



Not Your Father's HIPAA Compliance

May 23, 2024

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An illustration showing a pair of hands holding a document. The document has the text "OCR" and "Your Facility" on it, along with several small icons representing different types of data or services. The background is a light blue gradient with a pattern of small, repeating icons. To the right of the illustration is a list of bullet points.

- Multiple rule changes
- Investigating all breaches over 500
- Department dedicated to reviewing SRAs
- Reviewing all patient complaints
- Random Audits

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Defensive vs Defensible

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Regulatory Updates

- Health Data, Technology, and Interoperability (HTI-1)
 - Published on **January 9, 2024**
- 42 CFR Part 2
 - Published **February 16, 2024**
- Protecting Access to Reproductive Healthcare Services
 - Finalized on **April 22, 2024**
- Modification to the HIPAA Privacy Rule
 - Anticipated publication in **December 2024**
- Disincentives for Providers for Information Blocking
 - Anticipated publication in **December 2024**
- Security Rule NPRM
 - The NPRM will be published in **November 2024**
- Proposed Modification to the Security Rule to Strengthen Cybersecurity of ePHI
 - The NPRM will be published in **September 2024**
- Nondiscrimination Provisions for Confidentiality of Substance Use Disorder Patient Records
 - The NPRM will be published in **September of 2024**

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HTI-1 Updates to Information Blocking Exceptions

Exceptions that involve not fulfilling requests to access, exchange, or use EHI:

- Preventing Harm
- Privacy
- Security
- **Infeasibility***
- Health IT Performance

Exceptions that involve procedures for fulfilling requests to access, exchange, or use EHI:

- **Content & Manner***
- Fees
- Licensing

New – Exceptions that involve practices related to actor's participating in the Trusted Exchange Framework and Common Agreements (TEFCA):

- **TEFCA Manner Exception**

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Designated Record Set & Open Notes

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42 CFR Part 2 Updates

- Patient Consent – single consent now permissible
- Redisclosures now permissible in accordance with HIPAA
- Updates to Notice of Privacy Practices
- SUD Counseling Notes
- Complaints



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Reproductive Healthcare



Prohibits disclosure for investigation or to impose a liability for lawful reproductive treatment



Obtain a signed attestation for PHI involving reproductive healthcare



Modify Notice of Privacy Practices

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Security Rule RFI

- Considerations for implementing the HITECH Act.
 - Currently an RFI and is predicted to be posted as an NPRM in November 2024.
 - First ever NPRM to the Security Rule since 1996!



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 An illustration of three people (two men and one woman) sitting at a table with laptops, engaged in a meeting. The background features various icons representing business, technology, and communication, including a lightbulb, a gear, a location pin, an envelope, a bar chart, and a clock.

Implementing Updates

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HIPAA Prioritization



Clear Policies and Procedures



Develop a Compliance Committee



Proactively Auditing – including GOO!



Staff Training and Education



Privacy Gap Assessment and Security Risk Analysis

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Change Strategy

- Informing Leadership
- Budgeting (Time and Capital)
- Create a roll-out plan
 - Overlapping timelines and requirements
- Perform Privacy and Security Risk Analyses Around Changes
- Compliance Oversight and Governance

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Compliance IS Risk Management



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Who'll Help Me Comply? (Parody Who'll Stop The Rain?)

Long as I remember
OCR been promisin' change
New rules protecting Privacy
Confusion in HIM
Patient Requests and Info Blocking
Tryin' to find the time
And I wonder still I wonder
Who'll help me comply

I went to my leadership
Seekin' help with all the change
They got
Caught up in the fable
That HIPAA wouldn't grow; gave
me
Five-year plans and budgets
Wrapped in promises
And I wonder still I wonder
Who'll help me comply

Heard the changes comin'
How I cried out loud
Leadership said no worries HIM
Will keep us safe
Still the rules kept changin'
No mercy for Privacy Officers
And I wonder still I wonder
Who'll help me comply

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Thank you for joining us!

Any questions?

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