MHCC | MARYLAND HEALTH CARE COMMISSION

Achieving HIPAA Compliance

HIPAA Requirement Review

The Health Insurance Portability and Accountability Act of 1996, Administrative Simplification, requires payers, providers, and claims clearinghouses to establish protections, adopt standards, and meet requirements for the transmission, storage, and handling of certain health care information.

HIPAA Exemptions Exist But May Have Long-Term Implications

- A provider of services with fewer than 25 full-time equivalent employees
- A physician, practitioner (pharmacy), facility, or supplier with fewer than 10 full-time equivalent employees
- No EDI

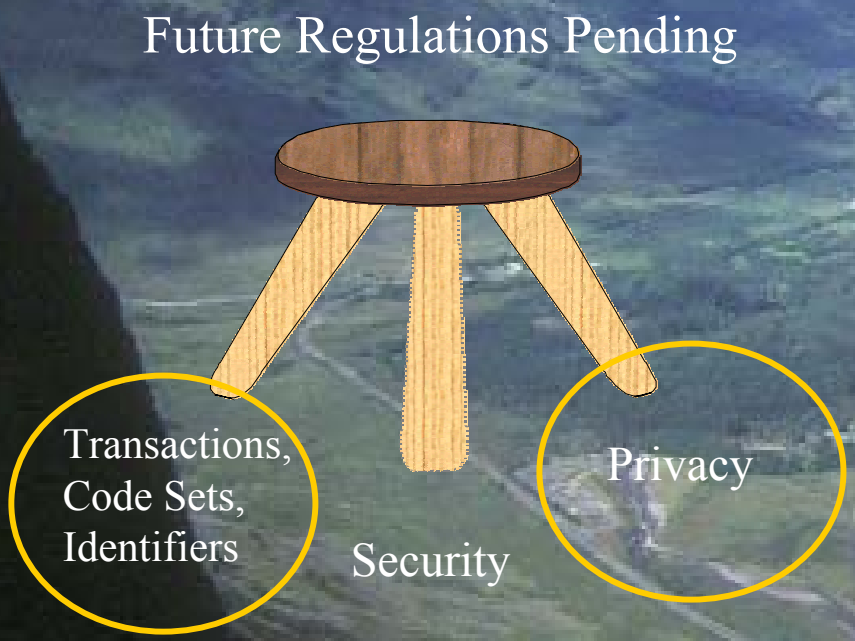
Overall Compliance…
Aim For The "Bull's Eye"
Ongoing Efforts Likely To Continue

Transactions, Code Sets, Identifiers – October 16, 2003

Privacy – April 14, 2003

Security – April 21, 2005

Our Discussion
Administrative Simplification



HIPAA Requires Providers To Change The Way…

- Patient information is stored
- Patient information that is sent electronically to others
- Patient information is handled

A "Quick" Gap Assessment – Are You Ready For Privacy?

Are You Ready For Privacy?

- Have you developed your notice of privacy practices?

  Yes ☐ Not Yet ☐

- Does your authorization document contain the required detail for PHI disclosure?

  Yes ☐ Not Yet ☐

- Are you aware of the minimum necessary requirements for disclosure of PHI?

  Yes ☐ Not Yet ☐

- Can you identify when to use a business associate contract?

  Yes ☐ Not Yet ☐

Are You Ready For Privacy?
(Continued)

- Are your aware of special circumstances allowing for disclosure of PHI without an authorization?

  Yes ☐ Not Yet ☐

- Are you aware of the 19 elements included in PHI?

  Yes ☐ Not Yet ☐

- Are you aware of products and services that represent marketing?

  Yes ☐ Not Yet ☐

- Do you understand patients right to request restrictions on the use and disclosure of PHI ?

  Yes ☐ Not Yet ☐

Are You Ready For Privacy?
(Continued)

- Can you accommodate individuals requesting to receive PHI communications by an alternative means?

  Yes ☐ Not Yet ☐

- Are your medical files managed in a way that allows for patient inspection/release of PHI?

  Yes ☐ Not Yet ☐

- Are you aware of your obligations should a patient request to amend their medical record?

  Yes ☐ Not Yet ☐

- Do you document non-routine disclosure of PHI ?

  Yes ☐ Not Yet ☐

Are You Ready For Privacy?
(Continued)

- Have you designated a privacy official?

  Yes ☐ Not Yet ☐

- Have you trained your staff on handling PHI?

