarding PHI

- Do not engage in risky practices with computers/devices used to access PHI
 - Do not surf the internet
 - Do not open attachments to or links in e-mail unless from a trusted source
 - Do not install applications unless approved by the IT Department
 - Do not save PHI to portable media that can be easily lost


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Safeguarding PHI

- Report unusual activity to your supervisor promptly
 - You observe questionable practices
 - You find PHI in inappropriate areas
 - You suspect unauthorized use of your user ID/password
 - A health plan participant complains to you about a privacy issue

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COMMON HIPAA PROBLEMS TO AVOID

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Common HIPAA Problems

- o Lost/stolen portable devices
- o Paper documents that are lost or stolen
- o Snooping into other people's records
- o Discussing PHI in public areas
- o Disclosing more PHI than necessary
- o Ignoring individual requests to access records


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Common HIPAA Problems

- o Failing to safeguard user IDs/passwords
- o Placement of computer monitors.
- o Opening e-mail attachments containing viruses/malware
- o Missing security updates

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CONSEQUENCES OF VIOLATING HIPAA POLICIES AND PROCEDURES

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Health Plan Liability

- HIPAA penalties: up to \$1.5 million per year per violation
- State Attorneys General and FTC given enforcement authority
- HHS authorized to conduct audits
 - Automatic audits in response to breaches involving at least 500 individuals
- Lawsuits for negligence or invasion of privacy


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Individual Consequences

- Subject to discipline up to and including termination.
- Criminal liability
 - Up to 10 years in jail
 - Up to \$250,000 in criminal penalties
- Lawsuits by individuals who are harmed.

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QUESTIONS?

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