Hot Topics in HIPAA and Regulatory Compliance for Nurse Entrepreneurs

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Veronica Pike

David Craig

Panelists

Veronica Pike

Co-founder of the American Academy of Nurse Entrepreneurs

Co-Founder and Nurse Practitioner at Med2You

David Craig

Emergency medicine physician and medical director of Spruce

Expert areas: HIPAA and medical communications

Agenda

- Policies and procedures for HIPAA compliance
- Making HIPAA compliance easy
- HIPAA for private-pay practices
- Business associate agreements
- Videoconferencing and HIPAA
- HIPAA and medical software
- Cyber liability insurance
- Q&A session

What policies and procedures does my practice need to be compliant with HIPAA?

Policies and Procedures for HIPAA Compliance

Understanding HIPAA

- Administered and enforced by federal government (HHS)
- No such thing as "HIPAA-certified"
- HIPAA needs a holistic approach; compliance can’t be piecemeal

HIPAA regulations are grouped into six "rules." Two key ones:

- "Privacy Rule" - Applies to all protected health information (PHI)
- "Security Rule" - Applies to electronic PHI

Further Reading: The Easiest Complete HIPAA Compliance Checklist You’ll Ever See

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Policies and Procedures for HIPAA Compliance

Tips

- ✓ **Educate** your patients ("Notice of Privacy Practices") and make sure to understand their preferences
- ✓ **Document** your policies and procedures in writing
- ✓ **Train** your workforce regularly
- ✓ **Understand** "business associates" and get BAAs
- ✓ **Understand** administrative, physical, and technical safeguards
- ✓ **Perform** a risk analysis and keep it up to date

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What can I do to make HIPAA compliance easier for me as a practice owner?

Making HIPAA Compliance Easy

Don’t reinvent the wheel!

- Start with templates for policies and procedures (available from many companies and organizations)
- Government (hhs.gov) provides templates for "Notice of Privacy Practices" and for standard BAA
- Pick expert business associates who care about healthcare
- Choose software that does the heavy lifting for you (more on this later)

Follow conservative rules of thumb

- Assume that HIPAA applies to you
- Treat everything as PHI
- When in doubt, write it down (document)
- Understand your patients' preferences, document them, follow them
- Try to use only services and software that have a healthcare focus

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I'm private-pay only. Does HIPAA apply to me?

Private Pay and HIPAA

Understand the scope of HIPAA

- Applies to "covered entities" and "business associates"
- Covered entities conduct "certain transactions in electronic form”

Beware of state law

- HIPAA provides a federal “floor” of requirements
- States can have health information laws that apply to all healthcare providers, not just those covered by HIPAA

HIPAA in non-HIPAA lawsuits

- HIPAA has been used by many courts to determine the standard of care for medical privacy and security

Best practice: If you are providing healthcare in the United States, assume that HIPAA applies to you

Further Reading: Does HIPAA Compliance Apply to Me? ; Think HIPAA Doesn’t Apply to You? Think Again

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What is a BAA and do I need one?

Business Associate Agreements (BAAs)

HIPAA requires covered entities to have a written agreement (BAA) in place with each of their business associates

Major focus of BAA is to make business associates just as beholden to HIPAA as covered entities are

- Business associates can have their own associates (“subcontractors”), and these organizations must have BAAs in place with each other

BAAs can have unexpected limitations

- E.g. G Suite BAA doesn’t cover Google Voice or Contacts
- E.g. G Suite BAA doesn’t cover emails traveling outside of your organization

Further Reading: What Is a BAA and Why Should I Care?

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Are all videoconferencing platforms HIPAA-compliant?

Video and HIPAA

HIPAA

- Transmissions of PHI are always governed by the HIPAA Privacy Rule
- Electronic PHI is everywhere in videoconferencing technologies, which also makes the HIPAA Security Rule applicable

Conduit exception

- Postal service is not your business associate
- Internet Service Provider unlikely to be your business associate

Pitfalls

- Conduit exception very narrow
- Trouble areas: contact storage, call records, routing of video during the call, encryption of video during the call, recordings (even short-term ones)

Best practice: Use a videoconferencing provider that has specifically considered HIPAA compliance and designed their implementation to support it

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How can medical software help with HIPAA compliance?

How does Spruce help?

Medical Software and HIPAA

Medical software makes required safeguards simple

- Secure access control
- Unique user identification and audit trail
- Data encryption
- Data integrity (backups, redundancy)
- Data availability (disasters, contingency planning, cloud availability)
- Physical data protection in data centers
- Electronic storage reduces need for physical safeguards

Modern EHRs handle coding and electronic transactions requirements automatically (e.g., ICD and CPT)

Best practice: A combination of purpose-built healthcare software and a BAA means you don't have to personally implement every HIPAA requirement

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What Spruce Helps With

Purpose-built medical communication

- ✓Phone system: second lines, phone trees, call schedules, auditable call logs, cell phones, desk phones
- ✓Voicemail with secure transcription
- ✓SMS texting, secure messaging
- ✓Email
- ✓Fax
- ✓Telemedicine: both live video and adaptive questionnaires available

Easy HIPAA compliance

- ✓Technical safeguards for secure data storage and transmission
- ✓Makes documentation simple and automatic
- ✓Auditable for accountability
- ✓BAA included

Everything is stored in a simple, unified inbox and made accessible to your whole team for collaboration (via web or mobile app)

Learn more: www.sprucehealth.com

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What is cyber liability insurance and should I have it?

Cyber Liability Insurance

Cyber insurance covers a business when there is a data breach and sensitive data is stolen or exposed

Do I need it?

- Many general liability policies exclude such events or provide only minimal coverage
- HIPAA regulations have an entire section (rule) devoted to breaches
- HIPAA penalties are typically related to breaches and can involve huge fines
- Covered entities are also responsible for patient notification and other management activities, which can be expensive

Your software-provider business associates should have their own cyber insurance, but it is VERY unlikely to directly cover your practice

Best practice: You should strongly consider obtaining a cyber insurance policy for your practice

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Q&A Session

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“Spruce gives me the ease of unified patient communication and follow-up. It has been a game changer for my office.” - Dr. Kira Stein, MD, APC

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Thank You!

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