  Yes ☐ Not Yet ☐

- Does your office have a way to address patient complaints?

  Yes ☐ Not Yet ☐

- Do you have a policy to handle a breach in patient confidentiality?

  Yes ☐ Not Yet ☐

Are You Ready For Privacy?

(Continued)

- Have you trained your staff to work with individuals that exercise their rights under the privacy regulations?

  Yes ☐ Not Yet ☐

- Is your office aware that patients cannot be asked to waive their privacy rights?

  Yes ☐ Not Yet ☐

- Have you developed privacy policies and procedures?

  Yes ☐ Not Yet ☐

- Have you made changes in policies to maintain PHI for 6 years?

  Yes ☐ Not Yet ☐

Are You Ready For Privacy?
(Continued)

- Are you familiar with the differences between consents and authorizations?

  Yes ☐ Not Yet ☐

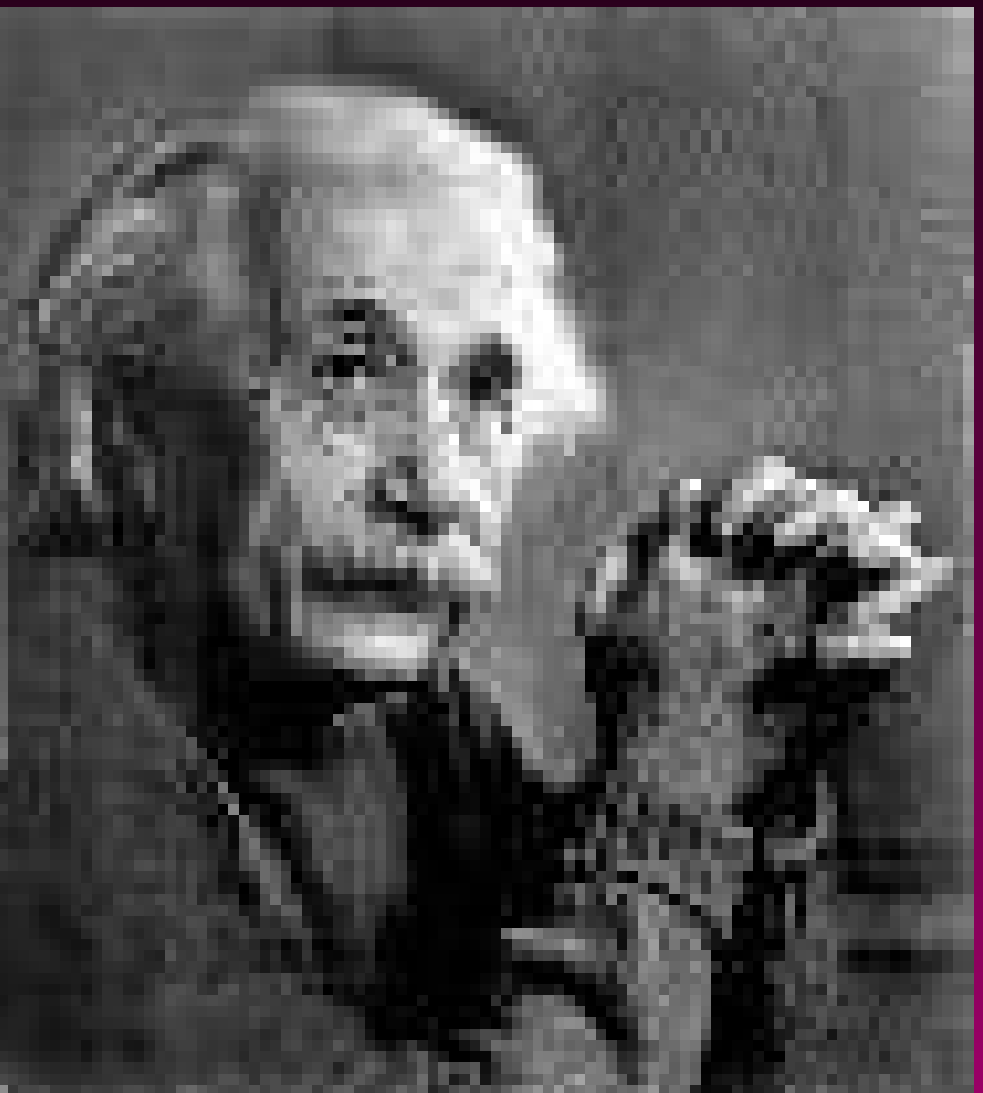
- Does your notice of privacy practices include DHHS contact information & time line for filing a complaint?

