Fast Facts for HIPAA Privacy

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1. Federal HIPAA regulations were recently strengthened by the new Health Information Technology and Economic Recovery (HITECH) act that President Obama signed into law in February of 2009. On a national level, as more charts are converted to electronic medical records, greater precautions are needed to prevent fraud, and identity theft. For example, reports have surfaced that Organized Crime (in Florida) is engaged in lucrative Medicare fraud.

2. Fines for substantiated privacy breaches are higher and audits more frequent. Complaints can turn into criminal lawsuits investigated by the Department of Justice and by the Office of Civil Rights. A healthy fear and respect of HIPAA-HITECH may be a good thing to prevent HIPAA violations, and to promote education.

3. However, the Privacy Rule does not require you to obtain a signed consent form before sharing information for treatment purposes. Do share the minimum amount necessary for treatment purposes, and sometimes the minimum amount is the entire chart. HITECH will define the minimum amount necessary in the future, and this will be shared with you.

4. The Privacy Rule does not require you to eliminate all incidental disclosures. Incidental means information others may overhear or see during the course of treatment. However, it does mandate that Munson have policies in place to reasonably safeguard and appropriately limit how protected health information is used and disclosed. For example, if a physician talks to a patient in a shared room, and draws the curtain and speaks reasonably low, yet the other patient hears the content of the information, this is not a HIPAA violation.

5. Not the same yada yada yada: There is a new HITECH rule that asks for "Harm Threshold" to be met for the definition of breach. Each privacy complaint will be investigated, analyzed and documented, however, it may not reach the definition of a breach if no harm or measurable consequence resulted from the use or disclosure. For example, a wrong fax, managed effectively, may not cause harm. Breach does not include the unintentional acquisition, access, or use of such information The definition of breach does mean the unauthorized acquisition, access, use or disclosure of PHI which compromises the security, privacy or integrity of PHI.

6. Did you know according to HITECH, patients must be notified in writing of substantiated breaches of privacy? The Privacy Office letter must include: what PHI was disclosed, how it happened, all that is being done to investigate the circumstances and to prevent reoccurrence, and provide guidance about how to protect against further breach consequences.

7. What are the consequences of losing a laptop or CD that places more than 500 individuals' personal information at risk of disclosure? HITECH mandates Munson notify prominent media outlets (the Record Eagle) regarding this breach, and also to notify the secretary of Health and Human Services. HHS will then post a list on the HHS website identifying Munson as a covered entity involved in a breach of more than 500 individuals.

8. The Privacy Rule does not cut off all communication between you and the families and friends of patients. As long as the patient has given permission, the Privacy rule permits you to share needed information with family, friends, or anyone else a patient identifies as involved in care. If patient is incapacitated, you may share appropriate information for patient's care, if doing so is in best interest of the patient. Do document what was disclosed and for what purpose.