Eli's Hospice Insider

Patient Privacy: Cut These Unnecessary Business Associate Agreements

Are you unknowingly making these common hospice BAA mistakes?

You should bring your HIPAA compliance up a notch now that the HIPAA Omnibus rules have taken effect ☐ but you don't need to take it too far.

"Take a closer look and consider whether all of the organizations with whom your hospice has business associate agreements qualify as a business associate and require a business associate agreement," cautions law firm Reinhart Boerner Van Deuren in an article. "In working with hospices, we have found that many hospices have business associate agreements with nursing homes and others who do not meet the definition of a business associate."

Most hospices will have only a handful of contractors who require BAAs, the firm maintains. That's because the entity must perform services on behalf of the hospice to qualify as a BA.

For example: "Nursing homes, pharmacies, ambulances, and hospitals receive PHI for the purpose of providing services to patients, not to perform a service on behalf of the hospice, and therefore will not typically qualify as a business associate," Reinhart advises.

Who needs a BAA? "When a hospice shares PHI with a lawyer, clinical consultant, pharmacy benefit manager and others for the purpose of assisting the hospice with an administrative task, a business associate agreement would generally be required because these organizations are providing a service for the hospice, not the patient," Reinhart explains.

Don't forget that your contractors can meet the HIPAA rule's treatment exception as well, the law firm adds. "Under the treatment exception, health care providers who receive PHI from a hospice for purposes of providing direct treatment to patients are excepted from the definition of a business associate."

Resource: A link to a free Reinhart webinar on hospice compliance with the HIPAA Omnibus requirements is at www.reinhartlaw.com/Events/Pages/default.aspx ☐ scroll down to the Sept. 18 entry.