  Yes ☐ Not Yet ☐

- Is your office able to respond to an unannounced audit?

  Yes ☐ Not Yet ☐

How Compliant Are You With Privacy?



- Mostly compliant
  - » 20-23
- Somewhat compliant
  - » 16-19
- Not at all compliant
  - » <15

Is Full Compliance An Issue?

- CMS audits transaction standards and code sets
- Office for Civil Rights monitors privacy and security
- CNN News releases a 30 minute segment on new patient rights
- Think of your patients as your first step toward an audit

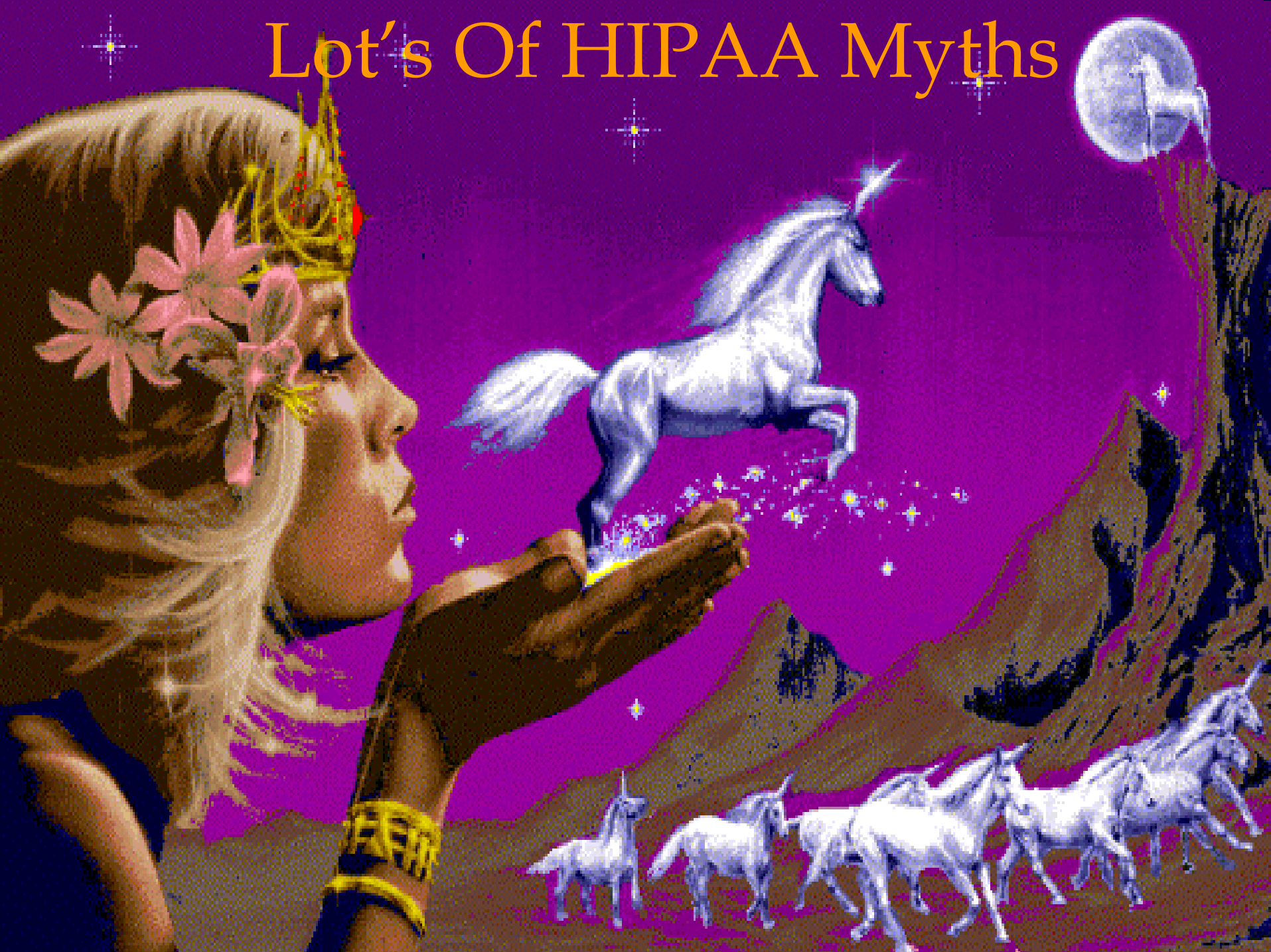
A Review Of Generally Used PHI

- ***Name***
- ***Address***
- E-mail
- ***Dates***
- ***Social Security Number***
- Medical Record Number
- ***Health Plan Beneficiary Number***
- ***Account Number***
- Certificate Number
- License Number
- Vehicle Identifiers
- Facial Photographs
- ***Telephone Numbers***
- Device Identifiers
- URLs
- IP Addresses
- Biometric Identifiers
- Geographic Units
- Any Other Unique Identifier or Codes

