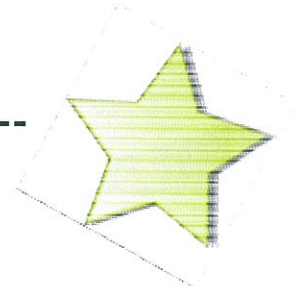
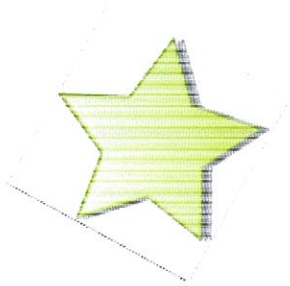


**Progressive Healthcare Conferences
Presents:**

**Medical Records Retention
Policies: What to Save; What to
Destroy**



Upcoming Webinar Next Month:

Thursday August 13, 2015

Physician Compensation Arrangements: Do's & Don'ts to Avoid Penalties
& Fines

Medical Record Retention & Destruction

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Overview

- ▶ Medical records management—state and federal regulations
- ▶ Record retention considerations—what must be saved, litigation and the record, the importance of written policies
- ▶ Do's & Don'ts of destruction of records

What is a Medical Record

- ▶ Typically defined by state statute.
- ▶ All communications related to a patient's physical or mental health or condition that are recorded in any form or medium and that are maintained for purposes of patient diagnosis or treatment, including medical records that are prepared by a healthcare provider or by other providers.

What is a Medical Record

- ▶ Does NOT include peer review, quality assurance or utilization review materials
- ▶ Does NOT include recorded calls, such as to 9-1-1
- ▶ DOES include communications between emergency personnel and medical personnel concerning diagnosis and treatment

4

What is a Medical Record

- ▶ Not simply records prepared by physicians or nurses
- ▶ Includes behavioral health records, and records from therapists, social workers, licensed counselors, substance abuse counselors
- ▶ Includes testing records and results
- ▶ Includes records forwarded by others

5

Production Considerations

- ▶ Make sure that the person who is requesting the records is authorized to obtain the records.
- ▶ Third party may obtain medical records via subpoena if:
- ▶ Subpoena is accompanied by written authorization by patient or patient's health care decision maker

6

Production Considerations

- ▶ If no written authorization, subpoena is accompanied by court order or by qualified protective order
- ▶ Subpoena is from a grand jury in criminal matter
- ▶ Subpoena from a health profession regulatory board
- ▶ Another law requires production

7

Retention Requirements

- ▶ Typically defined by state statute
- ▶ Most common is 6 years from the last date of service for adult patients and 6 years after a minor child reaches the age of majority
- ▶ CMS requires a Medicare Fee-For Service provider to retain documentation for 6 years from the date of its creation or last date it was in effect, whichever is later.

8

Retention Requirements

- ▶ Medicare managed care program provider is required to retain patient records for 10 years
- ▶ HIPAA Privacy Rule does not include medical retention requirements, as that is typically determined by State law, other than the Medicare specific requirements discussed above

9

Electronic Health Records

- ▶ EHRs (Electronic Health Records)
- ▶ PHI (Protected Health Information)
- ▶ Must take steps to safeguard PHI (paper or electronic)
- ▶ Covered entities must apply appropriate administrative, technical, and physical safeguards to protect the privacy of PHI

10

Examples of violations/penalties

- ▶ Massachusetts Eye & Ear Case
- ▶ Theft of unencrypted laptop with health info of 3,600 patients
- ▶ No HIPAA risk analysis, policies, etc.
- ▶ "Long term institutional disregard" re: HIPAA
- ▶ \$1.5 million fine paid

11

Examples of violations/penalties

- ▶ Phoenix Cardiac Surgery
- ▶ 5 doctor medical practice
- ▶ Surgery and appointment schedules posted online on public website
- ▶ No HIPAA policies or procedures
- ▶ No training log, HIPAA security officer
- ▶ \$100,000 fine paid

12

Examples of violations/penalties

- ▶ North Idaho Hospice Case
- ▶ Involved loss of a laptop with data on 411 people
- ▶ Laptop was not encrypted
- ▶ No HIPAA risk analysis
- ▶ \$50,000 paid to settle case

13

Destruction of Medical Records

- ▶ HIPAA provides that documents with PHI must be securely destroyed
- ▶ Examples of proper disposal/destruction techniques include:
- ▶ Shredding, burning, pulverizing so that PHI is unreadable and cannot be reconstructed
- ▶ Electronic media can be cleared, purged, or destroyed

14

Destruction of Medical Records

- ▶ You cannot just throw documents containing PHI in a publically accessible dumpster without destroying PHI first
- ▶ You may hire a business associate to dispose your PHI documents, but you have to have a signed business associate agreement
- ▶ You must remove ePHI before disposal of computers or other media that store ePHI

15

Destruction of Medical Records

- ▶ Maintain documentation of the permanent destruction of medical records
- ▶ Include the date of destruction, the method of destruction, inclusive dates of service, signatures of persons who witnessed or supervised the destruction

16

Written Policies

- ▶ HIPAA Security Rule requires covered entities to implement policies and procedures to address the final disposition of PHI
- ▶ Failure to implement reasonable safeguards to protect PHI can result in monetary penalties
- ▶ Have and follow your written policies
- ▶ A policy that is not followed does not provide you with any protection

17

Written Policies

- ▶ Establish a written policy
- ▶ Train your employees on the written policy
- ▶ Ensure that the policy is followed
- ▶ Have to be able to show that you applied appropriate safeguards to protect PHI in any form (hard copy and electronic)

18

Helpful Websites

- ▶ www.cms.gov
- ▶ www.hhs.gov
- ▶ www.ahima.org

19

Questions

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20
