HIPAA Case Study

Long Term Care (LTC) Industry

Presented by:
James Pfeiffer
General Information

- Population Demographics (Census Bureau 1999)
  - 30.3 M people ages 65-84, 4.1 M people ages 85 and older
  - 43% of people over 65 require long-term care
  - 60% of people over 85 require assisted daily living

- Facility Profile (OSCAR data as of March 2000)
  - 17,086 licensed/certified nursing facilities
  - 1,846,391 total nursing facility beds
  - 55.4% facilities are multi-facility owned
  - Full-time employee breakdown: 35.4 CNAs, 11.8 LPNs, 6.3 RNs

- Average Resident Mix at CMS Standard Survey
  - 8.7% Medicare (129,473)
  - 67.7% Medicaid (1,011,327)
  - 23.7% Other Payer (353,618)
Complex LTC Market Forces

Government Regulation
- Changing reimbursement & regulations (e.g. PPS, MDS)
- Managing costs, outcomes
- Increased reporting & compliance measures
- State & Federal regulations differ within continuum

Population Demographics
- Growth in aging population
- Increase in chronic care needs
- Expanding patient influence
  - wealth
  - insurance
  - knowledge

Care Delivery
- Higher acuity in lower cost setting
- Shift in focus from illness to wellness
- Availability of best practice protocols & outcomes
- Advances in medical technology

Nursing Center

Managing Care
- Government sponsored managed Medicare & Medicaid
- Traditional managed care organizations beginning to cover LTC services
- Proliferation of new LTC insurance products
- Focus on outcomes, satisfaction & cost management

Staffing Demographics
- High staff turnover rate
- Compensation rate at lower end of scale
- Educational requirements at lower end of the scale
LTC HIPAA Compliance Issues

■ Resident Characteristics:
  – Vulnerable, Fragile People
  – Communication Barriers
  – Interaction with Staff
  – Hospital Transfers

■ Contrasting Principles
  – Complex regulatory/legal rules & low tech/unsophisticated industry
    – Although the regulations contemplate scalability, even simple technical solutions will be difficult in the low-tech LTC industry
    – Current reimbursement levels do not provide the opportunity to employ sophisticated, highly-educated individuals to implement privacy and security standards

■ Resident/PHI Flow
  – No coordinated movement of Residents/PHI across, between care delivery systems
No coordinated movement of Residents or PHI across and between care delivery systems.
LTC Specific Compliance Issues

- **Consents, Notice, Authorizations:**
  - Unique resident population

- **Implementing Consistent HIPAA Program:**
  - In a cost effective manner…….
    - Across hundreds of facilities, tens of thousands of employees, that are dispersed throughout numerous states/provinces across the U.S.
    - In a low-tech, environment (average Nursing Home has approximately 8 PC’s)

- **Maintaining An Ongoing HIPAA Program:**
  - In a cost effective manner that ensures continuing compliance …..
    - In an environment characterized by:
      - high staff turnover
      - low salary staffing model
      - complex regulatory scheme that involves numerous state and federal regulations and regulatory agencies
LTC Consortium Overview:

- Composition
  - Made up of the largest organizations in this industry
- Description
  - Representatives from most major Nursing Home chains
  - Subcommittees established to address current issues and areas of collaboration
  - Monthly conference calls
- Goals
  - Establish LTC Industry standards
  - Influence legislative/regulation creation and interpretation
  - Attain cost savings through joint efforts
- Product
  - Helped draft Final Rule comments for AHCA
  - Developed Privacy Policy & Procedure Framework
  - Drafted Privacy Policies & Procedures
  - Developed Business Associate Decision Tree and Model
  - Developed Use & Disclosure Decision Tree and Model
Kindred’s Business Model

“Caring for people who cannot care for themselves.”

We are a $3 billion longterm healthcare company. We deliver services through two Divisions, supported by the Corporate Office.

Corporate Office

Health Services Division
- Nursing Centers: 319 facilities in 32 states
- Rehab: 193 rehab contracts in 27 states

Hospital Division
- Long Term Acute Care Hospitals: 56 facilities & 2 vent units in 24 states
- Pharmacies: 33 Institutional Pharmacies, & 6 Infusion Pharmacies in 21 States
- Sleep Cor: 11 facilities with 52 contracts in 11 states

Patients/Residents/Customers
Kindred’s HIPAA Program

Executive Sponsor
Executive Board

HIPAA Advisory Committee
Chair: Corporate Compliance Officer

Privacy & Security Subcommittee
Chair: HIPAA Program Director

HIPAA Program Office

Hospital Program
- Hospital Project Office
  - TCS Workgroup
  - Priv Sec Workgroup
  - projects
- Pharmacy Project Office
  - TCS Workgroup
  - Priv Sec Workgroup
  - projects
- Sleep Cor Project Office
  - TCS Workgroup
  - Priv Sec Workgroup
  - projects