A Word On Privacy

Think Reasonable & Scalable

Lot's Of HIPAA Myths



No Need To Panic – Some Provider Issues

- Retrofitting offices to protect medical records
- Confidential conversations with patients
- Leaving messages on answering machines
- Incidental uses and disclosures
- Determining minimal necessary amount
- Can parents view a minors medical records
- Who are my business associates
- Distribution method for the notice of privacy practices
- Patient charts on doors

Confidential Communications – Discretion Is Important

- Manage to your patients expectations
- Use discretion when communicating over the telephone or counter
- Respect privacy rights of your patients even when they forget too

Administrative Tasks Reminder…

- Designate a privacy official
- Develop policies and procedures
- Create the notice of privacy practices
- Train employees

Patient Awareness Of New HIPAA Rights - Not Too Far Off…

- Right to inspect and copy protected health information
- Right to amend
- All approve uses and disclosures
- Right to an accounting of disclosures
- Right to have reasonable requests for confidential communication accommodated
- Right to file a written complaint
- Right to receive written notice of information practices

A Word On Complying With The Transaction Standards

HIPAA Transactions
A Cost-Savings To Practitioners

- Using the transactions produces administrative savings:
  - Enrollment in a health plan,
  - Eligibility for a health plan,
  - Health claims (retail drug, dental, professional, and institutional)
  - Health care payment & remittance advise
  - Health plan premium payments,
  - Health claim status,
  - Referral certification, authorization, coordination of benefits (Rx: NCPDP Telecommunication Guide)

Electronic Data Interchange…

- Use caution in relying on your software vendor's word regarding system compliance
- Using a testing certification vendor is highly recommended
  - » Claredi, EDICECS, Foresight Corporation, Applabs
- Follow up with your software vendor periodically for new releases

HIPAA - Sound Documentation Is Essential

- Transaction Standards & Code Sets
- Privacy
- Security

Compliance For Providers Means What?

- Transaction Standards
  - Vendor self-certification letter or third party certification (include specific transactions)
- Privacy
  - Gap assessment: Q&A
  - Policies and procedures
  - Sample forms
  - Training log
- Security
  - Gap assessment: Q&A
  - Policies and procedures
  - Sample forms
  - Training log
- Ongoing review of your compliance manual is required

