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Compliance and Privacy Officer

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

TONHC HIPAA – 02.18.2020

AGENDA

- *HIPAA Definitions*
- *Privacy Rule*
- *Implementation*
- *Enforcement*
- *Trust Matters*

“

Knock Knock – Who’s There?
HIPAA – HIPAA Who?
I can’t tell you that!

HIPAA

HIPAA DEFINITIONS

HIPAA DEFINED

- Passed in 1996 to allow people to move from one health care plan to another without losing their existing coverage
- Also prevents a new *Employer-offered* Plan from denying coverage for any preexisting condition (people applying for *Individual* health care coverage were not provided this protection until the Affordable Care Act in 2014)
- Portability – Transfer of Health Insurance Coverage
- Accountability – Prevent Healthcare Fraud and Abuse
- Also provided for Administrative Simplification

HIPAA DEFINITIONS

Who and What is Covered

Entities:

- Any healthcare provider – TONHC
- Government and private health plans – Purchased/Referred Care (PRC)
- Healthcare clearinghouses – Ability (MyAbility)
- Business associates – consultants or contractors

* TON opted IN for HIPAA via compact on 07.01.2016. HIPAA now preempts any weaker State or Tribal laws.

HIPAA DEFINITIONS

Health Information & PHI

Health Information is oral or recorded information that:

- Is created/received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university or healthcare clearinghouse
- Relates to the past, present and/or future physical or mental health or other health condition
- Concerns the provision of healthcare
- Relates to past, present or future payment

Personal Health Information (PHI) is defined as Health Information that is:

- Individually identifiable such as Social Security Number (SSN), Date of Birth (DOB), Tribal Id, chart number
- Transmitted or maintained in any form or medium (oral, hard copy, electronic)

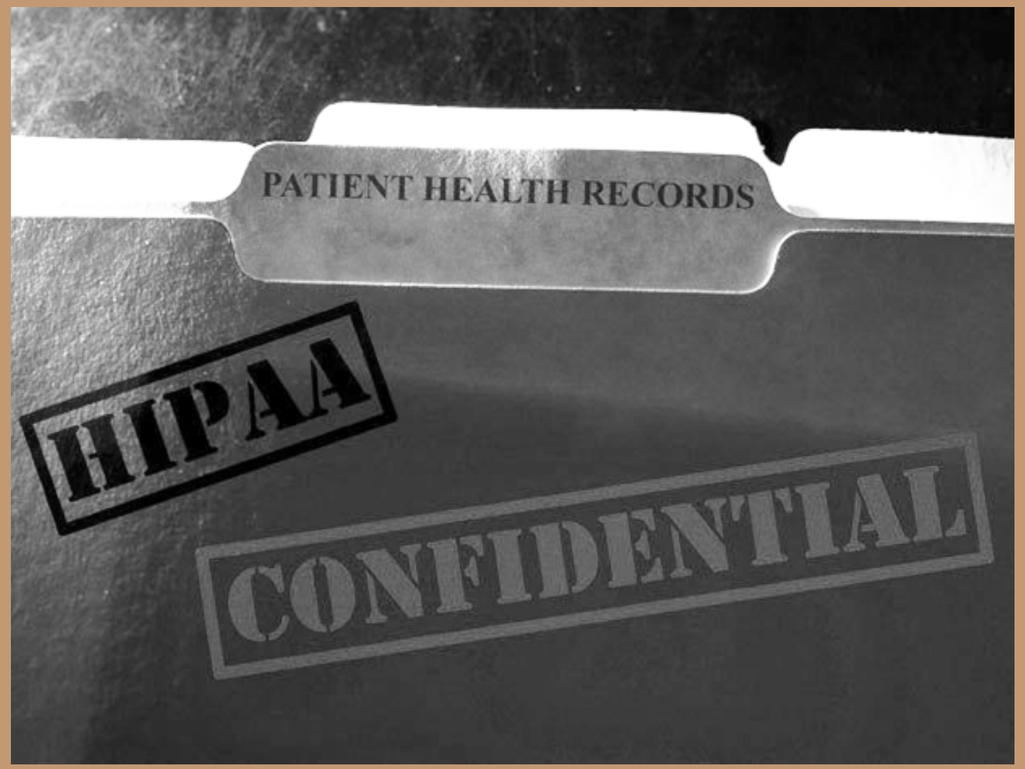
HIPAA

PRIVACY RULE

PRIVACY RULE

HIPAA Privacy Rule

- Mandates safeguards that protect the privacy of Personal Health Information (PHI)
- Defines conditions in which PHI may be disclosed without patient authorization
- Facilitates the flow of information that in turn promotes high quality health care while maintaining privacy and integrity



PRIVACY RULE

Individuals Rights

Individuals have the right to request:

- Copy of their health information
- A restriction of information
- A correction or amendment to their record
- A record of any confidential communications
- Listing of disclosures

Additionally, individuals have the right to:

- Be notified when a breach of PHI occurs
- Revoke authorization for PHI
- Obtain a Notice of Privacy Practices

HIPAA

IMPLEMENTATION

IMPLEMENTATION

Treatment, Payment and health care Operations (TPO)

- Information (PHI) can ONLY be shared for TPO purposes without patient authorization (IM.02.01.01-EP3)
- TPO is explained in our Notice of Privacy Practices
- PHI sharing for other matters requires a Release of Information (ROI 810 form) prior to release
- Can be obtained from HIMS or TONHC.org under the “For Patients” section

IMPLEMENTATION

Proper disclosure of PHI without patient authorization

- Patient is sent from the Emergency Department to Radiology so that an x-ray can be taken
- PHI is sent to a receiving Emergency Department during a patient transfer from TONHC
- Data entry into MyAbility for billing purposes
- TONHC Quality Management personnel call a health care provider to discuss PHI to assess a case
- PHI is released to a medical examiner (Per HIPAA regulation PHI remains in effect for 50 years postmortem!)

IMPLEMENTATION

Misuse and Abuse of PHI

- Hospital employee sells country singer's medical records for $2610 to National Inquirer
- Psychological records of 62 children accidentally posted on a web site
- Veteran's Administration laptop with patient medical histories was stolen or lost
- Three employees at University Medical Center were fired for violating patient privacy in connection with accessing confidential electronic medical records of former Congresswoman Gabrielle Giffords in the shooting rampage in Tucson
- More recently, a female employee at TONHC-Sells accessed the EHR of a patient that she suspected was having an affair with her husband. This ended with her termination.

HIPAA

ENFORCEMENT

ENFORCEMENT

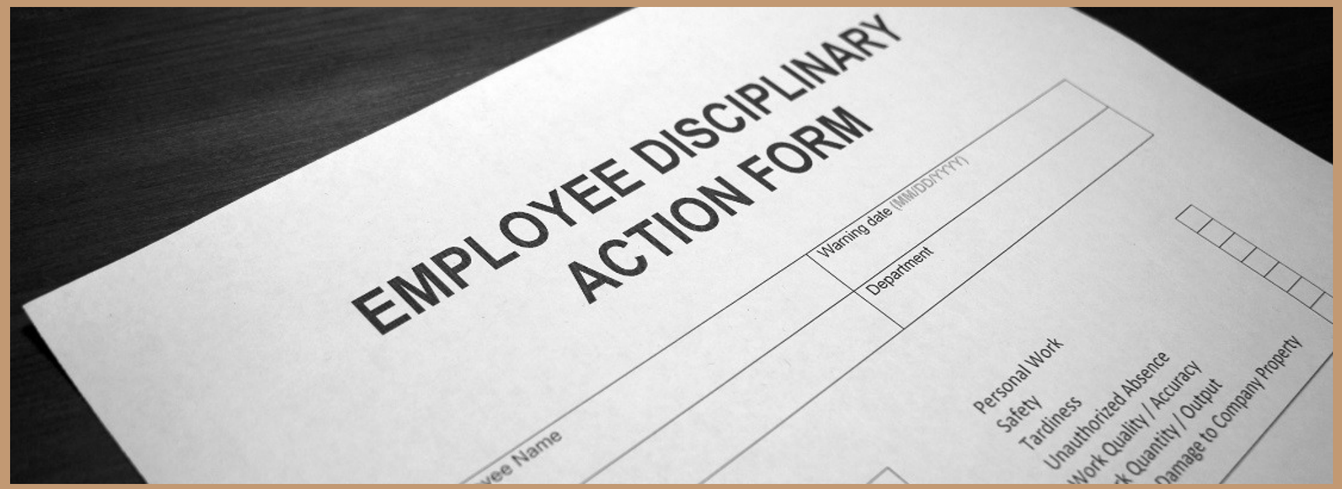
Sensitive Patient Tracking (SPT)

- TONHC has an obligation to maintain reasonable safeguards to Health Information (IM.02.01.03-EP5)
- Health Information should be accessed on a “need to know” basis and only in accordance with your duties
- SPT is a software add-on used at TONHC that tracks user access to individual patient records on the Electronic Health Record (EHR)
- Employees should be aware that disciplinary action can be taken for willful disclosure or unauthorized access of Protected Health Information

ENFORCEMENT

Disciplinary Actions for Noncompliance

- Employees may face disciplinary action according to TONHC personnel policies and may invoke a legal cause of action
- All employees may be held individually accountable
- Reminder: Accessing your own records is a violation of TONHC policy for which disciplinary actions can be taken



ENFORCEMENT

Penalties for Noncompliance

Civil:

- From $100 to $50,000 or more per violation
- Capped at $1.5 million per calendar year
- Enforced by the Office for Civil Rights (OCR)

Criminal:

- Up to $50,000 fine and 1-year imprisonment for knowingly obtaining or disclosing individually identifiable health information
- Up to $100,000 and 5-years imprisonment if done under false pretenses
- Up to $250,000 and 10-Years imprisonment if done with intent to sell, transfer or use for commercial advantage, personal gain or malicious harm
- Enforced by the U.S. Department of Justice (DOJ)

HIPAA

TRUST MATTERS

TRUST MATTERS

Matters of Trust: Patient behavior ...

Distrust:

- Does not seek treatment until an illness has worsened
- Gives incomplete or inaccurate information
- Asks the provider not to record their actual condition
- Moves from one provider to another

Trust:

- More likely to get preventative care and seek help early in acute illness
- Reports more accurate, timely and complete information
- Facilitates higher quality healthcare that is based on more complete facts
- Reduces healthcare cost by avoiding redundant diagnostics and treatments from providers "starting from scratch"

TRUST MATTERS

Earn it …

- Respect the privacy of our patients. It is their RIGHT and our RESPONSIBILITY
- Treat all records as you would want yours treated
- Be sensitive to privacy in all situations and speak as if someone else is always listening
- Be environmentally aware – a curtain is not the same as a door; you can easily harm what you can not see
- What happens at TONHC stays at TONHC!

Keep it secret... keep it SAFE.
- Gandalf The Grey

QUESTIONS?

Please complete the Confidentiality and Non-Disclosure Agreement. Retain a copy for your records and submit the original to your direct supervisor.

CONTACT

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