

HIPAA Issues

Avera vCNE Series: Acute Care - HIPAA

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Privacy Officer

Corrective Action Process:

- Coaching
- Verbal Warning - Documented
- Written Warning - Formal
- Final Written Warning or Suspension
- Termination

EMR Access Audits

- ▶ Audits
 - ▶ By patient
 - ▶ By user
- ▶ What we see
 - ▶ User Name and ID
 - ▶ Start and stop times of access to the second
 - ▶ Patient Name, MR number and Account number
 - ▶ Application and Routine Accessed
 - ▶ Device Used

EMR Access Audits

- ▶ Audit by cause
 - ▶ By request
 - ▶ High Profile cases
 - ▶ Employees who are patients.
- ▶ Random access audits

Audit Data

	User Audits	Corrective Action	Patient Audits	Corrective Action	Total Audits	Total Corrective Action
Totals 2013	412	14	50	16	462	30
Totals 2014	249	10	50	3	299	13
Totals 2015	402	9	74	18	476	27
Totals 2016	220	12	68	29	288	31
Totals 2017	48	6	28	6	76	21
Totals 2018	232	26	106	21	358	57



Inappropriate Disclosures

An **Inappropriate Disclosure** of Confidential Information occurs when an individual:

- ▶ *accesses or reviews* patient, employee, or business information for any reason not related to the provision of care and treatment, payment, health care operations, or another authorized purpose (role-based);
- ▶ *discusses with or reveals* to any individual(s) Confidential Information about Avera or about others for purposes not related to patient care or other authorized purposes; or
- ