

# HIPAA “General” Privacy Training for New Hanover County Health Department Staff

April 3, 2003



New Hanover County Health Department



# **New Hanover County Health Department**

## **HIPAA Privacy Officer**

**Cindy Hewett**  
**(910) 343-6500**



# NHCHD HIPAA Committee

Beth Jones

Betty Rauth

Betty Jo McCorkle

Daisy Brown

Ellen Harrison

Lynda Smith

Marilyn Roberts

Janet McCumbee

Cindy Hewett

Debbie Toth

Kim Roane

Sharon Neuschafer

Sandra Brooks

Nancy Nail



# NHCHD HIPAA Sub-Committees

## Notice of Privacy Practices:

- ❖ Kim Roane
- ❖ Ellen Harrison
- ❖ Sandra Brooks

## Information Flow Assessment:

- ❖ Debbie Toth
- ❖ Daisy Brown
- ❖ Sharon Neuschafer



# NHCHD HIPAA Sub-Committees

## Business Associate Agreement:

- ❖ Betty Rauth
- ❖ Marilyn Roberts

## Policies and Procedures:

- ❖ Beth Jones
- ❖ Betty Jo McCorkle
- ❖ Janet McCumbee
- ❖ Nancy Nail



# What is HIPAA?

## Health Insurance Portability and Accountability Act of 1996

- Public Law 104-191, The Health Insurance Portability and Accountability Act, was signed into law on August 21, 1996.
- Having its roots in the 1993 Clinton healthcare reform proposals, the **primary intent** of HIPAA is to **provide better access to health insurance, limit fraud and abuse, and reduce administrative costs.**





# HIPAA Privacy Regulations Milestones

- HIPAA Act required privacy rules by 6-21-99
- Congress did not act--HHS drafted privacy rules
- Draft *rules* published in *Federal Register* 11-3-99
- Over 52,000 comments
- Final Rule: Published 12/28/00
- 2nd Comment period 2/28/01, plus >11,000
- Privacy Rules effective 4-14-01
- Privacy Rules implementation by 4-14-03



# What does HIPAA accomplish?

- Improves portability and continuity of health insurance coverage in the group and individual markets;
- Reduces waste, fraud, and abuse in health insurance and health care delivery (Medicaid & Medicare);
- Provides patients with certain rights;
- Improves access to long-term care services and coverage; and
- Simplifies the administration of health insurance



# How the Law is Structured

- HIPAA is divided into five titles - each addresses a unique aspect of health insurance reform.
- Title II is also known as Administrative Simplification –
- HIPAA preempts State Laws
  - Unless State Laws are more stringent!



# Standards for Compliance

## ■ Electronic Transactions

- Compliance required 10/16/02
- We filed for an extension, compliance extended to 10/16/03



# Standards for Compliance (cont'd)

## ■ Privacy

- Compliance required **April 14, 2003**
  - NOTE: Extension of Transaction compliance DOES NOT extend Privacy Compliance

## ■ Security

- Security Regulations published February 2003
- Compliance date April 21, 2005



# Impact of Not Complying

- Possible litigation
- Potential withholding of federal Medicaid and Medicare funds
- Penalties
  - Civil
  - Criminal



# Impact of Not Complying

- General Civil Penalty for Failure to Comply
  - *\$100 per violation per person*
  - *Not to exceed \$25,000 per calendar year*



# Impact of Not Complying

- Criminal penalties regarding privacy  
(Person knowingly & wrongfully discloses individually identifiable health information)
  - *Simple offense: Up to \$50,000 and/or one year imprisonment*
  - *If committed under false pretenses: Up to \$100,000 and / or 5 years imprisonment*
  - *If committed with intent to sell, transfer, or use individually identifiable information for commercial advantage, personal gain or malicious harm: Up to \$250,000 and /or 10 years imprisonment*



# Enforcement

- US DHHS Office for Civil Rights
  - Richard Campanella, J.D.,- Director OCR
  - *Assists with voluntary compliance efforts*
  - *Responds to questions*
  - *Provides interpretation / guidance*
  - *Investigates complaints*
  - *Conducts compliance reviews*
  - *Seeks penalties for non-compliance*



# Terms to Know: Covered Entity

## ■ Covered Entity:

### – Health care providers –

- who electronically transmit health information in connection with a standard transaction
- Physicians, Hospitals, Labs, Public Health Departments
- **Excludes** providers who submit transactions on paper

### – Health plans (provides or pays the cost of medical care)

### – Health care clearinghouses (narrowly defined to those that translate data from non-standard to standard format)



# Terms to Know: Hybrid Entity



- Hybrid Entity:
  - A single legal entity that is a covered entity with both covered and non-covered components
- NHCHD is a hybrid entity
- NHCHD is responsible for ensuring that its health care components comply with HIPAA rules

# Terms to Know: Health Care Component



- A Health care component is a component of a covered entity that performs covered functions that qualify the component as a Health Care Provider, Health Plan, or Health Care Clearinghouse.
- NHCHD is made up of “health care components” (often called “covered health care components”) and non-covered components



# NHCHD Covered Components

- Health Administration- **IT**
- **Communicable Disease** (except CDD Surveillance)
- **Community Health** (except Jail Health and School Health- HEP B is covered function)
- **Child Health** (except Child Care Nursing- Immunizations are covered functions)
- **Laboratory** (indirect treatment providers)
- **Nutrition / WIC**
- **Women's Health Services**
- **Health Promotion**



# Others Who Are Impacted

- Confidentiality Statements will be put in place with the following NHC Agencies:
  - Information Technology
  - Finance
  - Property Management



# NHCHD Responsibilities

- To ensure covered health care components within the NHCHD comply with HIPAA regulations
- Ensure that transactions between NHCHD health care components and other agencies (e.g., DHHS, CIGNA, etc.) comply with HIPAA regulations





# Why Do We Need Privacy Regulations?

- The Privacy Regulations establish a federal floor of safeguards to protect the confidentiality of health information.
- With information broadly held and transmitted electronically, the old system of paper records in locked filing cabinets is not enough.
- The general public has had to rely on a patchwork of state and federal laws to protect health information.





