



Social Networking & Privacy Issues

Advanced Commercial Law: Law of Electronic
Commerce

SMU Dedman School of Law

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Texas Health Mission

To improve the health of the people in the communities we serve



Texas Health Vision

Texas Health Resources, a faith-based organization joining with physicians, will be the health care system of choice



Innovative Technology Solutions

Innovate, transform, and serve

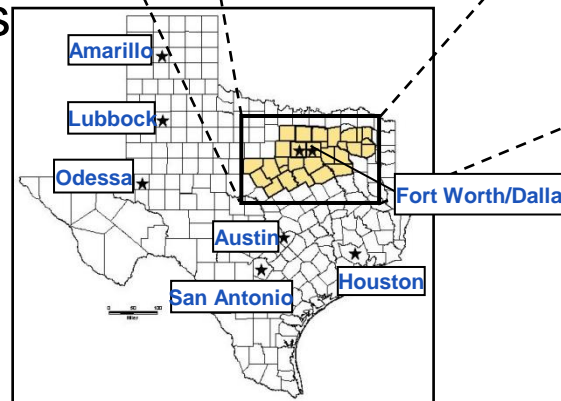
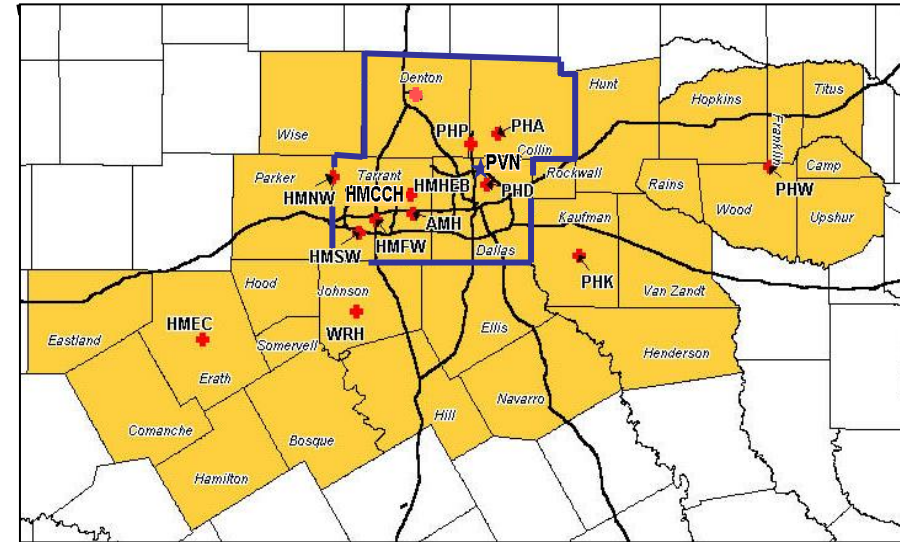
Flow

