

Part B Insider (Multispecialty) Coding Alert

PHYSICIAN NOTES: Let The Sanction Fit The Crime For HIPAA Privacy Violations

Make sure you know what your organization considers a privacy violation

It's up to you to develop and impose -appropriate- sanctions for violations of Health Insurance Portability and Accountability Act (HIPAA) privacy requirements, attorneys say.

These sanctions should depend on the severity of the violation, whether the violation was intentional or unintentional, and whether the violation indicates a -pattern or practice of improper use or disclosure- of health information.

You should ask yourself these questions when deciding on sanctions, says **Bill Sarraille**, an attorney with **Arent Fox Kintner Plotkin & Kahn**:

1. How serious is the violation?
2. How intentional or unintentional was the violation?
3. How great was the harm?
4. How fixable is the harm?
5. Has the person in violation of the rules taken responsibility for his or her actions?
6. Also, has the person cooperated in the investigation and in helping to fix the problem as much as possible?
7. How clearly did you put the violator on notice?
8. Is the proposed sanction consistent with what you've done in other circumstances?

The facts and circumstances of the infraction will dictate the level of punishment, Sarraille says. But you should pay special attention to the last question on that list because it's easy to let people's standing in the organization or their economic importance to the company affect your judgment.

A group effort, including your privacy officer and human resources officials, should create sanctions, Sarraille says. A privacy committee, if one exists in your institution, should review the proposals before they're put in print, he advises.

In other news:

- Dextromethorphan (DXM), an ingredient commonly found in over-the-counter cough and cold remedies, contributed to an estimated 12,584 emergency room visits in 2004. Nearly half those, 5,581 visits, resulted from -nonmedical use- of the substance, according to a new study from the **Substance Abuse and Mental Health Services Administration (SAMHSA)**.

- Your physicians have until Dec. 31 to decide whether to re-enroll as Medicare participating providers. The enrollment period begins Nov. 15, according to Transmittal 1074, dated Oct. 6 but released to the public in early November.

- You have until Nov. 15 to enroll in the 2007 Competitive Acquisition Program (CAP) for Part B drugs. You should mail forms to your Part B carrier, and they must be postmarked by Nov. 15. More information is available online at www.cms.hhs.gov/CompetitiveAcquisforBios/02_infophys.asp.