

Health Insurance Portability and Accountability Act (HIPAA) Review 2010

**Satellite Conference and Live Webcast
Wednesday, June 23, 2010
8:00 - 9:00am Central Time**

**Produced by the Alabama Department of Public Health
Video Communications and Distance Learning Division**

Faculty

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Discussion

- **HITECH Act**
- **Red flag regulations**
- **HIPAA enforcement**
- **Authorizations and disclosures**
- **Breaches**
- **Confidentiality/scenarios**

What is the HITECH Act?

- **Health Information Technology for Economic and Clinical Health Act**
 - **Where did it come from?**
 - **What is the purpose?**
 - **What are the incentives?**
 - **What does this mean to you and when?**

Effective in 2009

- **Collected civil monetary penalties go to Office of Civil Rights (OCR)**
- **Civil monetary penalties are increased substantially**
- **Civil action by state Attorneys General on behalf of aggrieved persons are authorized**
 - **Statutory penalties and attorney fees are recoverable**

Important Dates

- **September 15, 2009**
 - **New security breach notification obligations effective**
- **February 17, 2010**
 - **Employees of covered entities may have independent criminal liability**

Important Dates

- **January 1, 2011**
 - Accounting for treatment, payment, or healthcare operation (TPO) disclosures from EHR systems acquired *after* January 1, 2009
 - HHS may extend deadline

Important Dates

- **February 17, 2011**
 - Mandatory civil monetary penalties for violations involving “willful neglect”
- **February 17, 2012**
 - Complainants will share in collected civil monetary penalties

Red Flag Regulations

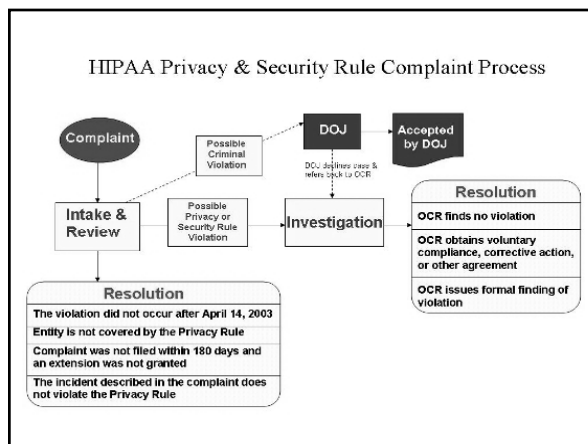
- What is this?
- How does it apply to ADPH?
- Why is compliance important?
- What types of changes might I see?
- Who within the Department will enforce this?

HIPAA Enforcement Process

- The Office of Civil Rights (OCR) enforces the Privacy and Security Rules by
 - Investigating complaints filed with it

HIPAA Enforcement Process

- Conducting compliance reviews to determine if covered entities are in compliance
- Performing education and outreach to foster compliance with the Rules' requirements



Compliance Issues Investigated

- Impermissible uses and disclosures of protected health information
- Lack of safeguards of protected health information
- Lack of patient access to their protected health information

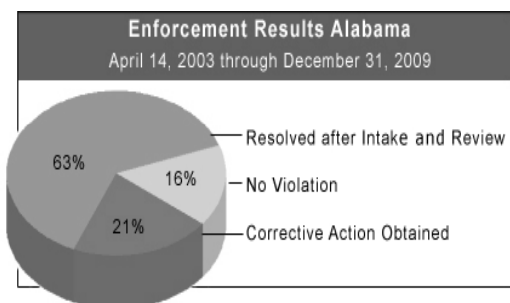
Compliance Issues Investigated

- Uses or disclosures of more than the Minimum Necessary protected health information
- Complaints to the covered entity

Complaints Against Covered Entities

- Private practices
- General hospitals
- Outpatient facilities
- Health plans
 - Group health plans and health insurance issuers
- Pharmacies

Alabama?



Patient Authorizations

- All authorizations to release records **MUST** be sent to the Office of General Counsel
- What is the OGC looking for?

Disclosures Without Authorizations

- Always call the Office of General Counsel before acting on any type of authorization
- Legal representatives
- Parents

Disclosures Without Authorization

- Public health
- Law enforcement
- Protection of the U.S. President or other government officials
- Domestic violence and child/elder abuse authorities
- Subpoenas
- Terrorism and bioterrorism events and drills

Breaches: What Should You Do?

- File an ARIA (Automated Report of Incidents and Accidents)
- Discuss, if appropriate, the issue with your supervisor
- What happens next?

Scenario #1

A law enforcement officer presents at your County Health Department in uniform with a badge. The officer states they are looking to apprehend an individual that they understand is being treated by the Health Department.

What would you do?

Scenario #1

- Contact OGC immediately!!!
- Types of information that can be provided
 - Name and address
 - Date and place of birth
 - Social Security Number
 - ABO blood type and rh factor

Scenario #1

- Type of injury
- Date and time of treatment
- Date and time of death, if applicable
- Distinguishing physical characteristics
 - Height, weight, gender, race, hair/eye color, presence/absence of facial hair, scars, and tattoos

Scenario #2

You are providing care to a patient in a county health department. After providing care, the patient gets into a fight in the parking lot. You call 911 and the police come and interview you in order to fill-out the police report.

Can you disclose patient PHI?

Scenario #3

You are very happy with your significant other. His former girlfriend is a patient at your county health department. She has come to him and told him that she is pregnant. You don't believe her! She is not one of your patients and you would otherwise not have access to her file. But because you are a nurse, it would not look suspicious to remove her file and take a little peek. You are not planning on telling your boyfriend the results.

Is this okay?

Scenario #4

You and your "bestie" have always been inseparable. You discuss everything and do everything together. While working one day, you end up providing treatment to your old high school homecoming queen. While providing care you find out she has Chlamydia. Your bestie works as a nurse for the same county health department, but in another division.

Since she is also an ADPH employee is it ok to share the information?