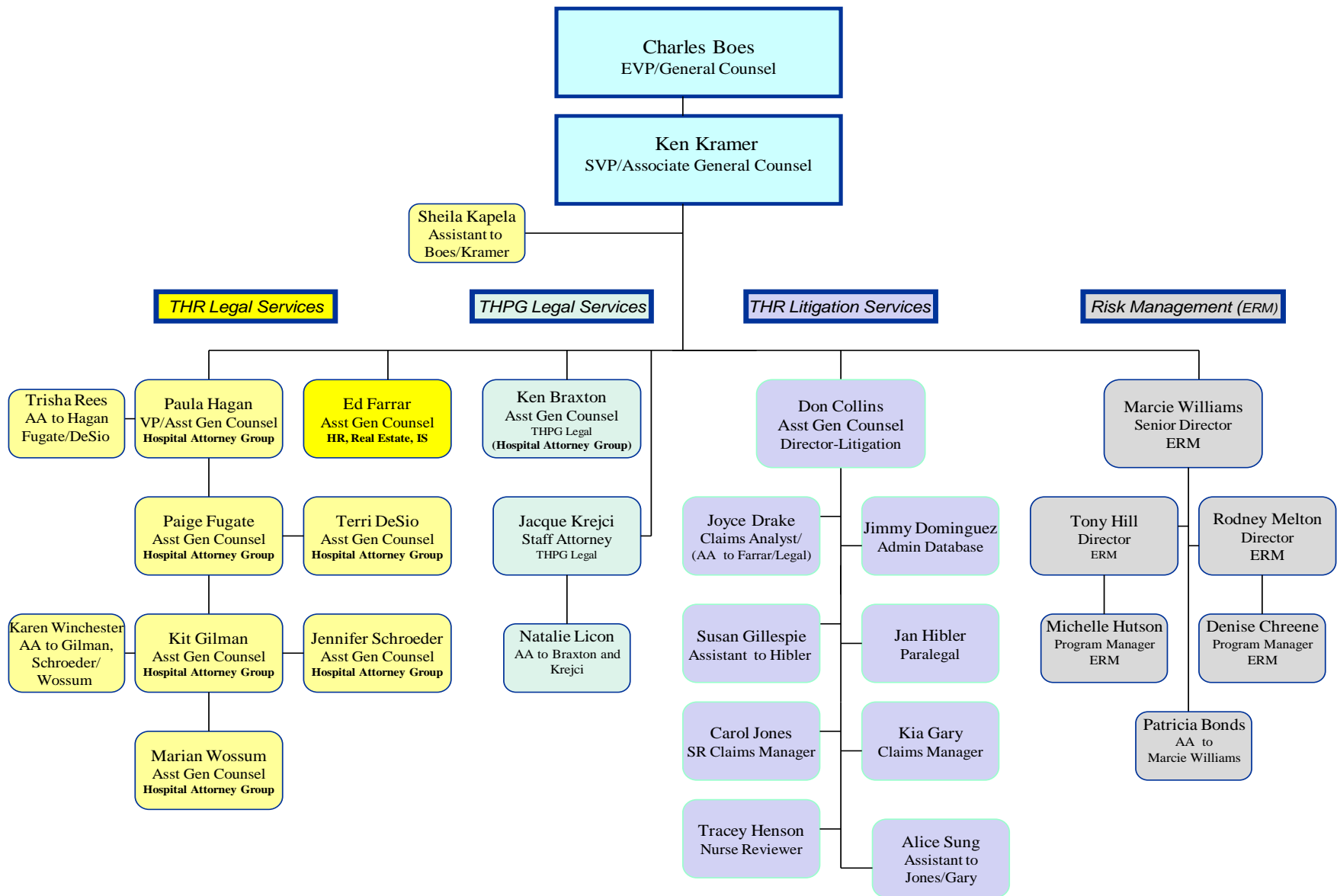
- Social Media
- HIPAA
- HIE
- Discussion

Texas Health

One of the largest faith-based, non-profit health care delivery systems in the US

- 21,500 Employees
- 3,600 Active Staff Physicians
- 15 Hospitals
- 6 JV Hospitals
- 30 Ambulatory Healthcare Sites
- 3500 Licensed Hospital Beds
- 61 Counties (6.2M people)





Texas Health Journey

- The Mountain
 - Culture
 - Fear
 - Security & Privacy
 - Healthcare Regulations (HIPAA)
- The Climb
 - Planning
 - Base Camp
 - Risk

Social Networks

Why Pay Attention

- Mainstream
- Innovation
- Relevant Leadership
- Marketing
- Collaboration
- Communication
- Community

Social Media

- THR has Assumed a Leading Role in Social Media
 - New tools to directly reach online customers, potential patients
 - Builds on image as open environment for potential employees
 - Builds on “Most-Wired” positioning as technologically-forward
- Social Media is Vibrant & Growing (“Jump in and figure it out”)
 - Usage spreads quickly and organically
 - Traditional planning processes are not as conducive to success as iterative prototyping
- Social Media Users Determine Success by:
 - Usage
 - Content is the kingmaker
- Social Media Aids Search Optimization
 - Links from social media posts point back to TexasHealth.org and thereby boost search listings by increasing page rank, link popularity

Social Network Use

- E-Mail
- FaceBook
- LinkedIn
- Twitter
- Yammer
- Blogs
- You Tube
- Sharepoint

Future State Plans

- **QR Codes embedded in print marketing collateral**
- **Advances in Medicine “meet-ups” (FaceBook & Twitter)**
- **YouTube Video Press Releases**
- **Internal Tools**
 - MySite employee pages using Microsoft SharePoint 2010
 - Executive blogs, Wikis, discussion forums, etc.
- **System Recruitment**
- **Physician Engagement & Outreach**
 - CareTube
 - CareSuite

HIPAA - Health Insurance Portability and Accountability Act

The federal governments first effort to regulate health insurance.

