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E-Newsletter "TIPS"

International Center for Chiropractic Office Managers

HIPAA Privacy and Security: FAQ's Series

HIPAA, Are YOU Compliant?

In my last article I broached the fact that most of us have forgotten HIPAA Privacy and making sure we are all compliant. Well, I was asked all kinds of questions that really surprised me. The number one question I received over and over again was: "I was told I do not have to be HIPAA compliant because I don't file insurance electronically. Is that true?"



Now I understand that not only has HIPAA been forgotten, it is totally misunderstood. HIPAA law addresses several different categories and you are responsible for knowing and implementing all of all it. HIPAA stands for the Health Insurance Portability and Accountability Act of 1996 (HIPAA)

For the next several months, I will be publishing a series of FAQ's. The topics cover Implementation, Notice of Privacy Practices, Patient Communications, Amending Health Records, Disclosure PHI, Patient Access to their Records, Privacy Official, Minimum Necessary, and Business Associate Agreements to help you better understand HIPAA Privacy.

In brief, what is HIPAA Privacy, Security and the New Breach Notification Rules?

You MUST have a written policies and procedures manual concerning HIPAA Privacy and Security and staff must be trained annually on your policies and procedures.

HIPAA Privacy: covers protection of the privacy of ALL individually identifiable health information, the rights granted to individuals, enforcement activities, and how to file a complaint with HHS Office of Civil Rights. compliance date: April 14, 2003

HIPAA Security: covers protection of ELECTRONICALLY stored and transmitted health information. This rule specifies a series of administrative, technical, and physical security procedures for covered entities to use to assure the confidentiality of electronic protected health information. These provisions are related to the safeguards standard of the Privacy Rule. Compliance date: April 20, 2005

HHS Breach Notification: covers how you are required to handle any breaches of protected health information in your office. Compliance date

February 22, 2010

What should a practice do to implement HIPAA provisions?

Requirements for implementing this standard include developing and implementing appropriate policies and procedures that reasonably minimize the amount of protected health information (PHI) used, disclosed, and requested. These policies and procedures must identify the persons or classes of persons within the practice who need access to PHI to carry out their duties, the categories or types of PHI needed, and the times when it is appropriate to access this information. For regular or recurring requests and disclosures, the policies and procedures may be standard protocols. Non-routine disclosures or requests for PHI must be reviewed on an individual basis.

Notice of Privacy Practices

What is a Privacy Notice?

It is really called the Notice of Privacy Practices (NPP). It is a formal document that explains—in simple terms—how, when, and why a patient's health information may be disclosed. This document is quite comprehensive and all office personnel, including THE DOCTORS's or other professional employees, should read this Notice. It answers many questions regarding protected health information (PHI) and is your practice's guide to handling your patients' PHI.

What has to be in a Notice of Privacy Practices (NPP)?

It must contain specific language as proscribed by the U.S. Department of Health and Human Services (HHS), prominently displayed in the beginning of the notice.

“ THIS NOTICE DESCRIBES HOW HEALTH INFORMATION ABOUT YOU (AS A PATIENT OF THIS PRACTICE) MAY BE USED AND DISCLOSED, AND HOW YOU CAN GET ACCESS TO YOUR INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION. PLEASE REVIEW THIS NOTICE CAREFULLY.”

It should have a statement that your office is committed to health information privacy.

You should state that you have the right to amend or revise this notice if your privacy practices change.

You must give detailed accounting with examples of how protected health information (PHI) may be used by your practice.

You must inform the patient of his/her right to:

- o Receive a copy of your Notice.
- o Authorize disclosure of health information.
- o Restrict certain uses and disclosures of PHI.
- o Receive confidential communications.
- o Inspect and copy his/her PHI.
- o Amend his/her PHI.
- o An accounting of PHI disclosures for other than treatment, payment, and health care operations (TPO).
- o Complain about alleged privacy violations by your practice to the HSS.

