HIPAA COMPLIANCE PLAN FOR 2013

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Welcome!

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Meaningful Use?

- As a way to encourage hospitals and providers to adopt EHRs, Congress in 2009 passed a law creating incentive payments for providers and hospitals that choose to adopt and use certified EHR technology in a “meaningful” way.
- Incentives are offered from Medicare and Medicaid for adopting a certified EHR program and implementing the Meaningful Use criteria designed by CMS.
- The incentives are obtained through attestation.

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Medicare Eligible Providers

- Doctors of Medicine or Osteopathy
- Doctors of Dental Surgery or Dental Medicine
- Doctors of Podiatric Medicine
- Doctors of Optometry
- Chiropractors

Medicaid Eligible Providers

- Physicians
- Nurse Practitioners
- Certified Nurse - Midwife
- Dentists
- Physicians Assistants who practice in a Federally Qualified Health Center (FQHC) or Rural Health Center (RHC) that is led by a Physician Assistant.

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Stage 1 - Attesting

- Website - https://ehrincentives.cms.gov/hitech/login.action
- Core Measures – 15/Menu Measures – 5 out of 10
- Guide for attestation https://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/downloads/EP_Attestation_User_Guide.pdf
- Core Measure #15: http://www.cms.gov/EHRIncentivePrograms/Downloads/15_Core_ProtectElectronicHealthInformation.pdf

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EHR Incentive Programs

A program of the Centers for Medicare & Medicaid Services

Step 2: Meaningful Use Core Measures

Core Measure 15

Objective

Protect electronic health information created or maintained by the certified EHR technology through the implementation of appropriate technical capabilities.

Measure

Have you conducted or reviewed a security risk analysis per 45 CFR 164.308 (a)(1) and implemented security updates as necessary and corrected identified security deficiencies as part of your risk management process?

- ○ Yes
- ○ No

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What Does The Security Rule State?

- HIPAA Security Rule Administrative Safeguards (45 CFR 164.308 (a)(8))

  "Perform a periodic technical and non-technical evaluation, based initially upon the standards implemented under this rule and subsequently in response to environmental or operational changes affecting the security of electronic protected health information that establishes the extent to which an entity's security policies and procedures meet the requirements …"

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HIPAA Security Compliance
(Use The Detailed Checklist)

S - Set a Security Action Plan to Protect Patient Health Information

R – Record Your Plan with Documentation

A – Assess Your Plan Annually or With Changes

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2 Phases to Answering MU #15

CMS MU Core Measure #15 states: *"Have you conducted or reviewed a security risk analysis per 45 CFR 164.308 (a)(1) and implemented security updates as necessary and corrected identified security deficiencies as part of your risk management process?"*

- Phase 1 – Deals with "**regular assessment** of the potential risks and vulnerabilities … of the ePHI …"
- Phase 2 – Defines a process of documenting processes "that define how organization will **comply with HIPAA** security policies

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Is Your Risk Mitigated by Your EMR Vendor?

- Security risks in your **ePHI – Life Cycle**
- Security risks in your **overall** practice
  - People
  - Documentation
- Threats – **Incidental, Passive, Active**
  - Common – viruses, spyware, unauthorized access, laptops stolen, network abuse, sabatoge, unsecure wireless, remote access

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Safeguards Addressed

- Physical Safeguards – facility, places/locations where patient data is accessed.
  - Examples – Alarm systems, locked offices, screens on monitors
- Administrative Safeguards – Security Officer, Workforce Training, Assessments
  - Examples – Staff Training, Reviewing activity of users, policy enforcement
- Technical Safeguards – Controls, audit logs, securing exchanges
  - Examples – Securing passwords, backing up data, virus checks, data encryption
- Documentation – Policies and Procedures
- Organizational – Breaches, BA Agreements

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What Does a **Complete** Security Risk Assessment Consist Of? (Refer to Checklist)

- Analysis of your practice's risks
- Plan to mitigate any identified security risks
  - **Immediate**
  - **Short-term**
  - **Long-term**
- **Policies** that address potential risks
- **Procedures** to support the policies that prevent security risks

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If you are attesting **'YES'** that you have completed Meaningful Use Measure #15 and you aren't in compliance with the guidelines, then you could be committing **FRAUD or WILLFUL NEGLECT**.

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What Are The Penalties/Costs?

- Civil Penalties can be assessed –
  - $100 per violation, can be measured by time, number of individuals affected up to $25,000 for multiple violations during a calendar year.
- Criminal Penalties can be assessed –
  - Department of Justice - $50,000 up to $250K for wrongful disclosures, and could involve imprisonment.
- Breach Incidents
  - Over 500 are publicly recorded on OCR website
- Corrective Action Costs can be extensive.

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Are Your Incentive Payments at Risk

- If you attest to MU #15 without conducting a complete security risk assessment – **YES**
- CMS has authorized **audits**
  - **People/Workforce**
  - **Documentation**
  - **Policies/Processes**
- **Penalties** can be assessed

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What to Do If You're NOT Attesting to Meaningful Use

- HIPAA Security Rule Administrative Safeguards (45 CFR 164.308 (a)(8))

  "Perform a periodic technical and non-technical evaluation, based initially upon the standards implemented under this rule and subsequently in response to environmental or operational changes affecting the security of electronic protected health information that establishes the extent to which an entity's security policies and procedures meet the requirements …"

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Frequently Asked Questions

- What is the HIPAA Security Rule?

  http://www.hhs.gov/ocr/privacy/hipaa/administrative/securityrule/index.html

- Is this the same as OSHA?
- What is the difference between the HIPAA Privacy Rule and the HIPAA Security Rule?
- Can I perform the **SRA** myself?
- After I complete the Security Risk Analysis, am I compliant with the Security Rule?
- What should I do next?

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How Are Audits Affecting Us?

- Audits of Covered Entities in general – 150 for 2012. (Per HITECH Act OCR audits of covered entities for Privacy and Security.)
  - KPMG (Phoenix, Alaska, 115 by year end)
- Audits of Meaningful Use Attestors
  - Figliozzi and Company – CMS Audits under ARRA
  - http://practicemanagersolutions.com/meaningful-use-audit-information-for-you/
- Audits from suspected HIPAA violations
  - Complaint Investigations

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Audit Results

- Lack of Security Risk Assessment
  - Not performed or not documented
- Lack of Documentation
  - Policies
  - Procedures
  - Processes
- Lack of Workforce Training
  - Security Rule

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"Covered entities must perform a full and comprehensive risk assessment and have in place meaningful access controls to safeguard hardware and portable devices…we expect organizations to comply with their obligations under these rules regardless of whether they are private or public entities."

~OCR Director, Leon Rodriguez

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How We Can Help

1. We use a certified partner to create and license our HIPAA Security Risk Assessment
    - Excel-based program **for calculation and scoring**
    - Based on **NIST Guidelines**
    - Completed in **one day**
    - Personalized **one-on-one**
    - Prioritizes **Your Immediate Needs**
    - Maintain **and Update the Program with latest information**

2. Library of **policies** to address security risks – Workshop March 21 and 22 in Maitland: http://practicemanagersolutions.com/hipaa-security-policy-writing-intensive/

3. Long-term assistance in developing customized **procedures**

4. HIPAA Security Workforce Training – **In Your Office**

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We Are Here For You!

- Email – info@practicemanagersolutions.com
- Website – www.practicemanagersolutions.com
- Facebook Page – www.facebook.com/practicemanagersolutions
- Linked In - http://www.linkedin.com/in/rebmorehead
- Phone – 407-878-3137 or 866-492-0481 x 1

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