



Managing Information Privacy & Security in Healthcare

Rights & Obligations - Laws, Regulations, and Standards

Introduction to Privacy

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Overview

The inclusion of privacy related topics in version 6 of the Toolkit was a natural progression in managing health information. The Privacy & Security Toolkit Workgroup agreed that with the vast body of literature already produced on the topic of privacy, the industry would be better served by organizing a collection of existing authoritative writings and references on privacy and presenting them in an easily accessible way.

With the cooperation of the American Health Information Management Association (AHIMA), the Workgroup selected articles and documents related to privacy from the AHIMA Body of Knowledge (BoK). The Workgroup organized these issues and topics into chapters, wrote context pieces to introduce the existing literature and filled in the gaps where no existing literature was found. The identification of gaps in the literature provides focus for future publications and enhancements to future revisions.

This compendium is about privacy of health information, not just HIPAA privacy. Although HIPAA has consumed much of the industry's privacy focus over the past few years, the Workgroup has made a conscious effort to include a variety of privacy related issues, topics, and resources beyond the scope of HIPAA.

It should be noted that due to the broad range of settings to which these privacy issues apply and the variety of words used to identify clientele, the term "Individual" is used in the text to reference a patient, resident, subscriber, client, customer, etc. who is the subject of the protected or personal health information.

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Introduction

Privacy and security go hand-in-hand. Privacy is often dependent on security although the reverse is not necessarily true. We can build a secure glass house providing zero privacy, but we cannot

ensure privacy without security. There are technology drivers as well as behavioral aspects to privacy and security. Computers and the Internet, with their facility for easy access to large amounts of data, have raised the issue of privacy to the forefront of public awareness and concern.

The Privacy Rule went into effect April 2003 and the Department of Justice obtained its first privacy conviction in 2004 under HIPAA.

In September, 2004, the New York Daily News reported the suspension of seventeen hospital employees for attempting to access President Clinton's medical records without proper authorization.

According to the consumer rights advocacy group Privacy Rights Clearinghouse <http://www.privacyrights.org>, "The 100 million mark was reached Dec. 13, 2006" in the estimated number of files affected by data breaches since they started tracking incidents on February 15, 2005. The files contained personal information that could be used for identity theft. For more detail refer to their tracking site at <http://www.privacyrights.org/ar/ChronDataBreaches.htm>. The non-profit group has filed a lawsuit against Albertsons, the supermarket chain, for illegally using customer prescription information to assist drug companies in marketing their products <http://www.privacyrights.org/ar/PharmRelease.htm>.

Technology has made it easy to collect personal data in large quantities. Continuing advancements in technology make security of that information a constantly moving target. The intersection of technology and privacy has created a situation where industry in general and healthcare in particular must actively assume responsibility for the security and confidentiality of the information entrusted to them. Laws typically lag behind society's need. Currently, the United States is covered with the often described "patchwork quilt" of federal and state laws that, even when taken together, ultimately do not provide comprehensive protection for an individual's private information. This chapter provides a review of the pertinent privacy laws that currently may impact health information.