HIPAA and JCAHO Privacy and Security Standards - Joint Compliance Guidance

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Agenda

• Overview

• 2004 CAMH Applicable Standards
  – CAMH Format
  – Ethics, Rights, and Responsibilities
  – Management of Information
  – Medication Management
  – Leadership
  – Management of the Environment of Care
  – Management of Human Resources
Overview

• HIPAA has 3 basic parts
  – Privacy
  – Security
  – Transaction Standards

• Even prior to HIPAA, covered entities have been subject to privacy and security standards set by national accreditation organizations
Overview

• JCAHO has substantially revised its accreditation standards for hospitals for 2004: “Shared Visions – New Pathways”

• Also for:
  – ambulatory care
  – behavioral health care
  – home care
  – laboratory
  – long term care
Overview

• JCAHO standards have always addressed privacy and security, but the new format acknowledges HIPAA and better aligns JCAHO standards and HIPAA rules
  – Still not a perfect fit
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2004 CAMH Applicable Standards
CAMH Format

• Standards
  – Rationale
  – Elements of Performance (EP)
  – Measure of Success (MOS) \(^M\)
  • Need to be developed for certain EPs when a standard is judged to be out of compliance
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2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Organization Ethics
  – Standard RI 1.10: “The Hospital follows ethical behavior in its care, treatment, and services and business practices.”
    • EP 1: “The hospital identifies ethical issues and issues prone to conflict.”
    • EP 2: “The hospital develops and implements a process to handle these issues when they arise.”
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.10: “The hospital respects the rights of patients.”
  • EP 1: “The hospital’s policies and practices address the rights of patients to treatment, care, and services within its capability and mission and in compliance with law and regulation.” (My emphasis)
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.20: “Patients receive information about their rights.”
    • EP 1: “Information on rights is provided to each patient.”
    • EP 6: “The patient has the right to access, request amendment to, and receive an accounting of disclosures regarding his or her own health information as permitted under applicable law.” (My emphasis)
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.50: “Consent is obtained for recording or filming made for purposes other than the identification, diagnosis, or treatment of the patients.”
  • EP 1: “When recording or filming are to be used only for internal organizational purposes (for example, performance improvement and education), there is documentation of consent, which may be obtained as part of a general consent to treatment …, if a [relevant] statement is included in the form ….”
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.50: (Cont.)
    • EP 2: “When recording or films are made for external purposes that will be heard or seen by the public (for example, commercial filming, television programs, marketing), there is documentation of specific, separate consent …” M
    • EP 3: “Except for circumstances set forth in EP 4, there is documentation of consent before recording or filming.” M
• Individual Rights
  – Standard RI 2.50: (Cont.)
    • EP 4: “The following occurs in situations in which the patient is unable to give informed consent before recording or filming:
      – The recording or filming may occur before consent, provided it is within the established policy of the hospital and the policy is established through an appropriate ethical mechanism (for example, an ethics committee) that includes community input”
Individual Rights

Standard RI 2.50: (Cont.)

EP 4: (Cont.)

“The recording or film remains in the hospital’s possession and is not used for any purpose until and unless consent is obtained”

“If consent for use cannot subsequently be obtained, the recording or film is either destroyed or the non-consenting patient must be removed from the recording or film”
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.50: (Cont.)
    • EP 5: “Patients have the right to request cessation of recording or filming.”
    • EP 6: “Patients have the right to rescind consent for use up until a reasonable time before the recording or film is used.”
    • EP 7: “Anyone who engages in recording or filming (who is not already bound by the hospital’s confidentiality policy) signs a confidentiality statement to protect the patient’s identity and confidential information.” M
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.100: “The hospital respects the patient’s right to and need for effective communication.”
    • EP 1: “The hospital respects the right and need of patients for effective communication.”
    • EP 2: “Written information provided is appropriate to the age, understanding, and, as appropriate to the population served, the language of the patient.”
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.120: “The hospital addresses the resolution of complaints from patients and their families.”
    • EP 1: “The hospital informs patients, families, and staff about the complaint resolution process.”
    • EP 2: “The hospital receives, reviews, and, when possible, resolves complaints from patients and their families.”
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.120: (Cont.)
    • EP 4: “The hospital informs patients about their right to file a complaint with the state authority.”
    • EP 5: “Patients can freely voice complaints and recommend changes without being subject to coercion, discrimination, reprisal, or unreasonable interruption of care, treatment, and services.”
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.130: “The hospital respects the needs of patients for confidentiality, privacy, and security.”
    • EP 1: “The hospital protects confidentiality of information about patients.” M
    • EP 2: “The hospital respects the privacy of patients.” M
    • EP 4: “The hospital provides for the safety and security of patients and their property.” M
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.180: “The hospital protects research subjects and respects their rights during research, investigation, and clinical trials involving human subjects.”
  • EP 3: “Patients are informed that refusal to participate or discontinuing participation at any time will not compromise their access to care, treatment, and services.”

