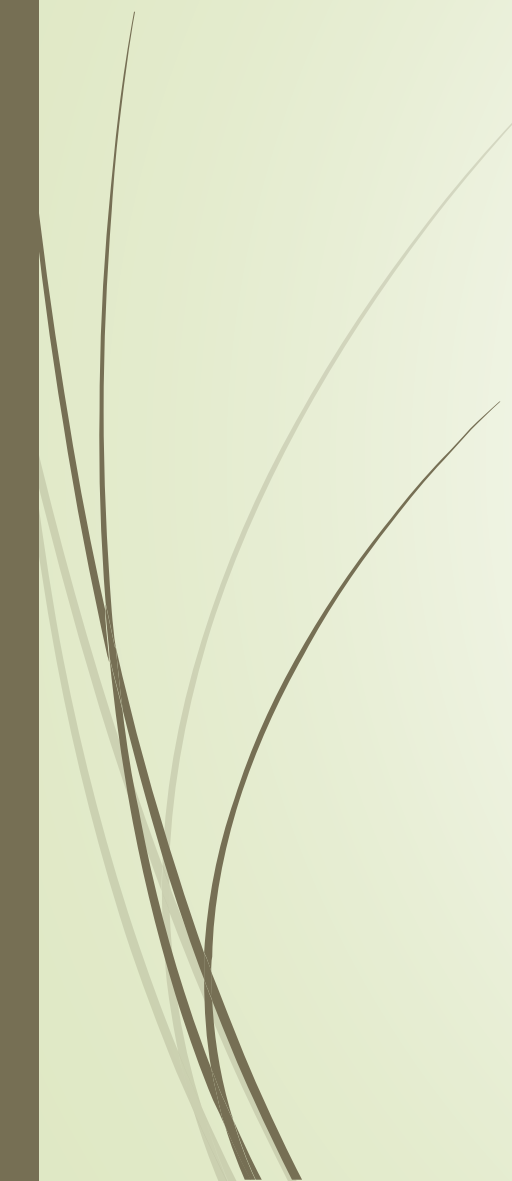


Managing the Release of Information (ROI) Challenge

Presented by: Erin Ussery, RHIA, CCA



My Background

- ▶ 13 years of ROI Experience
 - ▶ Entry level
 - ▶ Operations management
 - ▶ Sales
 - ▶ Vendor companies and Acute Care
 - ▶ Bachelor of Arts in Communications and Bachelor of Science in Health Informatics
 - ▶ Registered Health Information Administrator (RHIA) with the American Health Information Management Association (AHIMA)
 - ▶ Treasurer on the Board of Directors of Washington State Health Information Management Association (WSHIMA)
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What is Release of Information?

Aren't you just 'making copies'?





What is Release of Information?

- Release of Information is the process of releasing Protected Health Information (PHI) to those authorized to receive it.
- Many, many reasons for the release of PHI:
 - Continuing Care
 - Disability Determination
 - Legal
 - Payment of Claim
 - National, State and Local government reporting
 - Law Enforcement
 - Medical Examiner
 - Payer audits – quality initiatives: HEDIS, Medicare Risk, etc.
 - Worker's Compensation



What is Release of Information?

- Affects all sizes and types of medical care facilities including clinics, specialists, elective treatment providers, chiropractors, natural medicine, long term care, physical therapy, rehabilitation centers, etc.
- Typically managed in the Health Information Management (HIM) or Medical Records Department
- Can be outsourced to a vendor company
- HIPAA, HITECH, WAC, RCW – laws and regulations
- Extra protections for 'sensitive information'
- Special considerations for minor patients
- Workers Compensation NOT subject to HIPAA/HITECH

What is Release of Information?

- ▶ Release of Information pre-HIPAA
 - ▶ Primarily paper records with hand-written MD notes
 - ▶ Patients typically had one chart
 - ▶ Authorizations could say nearly anything they wanted
 - ▶ Primarily paper released (no CD's or encrypted emails)
 - ▶ Fax machines relied on for STAT requests



What is Release of Information?

- ▶ HIPAA/HITECH and State guidelines direct the rules and regulations of releasing PHI.
- ▶ HIPAA/HITECH:
 - ▶ 45 CFR 164.524: Right of individuals to access their own protected health information
 - ▶ 45 CFR 164.524(c)(3)(ii): Individual's right to direct records to someone else
 - ▶ 45 CFR 164.524(c)(4): Only cost-based fees allowed for patients and their representatives
 - ▶ **What is a patient representative?**
 - ▶ 45 CFR 164.524(2): Provide records in format requested by patient
 - ▶ 45 CFR 164.508(c): Core elements of a valid authorization
 - ▶ HITECH introduced a 'patient writing'
 - ▶ 45 CFR 164.502(b) Minimum Necessary Rule
 - ▶ *"....a covered entity or business associate must make reasonable efforts to limit protected information to the minimum necessary to accomplish the intended purpose..."*
 - ▶ Minimum Necessary Rule does not apply to:
 - ▶ Disclosures to patients
 - ▶ Disclosures for treatment purposes
 - ▶ Authorized disclosures
 - ▶ Disclosures required by law