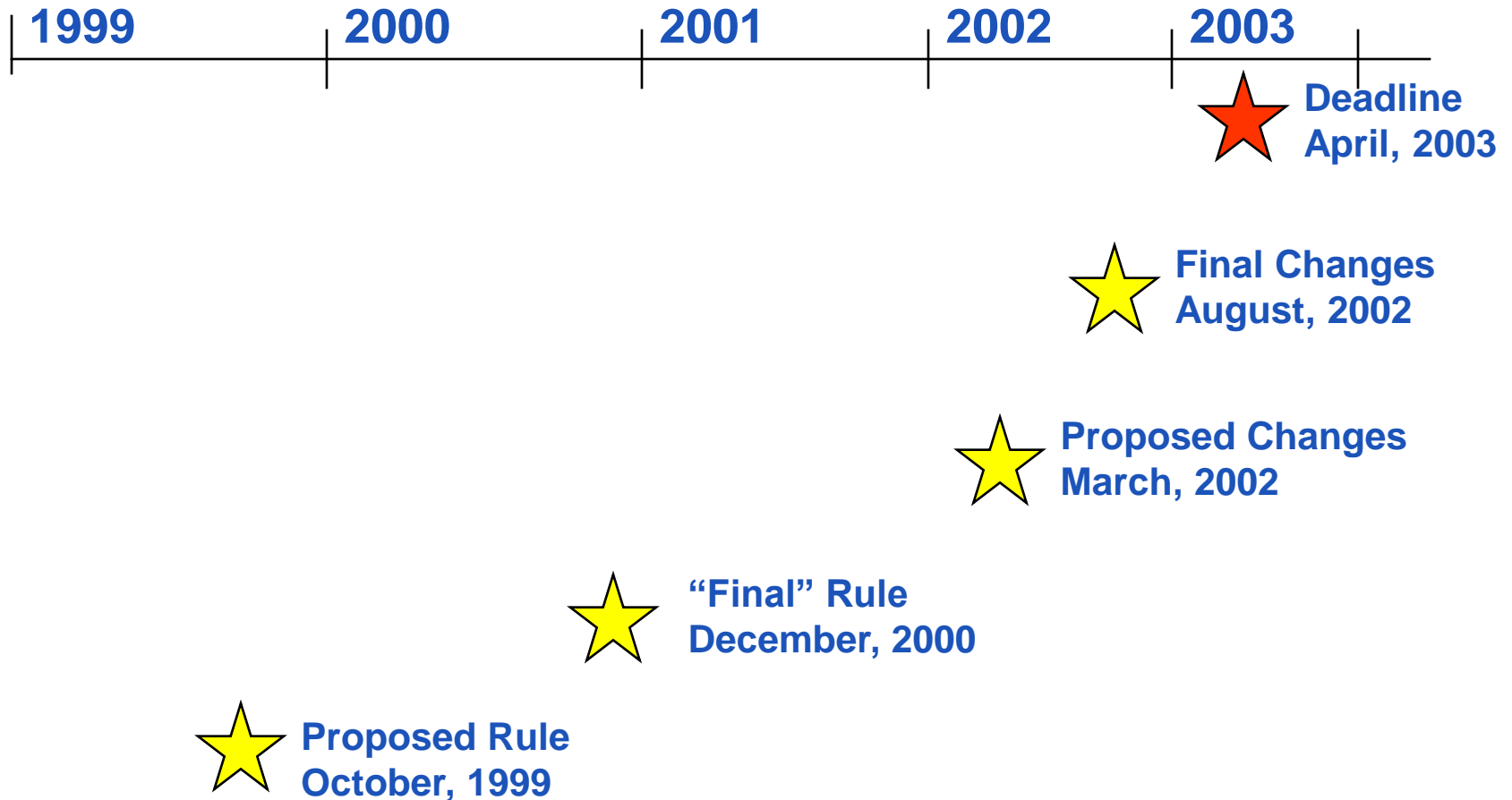
- Portability
- Sanctions
- Accountability (read as Privacy)

HIPAA – The Intent



- HIPAA was designed to:
 - Ensure health insurance portability
 - Reduce health care fraud and abuse
 - Guarantee privacy and security of health information
 - Provide standards for electronic exchange of health information
- Examples of HIPAA's impact include:
 - Portability.
 - Guarantees medical coverage renewal, prohibits discrimination based on health status, and eliminates some preexisting conditions exclusions.
 - Transaction Standards and Unique Identifiers
 - Creates standard formats and code sets for all major transactions that are processed electronically provides national identifiers for providers, employers, and health plans.
 - Security Rule.
 - Provides a uniform level of protection of all electronic health information.
 - Privacy Rule.
 - Addresses the rights of an individual, the procedures for exercising these rights and the uses and disclosures of health information. Ensure confidential treatment of patient data.