HIPAA Compliance Tools

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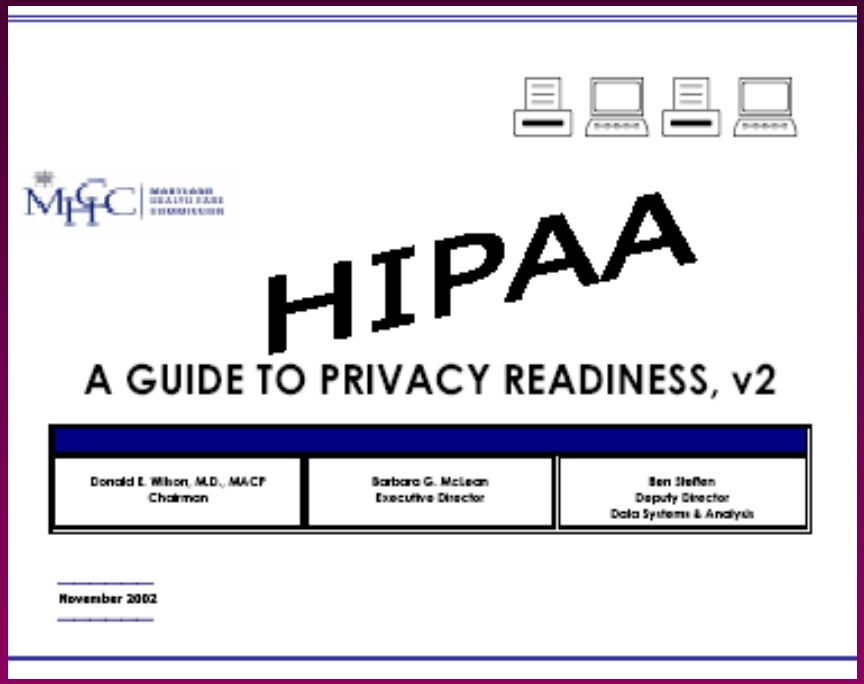
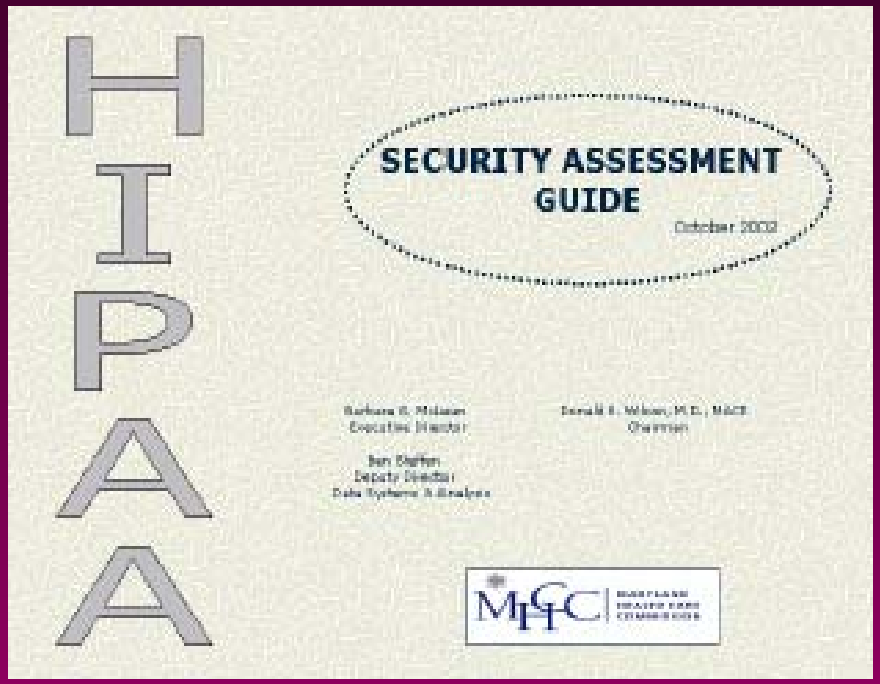
Both are available at the MHCC Web-site:

WWW.MHCC.State.MD.US





MHCC HIPAA Tools: What You Can Expect To Find

Privacy tool contents:

- *Introduction*
- *Maryland Law on the Confidentiality of Medical Records*
- *HIPAA Definitions*
- *Assessment Guide and Work Plan*
- *Business Associate Contract (illustrative document)*
- *Chain of Trust Partner Agreement (illustrative document)*
- *Notice of Privacy Practices (illustrative document)*
- *Computer and Information Usage Agreement (illustrative document)*

Security tool contents:

- *Introduction*
- *Definitions*
- *Small Provider Implementation Example*
- *Assessment Guide and Work Plan*
- *Administrative Procedure Checklist*
- *Physical Safeguards Procedures Checklist*
- *Technical Security Services Procedures Checklist*
- *Technical Security Mechanisms Procedures Checklist*

Imagine A Time Period When…

- Patients only seek care from providers that are HIPAA compliant
- Liability carriers insure based upon HIPAA compliance
- Financial institutions underwrite loans/lines of credit based upon HIPAA compliance

A Message For Providers

- It’s easy to get carried away with implementing
- Lot’s of vendors pushing products and services
- Providers will implement differently
- With HIPAA, one shoe size does not fit all…

Lasting Thoughts…

- Other final rules expected to be released
- Ongoing modifications of existing rules likely to occur
- Continue to become “HIPAA Wise”
- Implementation dates are “start dates” not “end dates”

For More Information on HIPAA

Official Sites

Government sites:

http://aspe.hhs.gov/admnsimp - Department of Health and Human Services

http://www.hcfa.gov/security/isecplcy.htm- HCFA Internet Security Policy

http://www.wpc-wdi.com/hipaa -- Implementation Guides

Non-govt sites:

http://www.wedi.org

http://www.nchica.org

http://www.hipaadvisory.com/

MHCC site:

http://www.mhcc.state.md.us

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