You must inform the patient of your practice's obligations concerning the use and disclosure of his/her PHI.

Once I get this Privacy Notice written, what do I do with it?

You must make a reasonable effort to assure that each patient gets a Notice of Privacy Practice at the first office visit after 4/13/03 and get written documentation from the patient that he/she received this notice.

You must post a notice prominently in the office.

You may distribute it via e-mail with a return receipt.

If you have a Web site, it must be on the Web site and be downloadable.

What if I forget to give the Privacy Notice to a patient when he/she comes in?

You should mail the notice to the patient ON THE SAME DAY and document why it was not given to the patient at the time of service and that the notice was mailed.

Patient Communication

Can a patient ask to have their health related communications handled in a confidential manner?

Yes. A patient has the right to request that they receive health information from your office in a non-conforming manner, to maintain confidentiality. Generally, out of fear for personal safety, a patient may want his/her information sent to a different address or through a different method of contact. The patient should make this request to you in writing but that is not required by the regulations. The patient is not required to explain why this request is being made. Your office should accommodate reasonable

requests.

Authorization (any authorization from a patient to use or disclose their PHI), and authorization is not necessary for anything related to treatment, payment or healthcare operations.

What is the requirement for an authorization?

Unless release of protected health information (PHI) is allowed by other provisions of the law (for treatment, payment, and health care operations (TPO), a valid authorization is required. There are also additional requirements for authorization for release of psychotherapy notes and most marketing uses.

Are there specific elements that must be in an authorization to make it valid?

Yes, it must contain:

A description of the information to be used or disclosed that provides a clear description.

Name or other specific identification of the person(s), or class of persons, authorized to request use or disclosure of protected health information (PHI).

Name or other specific identification of the individual that the practice may make the requested use or disclosure.

An expiration date/event relating to the individual or purpose of use/disclosure.

Statement of the individual's right to revoke the authorization.

Description of how to revoke authorization.

Statement that the information disclosed may be subject to redisclosure and no longer covered by HIPAA.

Date and signature of the individual authorizing release.

If signed by other than the individual whose records are being released, a description of the representative's authority to act for said individual.

Is there a requirement about language?

Must be in plain (easily understood) language. – this is a requirement in all communication with a patient from your office, such as forms, NPP, Authorizations etc.

Can an authorization be verbal?

To be valid, authorizations must be in writing. A fax of a signed, properly executed authorization is valid.

Can we accept a copy of an authorization instead of the original?

Copies are acceptable if they contain the required elements.

Is there a requirement to verify the identity of the individual signing the authorization?

Only if the individual signing is not the patient whose records are to be released. It is a good practice, however, to verify the authenticity of the signature. If a person presents whose identity is not known on visual sight, you should properly identify that person.

Are there any special requirements to revoke an authorization?

An individual may revoke an authorization at any time, provided the revocation is in writing, except where action has already been taken (e.g., condition of obtaining insurance coverage).

Are there special requirements for authorization for research purposes?

In addition to the core elements, the authorization must contain:

A description of the extent to which protected health information (PHI) will be used or disclosed to carry out treatment, payment, and health care operations (TPO).

A description of any PHI that will not be used or disclosed for purposes permitted.

If a practice has obtained or intends to obtain consent under uses or disclosure to carry out TPO, the authorization must refer to the consent.

Is there any easier way to obtain authorization for research purposes?

An authorization can be a part of another document, such as consent to participate in research, consent to use or disclose protected health information (PHI) to carry out treatment, payment, and health care operations (TPO), or a Notice of Privacy Practices (NPP).

Are there any exceptions to the requirement for an authorization for disclosure for marketing purposes?

ALL marketing communications require a written authorization from the patient except when a face-to-face communication is made by your practice. It is not considered marketing when distributing health care

information to your patient.

To be continued.....

Have a Question? Just Ask Edie!

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Please visit my website that further explains the HIPAA rules and more about the compliance manuals available.

http://www.iccom.org/index_files/ICCOMProducts.html

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