Evolution of The Privacy Rule



National Versus State Regulation – How do we approach that?



- Many states, including Texas, passed their own versions of HIPAA.
- HIPAA resolved this issue by instructing that when state and federal versions differ, the more restrictive version applies.
- THR has reconciled state and federal law, and the more restrictive law is reflected in our privacy policies, which are the basis for our training.

Who Is “Covered?”

Providers. Texas Health Resources is a health care provider. Physicians are providers. Providers range from large hospital systems to individual nursing homes, labs, and pharmacies. Health care providers are also doctors, nurses, dentists, psychotherapists, and others who care for patients.

Plans or insurers. Examples include Cigna, United Health Care, Blue Cross/Blue Shield, and Aetna.

Clearinghouses. These are systems that process information for other companies such as most billing services.



More terminology

HIPAA protects the rights of individuals, not just patients. An individual is the subject of health information. This can include patients and health plan participants and their covered dependents. These same rights extend to legally authorized representatives.

PHI stands for Protected Health Information. This is health information—in any form—that can identify an individual. HIPAA and Texas state law defines how PHI may be used and disclosed.

Individually Identifiable Health Information (IIHI) is health information that either identifies an individual or provides a reasonable basis for identifying an individual, by virtue of containing one or more of 18 identifiers.



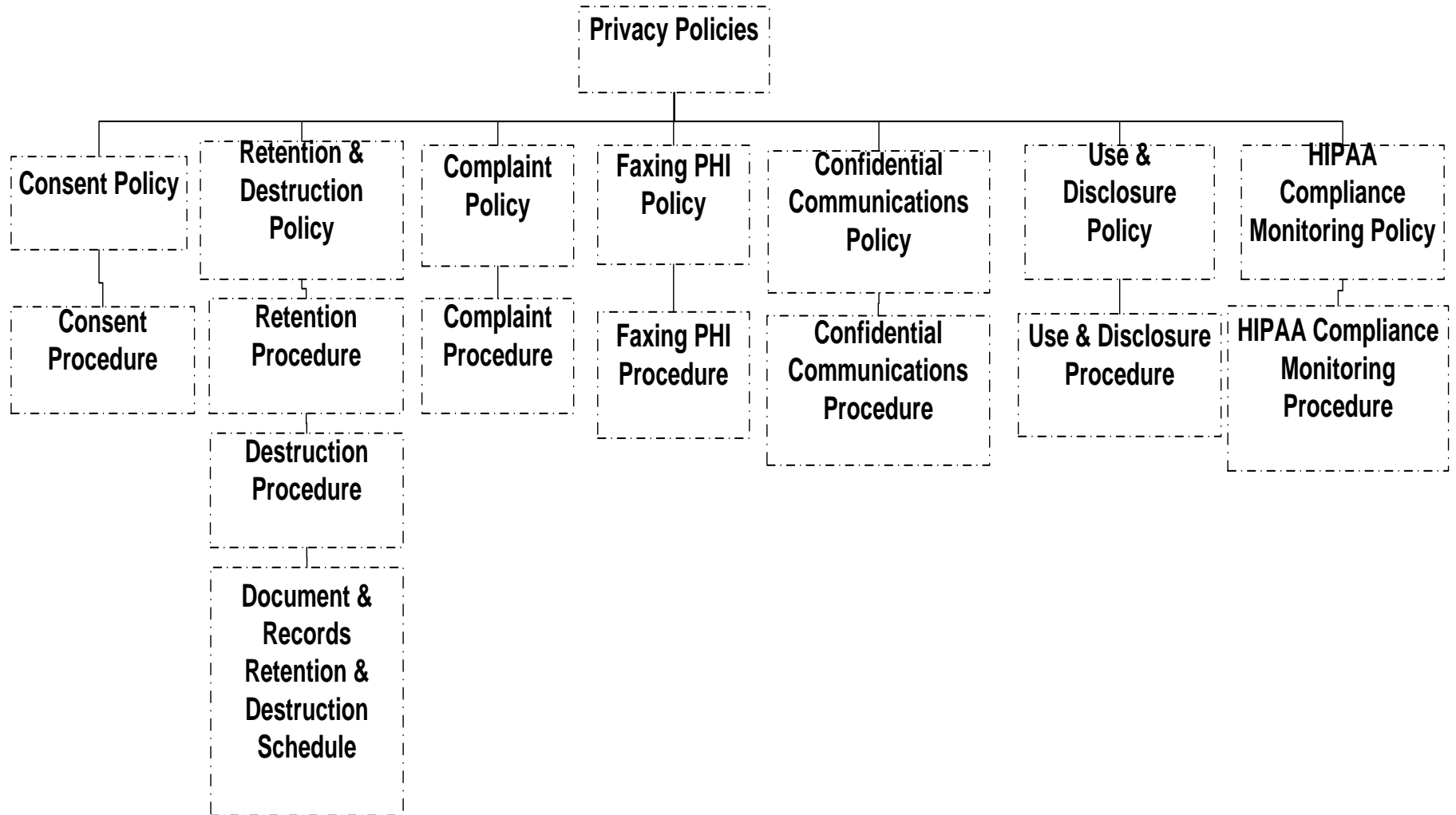
A covered entity's workforce includes employees, volunteers, people whose conduct is under the direct control of a covered entity, and people involved in a covered entity's training programs.

