

Optometry Coding & Billing Alert

Dispelling HIPAA's Most Persistent Myths

Don't fall for these common HIPAA misconceptions

HIPAA misconceptions are everywhere, and those regulatory misunderstandings can often make your jobs that much harder. But don't fret: **Bill Sarraille**, in the D.C. office of Sidley Austin Brown & Wood, will skewer the HIPAA untruths and set you straight on the regs.

Patient Access to the Designated Records Set

Many medical offices believe that the right of access to a DRS means that a patient can have access to his medical record and not to any other records. That's just wrong, Sarraille says.

For example, when a patient is referred to a collection agency for failure to pay a bill or a copayment, a practice will send a letter to the collection agency saying it wants to pursue a patient's account, he says.

The patient is permitted to obtain a copy of the letter the practice sent to the collection agency, but practices often say they're not required to do so because the letter isn't a medical record.

"That's when the patient, who knows better, will dial up '1-800-Create-A-Huge-Pain-For-My-Doctor' and [the HHS Office for Civil Rights] will be invited to do some schooling on this practice."

Patient Access to Records You Didn't Create

So, what's your responsibility for medical records your office didn't create? It's easy, Sarraille says. Even though medical records may have originated in another office, they are still part of your DRS whenever you receive and make use of them.

Sarraille says that many practices either don't provide patients with access to such documents or destroy them. Don't ever do that, because in each case "you're essentially denying that you've had access to that information and you've incorporated that into your medical decision-making."

Tip: A plaintiff's lawyer could challenge the adequacy of the information that you used to make your treatment decision, and if you denied access to such records, you could appear to have cut yourself off from any other caregivers whose records may have been relevant to your treatment decision.

Refusal to Sign an Acknowledgement

It'll happen one day if it hasn't occurred already: A patient simply refuses to sign an acknowledgement of receipt of your notice of privacy practices. That's no problem, Sarraille says. Although you're supposed to try to secure a signed acknowledgement of receipt in good faith, if a patient simply refuses to do so, you may continue to treat the patient. Just document that you tried to secure it in good faith but the patient was unwilling to sign for whatever reason.

Relatives/Friends out of the PHI Loop?

Often a family friend or a relative is with the patient in a treatment setting. HIPAA says that you can provide information to persons involved in a patient's care in the exercise of your own good judgment. If the patient is present, try to secure a verbal agreement or, in some cases, you may infer a patient's agreement.

Here's a common occurrence in any medical office: Someone calls your office saying she's a relative of a patient and asks for her relative's medical info - a niece, let's say. Sarraille urges you to do whatever is reasonable under the circumstances to check out her story.

For instance, ask what the niece can tell you about her aunt and why the aunt asked her to get this information. Whatever you do, you're allowed in your reasonable exercise of judgment to provide this information, Sarraille says. "The idea that in all cases we have to stop the conversation, call up and reach the patient, get their approval and then communicate to the niece - that's not true under HIPAA."

Appointment Reminders and HIPAA

A big issue that often rears its head involves appointment reminders left on voice mails. Sarraille says that as long as you use the minimum necessary amount of information to remind people of an appointment, that's just fine.

Tip: Limit the information you provide on a voice mail, but remember that you can provide info that's necessary to inform a patient of an upcoming appointment: the date, the time and the name of the doctor. The same rules apply to postcard appointment reminders as well, Sarraille says.