



September 22,
2010

Have You Received a HIPAA Privacy or Security Complaint Letter?

How are you going to respond when it happens?

Good morning,

Have you received a complaint letter from Department of Health and Human Services, Office of Civil Right concerning HIPAA Privacy infraction? Hopefully not, but they are becoming more and more frequent.

Read a copy of an actual complaint letter received by a chiropractor:
[\(click here\)](#)

I want to address something with you that has become a growing concern. **How to respond to an HH\$ OCR HIPAA Privacy or Security Complaint?** I have helped several doctors in the last few months with complaint responses and you are always taken aback by the fact that anyone would file a complaint against you. All doctors think that everybody loves them and no one would never say or do anything against them.

According to HH\$ OCR, these are the top five complaints they receive:

- Impermissible use or disclosure of an individual's identifiable health information;
- Lack of adequate safeguards to protect identifiable health information;
- Refusal or failure to provide the individual with access to or a copy of his or her records;
- Disclosure of more data than is minimally necessary to satisfy a request for information; and



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- Failure to have the individual's valid authorization for a disclosure that requires one.

Note: I have had one doctor receive a complaint from HH\$ OCR concerning OPEN ADJUSTING! This is yet to be resolved.

I have worked with several doctors in the last few months to write a response to HH\$, Office of Civil Rights. This is the usual DATA REQUESTED:

- First always is the name, title and telephone number of the individual designated work with OCR during the subject investigation
- A detailed position statement that responds to the complaint's allegation(s). Include any supporting and relevant documentation with your submission.
- A copy of your HIPAA policies and procedures related to disclosure of protected health information. (This is your HIPAA Privacy Policies and Procedures Manual). **Of course, you have yours, right?**
- Documentation of staff training relating to disclosure of protected health information.
- Number of persons served annually by your facility.

Remember, you **MUST** cooperate with the HH\$ OCR to resolve the complaint or the fine will be even greater.

Waiting until you get the letter can be too late. You must have a written HIPAA Privacy Policies and Procedures Manual and a HIPAA Security Policies and Procedures Manual in your office. You also must have the documentation that your staff has been trained initially and annually. If you do not have that ... **DO IT NOW! GET IT DONE NOW! Do not procrastinate any longer.**

Since HITECH became law in February of 2010, the fines have increase substantially. I wrote about that in another article. **(Do not get caught. Get into compliance today and stay compliant.)**

Read a copy of a complaint letter received by a chiropractor: [\(click here\)](#)

As you can see from this complaint letter that this doctor had 14 days to respond. Everything had to be in place before the letter was received or it will cost you. You cannot wait to get the letter and then start putting

together what you are required to have by "LAW" to have in place now, your HIPAA policies, procedures and documentation.

How should you respond when you get a complaint letter:

— **Step One:** Do Not Wait! Contact the assigned OCR Investigator. Ascertain the specifics of the allegations set forth in the Complaint. Affirm your willingness to cooperate.

— **Step Two:** You or your Privacy Official should notify appropriate guidance.

— If you have one, contact your HIPAA Expert and/or your Attorney

— **Step Three:** Conduct an investigation of the complaint.

— Who will conduct the investigation? You and your HIPAA Privacy or Security Official must both be involved.

— How extensive should the investigation be? As much as it takes to get to the heart of the issue.

— Gather the appropriate documents (assume OCR has nothing)

— Document the investigation and your findings.

— **Step Four:** Draft the formal response.

— Cooperate to the fullest extent possible with OCR.

— Give OCR the “full-story”.

— Attach the requested policies, procedures and documents that address the complaint as part of your formal response.

— Take a position.

— If fault lies with you, set forth the proposed remedial measures to be instituted (e.g. policy changes; amendments to forms; following-up with the Complainant, if you know who that is)

— Affirm in your response your willingness to fully cooperate with OCR

— Provide a contact person to OCR (i.e. Privacy Officer and potentially, if

necessary, your attorney)

- **Step Five:** the Final Written Response.
- Formulate a final written response.
- File the letter with OCR within the allotted deadline.

Response from HHS OCR may come:

- 1) In the form of a telephone call to the Privacy Officer or your attorney seeking further information.
- 2) Hopefully, OCR resolves the matter through a formal written response to you and the complainant.

Document, Document, Document all the way through this process and make sure that if fault lies in something you are doing...correct it and correct it NOW!

And get COMPLIANT before you get that complaint letter.

**If you are still not sure if you are compliant, go take the checklist quiz?
Are you compliant? Find out for yourself.**

[HIPAA Privacy Checklist](#)

[HIPAA Security Checklist](#)

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Please visit my website and purchase the HIPAA Privacy and HIPAA Security Policies and Procedures manual.

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

email me with any questions you may have: [\(click here to email me\)](#)