Protected Health Information: 18 elements

- **Identifies the individual**
- **With respect to which there is a reasonable basis to believe that the information can be used to identify the individual**
- **If the following information is removed, it is presumed to be non-identifiable information:**

- | | |
|------------------------|-----------------------------|
| -Name | -Names of Relatives |
| -Street Name | -Names of Employers |
| -City | -Date of Birth |
| -County | -Telephone Numbers |
| -Zip Code | -Fax Numbers |
| -Equivalent Geocodes | -E-Mail Addresses |
| -Social Security # | -Medical Record # |
| -Health Plan # | -Account # |
| -Certificate/License # | -Vehicle or Device Serial # |
| -Finger & Voice Prints | -Internet Protocol Address |
| -Photo Images | |

Privacy Policies



Patient Rights

- Confidentiality is one of many patient's rights. Other rights include being able to:
 - read and obtain copies of their health information
 - request restrictions of the use and disclosure of PHI
 - request that we communicate with an individual about his/her health information
 - in a specific way or at a specific location
 - request changes to health information, if an individual believes it's incorrect or incomplete
 - receive an accounting of outside disclosures
 - file a complaint if an individual believes his/her confidentiality has been violated
- These rights have exceptions and specific procedures that need to be followed. THR has developed the procedures and processes necessary to respond to patients when exercising these rights.
- Privacy notices must be posted.



Health Information Exchanges:

- Getting all the clinical data needed to providers

Legal Considerations

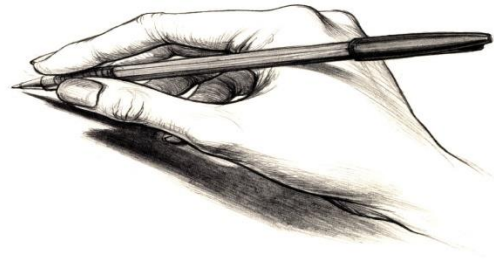
- Identify and understand how federal and state law impact HIE activities, including:
 - HIPAA Privacy Rule, Security Rules, and state privacy law
 - Security Breach Notification (federal & state law)

Legal Privacy Overview

- HIPAA does not require authorization for TPO
- PHI considered “sensitive health information” (SHI) at either federal or state level is subject to additional restrictions. Examples of SHI include:
 - Substance abuse treatment
 - Mental health diagnoses and treatment
 - Psychotherapy notes
 - HIV/AIDS diagnosis and treatment
 - Communicable diseases (STDs), and
 - Certain genetic testing and results
- In most instances, disclosure of SHI requires specific authorization from the patient or his/her legal representative prior to disclosure for any purpose; some SHI laws also dictate specific requirements for the form of consent.

Consent Models

OPT IN



OPT OUT

OPT-IN

OVERVIEW

- Preferred Consent Model of consumer advocates
- Disfavored Consent Model of providers
- Consent, once given, may be revoked by the patient at any time

OPT-OUT

OVERVIEW

- Increased access to health information at the point of care
- Administrative burden

DISCUSSION