Health Services Program
- Nursing Center Project Office
  - TCS Workgroup
  - Priv Sec Workgroup
  - projects
- Ancillary Services Project Office
  - TCS Workgroup
  - Priv Sec Workgroup
  - projects

Corporate Program
- Health Plan Project Office
  - TCS Workgroup
  - Priv Sec Workgroup
  - projects
- Corporate Project Office
  - TCS Workgroup
  - Priv Sec Workgroup
  - projects
## HIPAA Program Timeline 2001

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HIPAA Program Timeline 2002

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<td>Updated Oper P &amp; P Manuals</td>
<td>Compliance Training Development</td>
<td>Compliance Video, Oper Training, Preparedness Guide</td>
<td>Training Pilots</td>
<td>Contract Inventory, Assessment, and BA Amendment</td>
<td>Security Certification Program Development</td>
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TCS Projects Phase Three: Implementation & EDI Testing with Intermediaries

IS Security Infrastructure Projects

HIPAA Program Monitoring and 2003 Planning

State Law Privacy Assessment

HIPAA Program P & P Integration

2003 HIPAA Budget & Project Plan

Updated Oper P & P Manuals

Compliance Training Development

Compliance Video, Oper Training, Preparedness Guide

Training Pilots

Contract Inventory, Assessment, and BA Amendment

Security Certification Program Development

HIPAA TCS Compliance Date
HIPAA Program Timeline 2003

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2004 HIPAA Budget & Project Plan

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Use & Disclosure of PHI

Has Consent been obtained?

Is there a Consent exception?

Can't Admit

Can Admit

Internal Use of PHI

Is it for Treatment?

Is it for Payment?

Is it for Operations?

Contact CPO before further action

Can use PHI

Is it for Treatment?

Is it for Payment?

Is it on Patient's behalf?

Can proceed with Disclosure

Is it On CE's behalf?

Is there a BAA?

Can't Disclose

DRAFT
Organizational Designation

Kindred Healthcare, Inc.

Kindred Operating Inc.

Nursing Home LLC

Nursing Home East LLC

Regional Office

Nursing Home Central LLC

Regional Office

Nursing Home North LLC

Regional Office

Nursing Home West LLC

Regional Office

Nursing Home South LLC

Regional Office
Attachments
POLICY: Kindred Healthcare shall provide all patients/residents access to his or her protected health information, pursuant to 45 CFR § 164.524. Although, this right of access is not absolute, Kindred will promptly respond to all requests to access a patient/resident’s health information.

DEFINITIONS:

Protected Health Information (PHI) is information that is a subset of health information, including demographic information, and:
1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual;
   a. That identifies the individual; or
   b. There is a reasonable basis to believe the information can be used to identify the individual.

Designated Record Set is a group of records maintained by the facility comprised of medical records and billing records about the patient/resident or that the facility uses to make decisions about the patient/resident.

PROCEDURE:

1. A patient/resident is notified of the right to access PHI in Kindred’s Notice of Information Practices (see Notice of Privacy Practices of PHI, Policy Ref. 164.520).

2. A patient/resident has a right of access to inspect and obtain a copy of PHI in his or her Designated Record Set except for psychotherapy notes and information compiled in anticipation of a legal proceeding.

3. Each facility designates a Privacy Contact to manage requests for access to PHI.

4. The Privacy Contact provides the patient/resident with a copy of the Request for Access to PHI Form (see attachment) upon receiving an inquiry from a patient/resident to access his or her PHI. No such request is evaluated until this Request Form is completed and signed by the patient/resident or legal representative.
Request for Access to Protected Health Information

Patient/Resident Name: _______________________________________________________________

Patient/Resident Address: _____________________________________________________________

_____________________________________________________________

Date Range to Be Accessed: All   _____________

Start Date _____________   End Date _____________

Start Date _____________   End Date _____________

Start Date _____________   End Date _____________

Type(s) of Information to Be Accessed:

Medical _____________

Billing _____________

Other _____________

Type of access requested: Inspect  _____________

Obtain a copy _____________

Summary _____________

I understand that I may be charged a fee to cover the cost for copying, postage, supplies, and labor to provide access to PHI.

