

## HIPAA Hints

# HIPAA: Misconceptions and Truths

HIPAA seems shrouded in mystery on so many levels, but in reality it only takes a moment to separate misconceptions from facts to gain a better understanding.

### **Misconception 1: It's all in the spelling**

HIPAA (not "HIPPA") is the Health Insurance Portability and Accountability Act. Including the two "P's" only leads to comparisons with the hippopotamus. While the hippopotamus surely makes a nice mascot when designing brochures and educational materials, it should not be confused with HIPAA, the Health Insurance Portability and Accountability Act by which we are bound.

### **Misconception 2: It's all about privacy**

While privacy is a key focus, the law in general addresses group health plans and employee protections in regards to health insurance. Portability is a U.S. employee's right to keep or maintain certain benefits when switching employers or when leaving the workforce (retiring). The Health Insurance Portability and Accountability Act of 1996 (HIPAA) provides rights and protections for participants in group health plans. (Investopedia.com, 2016)

### **Misconception 3: HIPAA was waived during the Orlando terror attack.**

It was widely reported in the media that the Obama administration waived the HIPAA rule to allow better communication for those who were seeking information about their partners. This was simply not true. According to the U.S. Department of Health and Human Services, "HIPAA allows health care professionals the flexibility to disclose limited health information to the public or media in appropriate circumstances. These disclosures, which are made when it is determined to be in the best interest of a patient, are permissible without a waiver to help identify incapacitated patients, or to locate family members of patients to share information about their condition. Disclosures are permissible to same sex, as well as opposite sex, partners."

Waivers of the HIPAA Rule are rare. After Hurricane Katrina in 2005, the HIPAA rule was lifted due to the widespread destruction of medical records in New Or-

leans and the surrounding areas. (Modern Healthcare.com, 2016)

### **Misconception 4: "There are so many health-care practices, they can't possibly police everyone!"**

As a recent public announcement from the Office for Civil Rights indicates, they are stepping up hiring for HIPAA compliance activities. The Office for Civil Rights (OCR) enforces the HIPAA Privacy and Security Rules and the confidentiality provisions of the Patient Safety and Quality Improvement Act.

OCR is seeking experience in privacy and security compliance and enforcement as well as in the areas of policy, outreach, and health information technology systems. (PowerSolution.com, 2014)

OCR audits the compliance efforts of the health care industry that is regulated by HIPAA. As recently as July 2016, OCR selected nearly 200 entities that are regulated by HIPAA to audit and assess the entities' compliance with the HIPAA Rules. OCR has announced audits will continue in 2017.

In recent weeks, OCR has also released a statement declaring that small breaches of 500 patients or less are going to be receiving a closer look. This includes the small singular breaches of misdirected paperwork, misdirected faxes and misdirected postal mail.

Just in the first seven months of 2016 (from January 2016 through August 2016), OCR has collected more than 20 million dollars from entities in the health care industry for HIPAA violations. That means millions is available to the OCR to police the health care industry that is regulated by HIPAA, and millions of dollars is available to find the HIPAA violations and continue to collect more and more millions of dollars in fines from entities regulated by HIPAA.

Don't let misconceptions cloud your decision making. The HIPAA Office is here to help you navigate and dispel the mystery about the HIPAA rule. You can contact us at **501-603-1379** or **HIPAA@uams.edu**. We are also on the web at **<http://hipaa.uams.edu>**.