M
2004 CAMH Applicable Standards
Ethics, Rights, and Responsibilities

• Individual Rights
  – Standard RI 2.180: (Cont.)
    • EP 4: “Consent forms … address the participant’s right to privacy, confidentiality, and safety.” M
    • EP 5: “Subjects are told the extent to which their personally identifiable private information will be held in confidence.” M
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2004 CAMH Applicable Standards
Management of Information

• Information Management Planning
  – Standard IM 2.10: “Information privacy and confidentiality are maintained.”
    • EP 1: “The hospital has developed a written process (in one or more policies) based on and consistent with applicable law that addresses the privacy and confidentiality of information.”
    • EP 2: “The hospital’s policy, including significant changes to the policy, has been effectively communicated to applicable staff.”
    • EP 3: “The hospital has an effective process for enforcing the policy.”
2004 CAMH Applicable Standards
Management of Information

• Information Management Planning
  – Standard IM 2.10: (Cont.)
    • EP 4: “The hospital monitors compliance with its policy.” M
    • EP 5: “The hospital uses monitoring of information and developments in technology to improve privacy and confidentiality.” M
2004 CAMH Applicable Standards
Management of Information

• Information Management Planning
  – Standard IM 2.10: (Cont.)
    • EP 6: “Individuals about whom personally identifiable health data and information may be maintained or collected are made aware of what uses and disclosures of the information will be made.”
    • EP 7: “For uses and disclosures of health information, the removal of personal identifiers is encouraged to the extent possible, consistent with maintaining the usefulness of the information.”
2004 CAMH Applicable Standards
Management of Information

• Information Management Planning
  – Standard IM 2.10: (Cont.)
    • EP 8: “Protected health information is used for the purposes identified or as required by law and not further disclosed without patient authorization.” M
    • EP 9: “The hospital preserves the confidentiality of data and information identified as sensitive and requires extraordinary means to preserve patient privacy.” M
2004 CAMH Applicable Standards
Management of Information

• Information Management Planning
  – Standard IM 2.20: “Information security, including data integrity [i.e. the protection of data from accidental or unauthorized intentional change], is maintained.”
  • EP 1: “The hospital has developed a written process (in one or more policies) based on and consistent with applicable law that addresses information security, including data integrity.”
  • EP 2: “The hospital’s policy, including significant changes to the policy, has been effectively communicated to applicable staff.”
  • EP 3: “The hospital has an effective process for enforcing the policy.”
2004 CAMH Applicable Standards
Management of Information

• Information Management Planning
  – Standard IM 2.20: (Cont.)
    • EP 4: “The hospital monitors compliance with its policy.” M
    • EP 5: “The hospital uses monitoring of information and developments in technology to improve information security, including data integrity.” M
• Information Management Planning
  – Standard IM 2.20: (Cont.)
    • EP 6: “The hospital develops and implements controls to safeguard data and information, including the clinical record, against loss, destruction, and tampering.”
    Controls include the following:
      – (A list of 6 specific measures is detailed.).
2004 CAMH Applicable Standards
Management of Information

• Information Management Planning
  – Standard IM 2.20: (Cont.)
    • EP 7: “Policies and procedures, including plans for implementation and for electronic information systems, address the following: data integrity, authentication, non-repudiation, encryption as warranted, and auditability, as appropriate to the system and types of information, for example, patient information and billing information.”  

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2004 CAMH Applicable Standards
Management of Information

• Information Management Planning
  – Standard IM 2.30: “The hospital has a process for maintaining continuity of information.”
    • EP 1: “The hospital has a business continuity/disaster recovery plan for information systems …”
    • EP 2: “The plan is tested periodically …”
    • EP 3: “For electronic systems, the hospital has a process for disaster recovery and business continuity …”
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Medication Management

• Patient-Specific Information
  – Standard MM 1.10: “Patient-specific information is readily accessible to those involved in the medication management system.”
  • EP 1: “A written policy describes the minimum amount of information about the patient that is to be available to those involved in medication management. (See IM 2.10 regarding who has access to this information.)”
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2004 CAMH Applicable Standards Leadership

– Standard LD 1.30: “The hospital complies with applicable law and regulation.”
  • EP 1: “The hospital provides all services in accordance with applicable licensure requirements, law, rules, and regulation.”
  • EP 2: “The hospital acts upon any reports and/or recommendations from authorized agencies, as appropriate.”
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Management of the Environment of Care

• Planning and Implementation Activities
  – Standard EC 2.10: “The hospital identifies and manages its security risks.” (Security of information is mentioned as being important.)
    • EP 2: “The hospital identifies a person(s), as designated by leadership, to coordinate the development, implementation, and monitoring of the security management activities.”
    • EP 6: “The hospital controls access to and egress from security-sensitive areas, as determined by the hospital.”
2004 CAMH Applicable Standards
Management of the Environment of Care

• Planning and Implementation Activities
  – Standard EC 2.10: (Cont.)
    • EP 7: “The hospital identifies and implements security procedures that address actions taken in the event of a security incident.”
    • EP 9: “The hospital identifies and implements security procedures that address handling of situations involving VIPs or the media.”
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Management of Human Resources

• Orientation, Training, and Education
  – Standard HR 2.10: “Staff members, students, and volunteers are oriented to their jobs as appropriate and the work environment before providing care, treatment, and services.”
  – EP 6: “Persons are educated about the rights of patients and ethical aspects of care, treatment, and services and the process used to address ethical issues.”
My Information

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