# What Do The Privacy Regulations Cover?

- Preempts state law unless state laws are more stringent
- Requires a Notice of Privacy Practices (**NOPP**)
- Requires consent to use or disclose information for TPO (treatment, payment or other health care operations)
- Limits the amount of information to be used or disclosed to what is minimally necessary
- Identifies use and disclosure for which an authorization is or is not required



# What Do The Privacy Regulations Cover? (cont)

- Requires designation of a privacy officer and a contact person for complaints
- Requires identification of members of the workforce who need access to PHI and categories of information to which access is needed
- Requires training of all staff members
- Requires appropriate administrative, technical and physical safeguards to protect health information





# What Do The Privacy Regulations Cover? (cont)

- Requires new policies and procedures
- Establishes content or documentation requirements for policies, procedures, notices, consents, authorizations, amendments, accounting of disclosures, complaints and compliance
- Addresses fees that may be charged for unauthorized disclosures
- Requires compliance by April 14, 2003





# Purpose of Privacy Regulations

- Gives clients more control over their health information.
- Sets boundaries on the use and disclosure of health records.
- Establishes appropriate safeguards health care providers and others must achieve to protect privacy of client information.
- Holds health care providers accountable with civil and criminal penalties if they violate clients' privacy rights.





# Objectives of Privacy Regulations

- To ensure each covered health care component protects the health information it maintains.
- To ensure a client's health information is not used inappropriately.
- To ensure the minimum amount of information is used or disclosed whenever possible. (Does not apply to treatment)
- To ensure clients have more control over when & how their PHI is used.





# Scope of Privacy Regulations

- Includes all medical records and other protected health information maintained by a health care provider or a health plan.
  - Examples of PHI: Name, Social Security Number, Email Addresses, Medical Record Number, Account Numbers, License Numbers, Biometric Identifiers, Photos, etc.
  
- Covers information in any format
  - Paper
  - Electronic
  - Oral
  - Affects use and disclosure of all client health information





# Use & Disclosure

- **Use:** PHI is used when shared, examined, applied or analyzed *within* the covered entity that maintains the information
- **Disclosure:** PHI is disclosed when released, transferred, been given access to, or divulged *outside* the covered entity holding the information.





# What Does HIPAA Privacy Mean to You Personally?

- **Right** to be informed through NOPP
- **Right** to inspect & review own record
- **Right** to receive copy of record
- **Right** to amend / correct record
- **Right** to add supplemental information





# What Does HIPAA Privacy Mean to You Personally?

- **Right** to restrict use & disclosure of information
- **Right** to accounting of disclosures
- **Right** to personal representative
- **Right** to revoke authorization
- **Right** to appeal





# It's Good to Know

- Privacy and Security go hand-in-hand



- Privacy - What

- *Individually Identifiable Health Information (IIHI)* defined in Part 160 becomes *protected health information (PHI)* in Part 164

- Security - How

- Protect information from accidental or intentional disclosure and from alteration, destruction or loss





# What is Privacy?

- Right of individual to keep his/her health information from being disclosed to unauthorized persons.
- Fundamental premise upon which the privacy rule is based:
  - *It should be easy to use health information for healthcare and very difficult to use it for any other purposes.*
- HIPAA is the first comprehensive **FEDERAL LAW** to **PROTECT** the privacy of individually identifiable health information (IIHI).





# NHCHD Responsibilities

- **Protect/ Secure** Health Information of Patients (Living or Deceased)
- **Provide** health information to other healthcare providers
- **Release “minimum necessary”** information
- **Establish** internal complaint process
- **Develop** system of sanctions for Agency Staff
- **Determine** enforcement & compliance requirements





# Notice of Privacy Practices

- NHCHD Practices Regarding Patient Information
  - (4 page document)
- Includes anticipated uses and disclosures of PHI
- Written in easily understood sentences
- Includes examples
- Posted in Clinic Waiting Areas (English, Spanish)
- Revised if practices change
- Must be presented to each patient on their first visit on or after April 14, 2003.
- Patients must sign Acknowledgement of Receipt of NOPP





# Business Associate Responsibilities

- **Must** enter into contract with Covered Entity
- **Must** exercise an appropriate level of care related to privacy and conform to HIPAA regulations.
- **Must** treat protected health information the same as the covered entity.





# What Can I Learn From The Privacy Regulations?

- No one regulation stands alone. They intertwine with each other.
- The central theme in each regulation is PRIVACY.
- How and when Protected Health Information can be used and disclosed.
- How “consent” and “authorization” are different.
- When you have to obtain consent.
- When you also have an authorization.





# Consent and Authorization

- **Consent:** A general consent is **required** for use or disclosure of information for treatment, payment, and other health operations.
- **Authorization:** A more specific authorization is **required** for use & disclosure of information for purposes other than treatment, payment or health operations.





# What is SECURITY?

- The **mechanism(s)** in place to protect individual health information
  - *Policies and Procedures*
  - *Physical Safeguards of building and equipment*
  - *Software Controls*
  - *Transmission of Data*





# Location of HIPAA Regulations

- HIPAA Regulations may be located on the website of the US Dept of HHS

<http://aspe.hhs.gov/adminsimp/Index.htm>

- NHCHD HIPAA Manual
  - Maintained by Privacy Officer
  - Copy located outside of Health Director's Office

