

HEALTHCARE COMPLIANCE NEWSLETTER

Issue 1, Spring 2012

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This newsletter is prepared by the Office of Compliance and is intended to provide you with current information about healthcare compliance and HIPAA privacy issues. For additional information, to view past newsletters, or to provide comments about this or any future issues of this newsletter, please contact the Office of Compliance at (213) 740-8258 or at complan@usc.edu.

The Centers for Medicare and Medicaid Services (CMS) issues Proposed Rule for the Sunshine Act

On December 19, 2011, under significant pressure from Congress, CMS issued the much anticipated Proposed Rule for the implementation of the Physician Payment Sunshine Act. This Act is intended to create more transparency surrounding payments and transfers of value from health care manufacturers (Industry) to physicians, dentists, podiatrists, optometrists, chiropractors, and Teaching Hospitals.

The Act will require Industry to report the following types of payments and services to a publicly available database:

- Food, travel, and entertainment
- Education and unrestricted grants
- Research payments
- Compensation for education, speaking arrangements, and other types of consulting
- Royalties
- Equipment loans of greater than 60 days
- In-kind items or services
- Stock, stock option or other ownership interest

Industry began collecting data as of January 2012 in order to start reporting by the rule's deadline of March 31, 2013.

The entire proposed rule can be found at: <http://www.gpo.gov/fdsys/pkg/FR-2011-12-19/pdf/2011-32244.pdf>

HIPAA Audits are Underway

Twenty healthcare organizations have already been subjected to audits by the Office of Civil Rights (OCR), evaluating their compliance with the HIPAA Privacy and Security Rules and Breach Notification Standards. As part of the pilot audit program, under the HITECH Act, OCR will conduct up to 150 audits from November 2011 to December 2012 to assess privacy and security compliance. Auditors will conduct a site visit, interview key personnel, and record results in reports that will be shared with the organization and the OCR. Every covered entity and business associate is eligible for an audit.

OCR has made clear that enforcement actions may follow audits revealing significant HIPAA Security compliance issues. In recent

years, OCR has stepped up its enforcement activity:

- Massachusetts General Hospital. \$1 million settlement and three-year Corrective Action Plan for loss of Protected Health Information ("PHI") by employee. (February, 2011)
- Cignet Health. \$4.3 million penalty for refusing patients access to their medical records. (February, 2011)
- UCLA Health System. \$865,000 settlement and three-year Corrective Action Plan for allowing unauthorized access to patient medical records. (July, 2011)

While OCR has not released a set of audit questions, the HHS Office of Inspector General (HHS-OIG) issued a report based on the agency's audits of seven hospitals across the country. The report identified a number of vulnerabilities, which are likely to be high on OCR's list of priorities. Areas of vulnerability included:

- Inadequate security of wireless networks
- Lack of adequate updates to software and operating systems
- Access log recordkeeping
- Insufficient incident detection and response procedures
- Inadequate user access controls and password management controls
- Risk of theft or loss of mobile devices
- Information access management, including role-based access

More information about the HHS HIPAA audit pilot program is available at: www.hhs.gov/ocr/privacy/hipaa/enforcement/audit/index.html

USC HIPAA Policies Updated

The USC HIPAA policies have been updated as of November 2011 to incorporate changes to the HIPAA privacy and security rules that were introduced by the Health Information Technology for Economic and Clinical Health (HITECH) Act. A summary of changes as well as the policies can be found at: <http://ooc.usc.edu/hipaa-privacy-regulations>

New Compliance Education Available

Healthcare Reform requires all healthcare providers who accept government funds to have a compliance program. An essential component of an effective compliance program is education. The Office of Compliance has created education that offers you key insight and information on a broad range of compliance related topics.

- Updated HIPAA Education Course: This updated course is available to all employees and provides guidance on understanding your role in handling and protecting patient health information while providing valuable information regarding recent changes in HIPAA and state privacy laws and how these changes impact USC.
- Healthcare Compliance Education: This new course provides

information on applicable healthcare laws/regulations, the university Code of Ethics, Relationships with Industry and other compliance "Hot Topics". This course is applicable to staff and faculty.

These courses are now available through Healthstream. For assistance in accessing Healthstream, call the Health Science Campus Office of Compliance at (323) 442-8588.

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