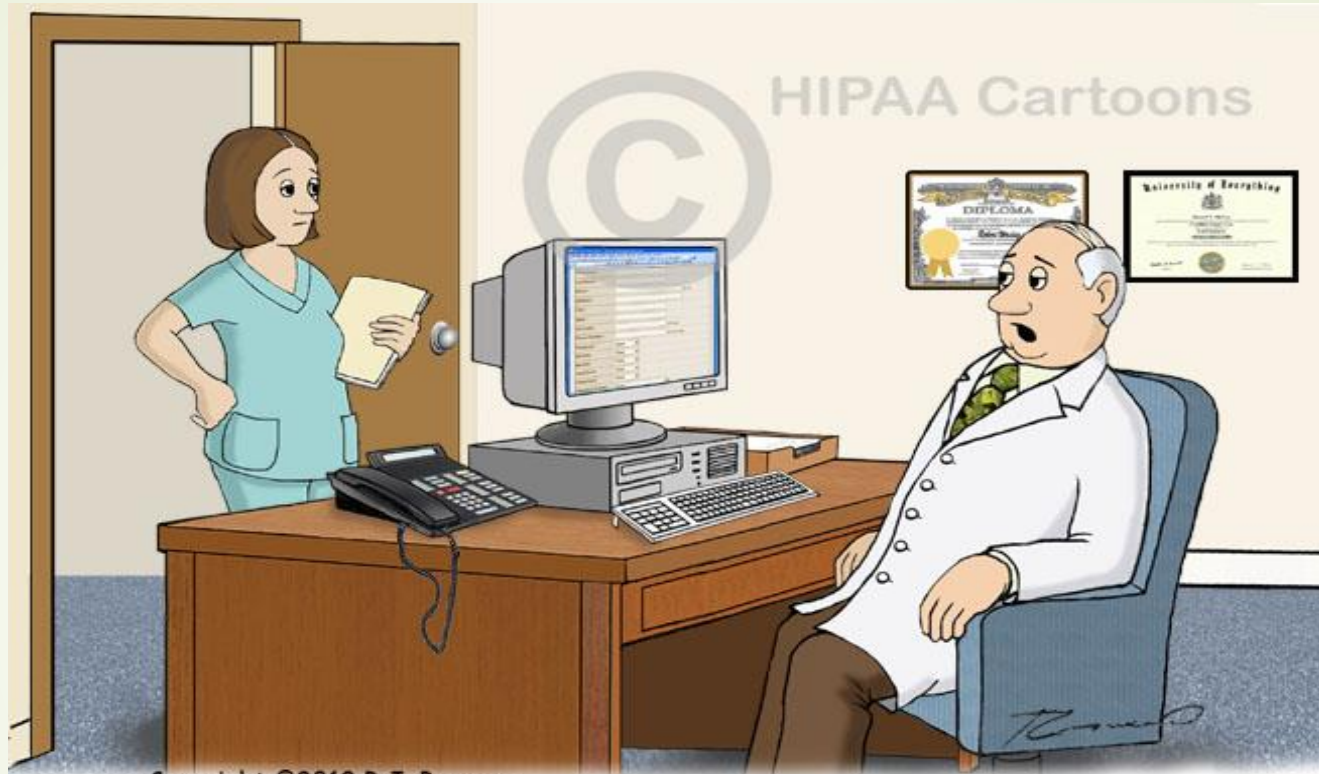
What is Release of Information?

- ▶ Washington State Laws (Other states have their own laws)
- ▶ RCW 70.02.050: Permissible release without specific authorization:
 - ▶ To persons reasonably believed to be providing care to the patient
 - ▶ To persons for planning, quality assurance, peer review, legal/financial/actuarial services for or on behalf of the medical facility
- ▶ RCW 70.02.080: Requirements for responding to a patient's request for examination and copying:
 - ▶ Must respond no later than 15 days after receipt
 - ▶ Provide a copy, if requested; make available during normal business hours to inspect
 - ▶ Inform the patient if information doesn't exist or can't be found
- ▶ RCW 70.02.230 - Mental health
- ▶ RCW 70.02.220(5) - Sexually transmitted diseases – testing and treatment
- ▶ RCW 70.96A.150, 42 CFR Part 2 - Drug/alcohol addiction, diagnosis, treatment
 - ▶ May not be disclosed without specific patient authorization.



What is Release of Information?

- ▶ What happens when we don't do Release of Information properly?
 - ▶ Civil penalties are based on the level of negligence and can range from \$100 to \$50,000 per record and/or violation with a maximum of \$1.5 million per year of multiple identical violations.
 - ▶ Criminal penalties from up to 1 year to up to 10 years
 - ▶ Negative press/media attention
- ▶ Examples of ROI gone wrong...
 - ▶ HIV + lab results faxed to a pizza place where the patient was known
 - ▶ The records of 24 separate patients received in an Attorney's office
 - ▶ Sensitive information released with a subpoena on a patient involved in a legal case



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"So you faxed a patient's records to a wrong number and you don't know who got it? Don't worry. It's not a HIPAA violation unless the patient finds out."



Managing Release of Information

How do we manage it?

► People

- Training, Lots of it...
 - State/Federal regulations
 - Facility policies
 - Medical Records
 - Record types
 - EMR system(s)
 - Record inventory
 - Customer service



Managing Release of Information

How do we manage it?

► **Process**

- Tracking and Reporting Software
- Document processes
 - Keep them up to date
- Build partnerships
 - Compliance, Risk Management, Billing, IT, etc.
- Educate others in your organization
 - Do they know what to do when they receive a request?
 - If they release, are they compliant?



“Somehow your medical records got faxed to a complete stranger. He has no idea what’s wrong with you either.”



Managing Release of Information

How do we manage it?

- ▶ Lots of 'Grey' Areas
- ▶ Technology
- ▶ Critical Thinking Skills
- ▶ Common Sense
- ▶ What would you do if it were YOUR Protected Health Information?
- ▶ Peer network
- ▶ State/National Organizations
- ▶ Education