______________________________________________              __________________

Signature of Patient/Resident or Legal Representative      Date

For Kindred Use Only:

Kindred Facility Name: _______________________Kindred Facility #: __________

Date of Request:  ___________________

Patient/Resident #: ________________________

Kindred Staff Member Processing Request: __________________________________

References:

CMS: 45 CFR 164.524, 45 CFR 164.520

Original Date  12-2001

Review/Revision Date

Supersedes all Previous

Approved: __________________     Date __/_/___

Response to Request for Access to Protected Health Information

Access has been:  Approved ______ Cost for Providing Access: ________________

Denied ______

If denied, check reason for denial:

Inspection and copying is reasonably likely to endanger the life or physical safety of the patient/resident or another person.

The information was about another person and copying was reasonably likely to cause substantial harm to that other person.

The information was obtained under a promise of confidentiality from someone other than a health care provider and the inspection and copying was likely to reveal the source of the information.

The information was obtained by the facility in the course of a clinical trial, the individual agreed to the denial of access in consenting to participate in the trial, and the trial was in progress.

The information was compiled in reasonable anticipation of, or in connection with, a legal proceeding, or is otherwise protected by judicial order approving limited disclosure.

Comments: __________________________________________________________________________________

_____________________________________________________________________________________________ 

_____________________________________________________________________________________________

Patient/Resident Rights:

• You may submit a written statement to the Facility Privacy Contact disagreeing with this denial.

• You may voice your concerns with our Compliance Hotline at 1-800-359-7412.

• You may file a written complaint with the Secretary of the Department of Health and Human Services of the Federal Government.

________________________________________    __________________

Signature of Privacy Contact         Date

For Kindred Use Only:

Kindred Facility Name: _______________________Kindred Facility #: __________

Date of Request:  ___________________

Date of Response: __________________

Patient/Resident #: ________________________

Kindred Staff Member Processing Request: __________________________________

References:

CMS: 45 CFR 164.524, 45 CFR 164.520

Original Date  12-2001

Review/Revision Date

Supersedes all Previous

Approved: __________________     Date __/_/___

Proprietary Information of Kindred Healthcare

Copyright © 2001
Response to Request for Access to Protected Health Information

Patient/Resident Name: ____________________________________________

Patient/Resident Address: __________________________________________

Access has been: Approved ______ Denied ______ If denied, check reason for denial:

___ Inspection and copying is reasonably likely to endanger the life or physical safety of the patient/resident or another person.

___ The information was about another person and copying was reasonably likely to cause substantial harm to that other person.

___ The information was obtained under a promise of confidentiality from someone other than a health care provider and the inspection and copying was likely to reveal the source of the information.

___ The information was obtained by the facility in the course of a clinical trial, the individual agreed to the denial of access in consenting to participate in the trial, and the trial was in progress.

___ The information was compiled in reasonable anticipation of, or for use in, a legal proceeding, or is otherwise protected from disclosure by applicable law.

Comments: __________________________________________________________________________________

______________________________________________________________________________________________

______________________________________________________________________________________________

Patient/Resident Rights:

• You may submit a written statement to the Facility Privacy Contact disagreeing with this denial.

• You may voice your concerns with our Compliance Hotline at 1-800-359-7412.

• You may file a written complaint with the Secretary of the Department of Health and Human Services of the Federal Government.

_____________________________    __________________
Signature of Privacy Contact         Date

For Kindred Use Only:
Kindred Facility Name: _______________ Kindred Facility #: __________
Date of Request: __________________
Date of Response: __________________
Patient/Resident #: __________________
Kindred Staff Member Processing Request: __________________________________

References:

CMS: 45 CFR 164.524, 45 CFR 164.520

Original Date: 12-2001
Review/Revision Date: __________________
Supersedes all Previous
Approved: __________________ Date __/__/___

Proprietary Information of Kindred Healthcare
Notification of Time Extension

Patient/Resident Name: ________________________________________________________________

Patient/Resident Address: _____________________________________________________________

Type of Request: Request for Access to PHI
Request to Amend PHI
Request for An Accounting of Disclosures of PHI

Original Date Request was to be completed: ____________________________________________
(30 days from the Date Requested)

Revised Date Request will be completed: ____________________________________________
(60 days from Original Date Request was to be completed)

Reason that Extension is needed: _____________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________

Signature of Privacy Contact __________________________________________ Date __________

For Kindred Use Only:
Kindred Facility Name: _______________________ Kindred Facility #: __________
Date of Request: __________________________
Date of Extension Notification: __________________________
Patient/Resident #: ______________________
Kindred Staff Member Processing Request: ________________________________

References:
CMS: 45 CFR 164.524, 45 CFR 164.526, 45 CFR 164.528, 45 CFR 164.530

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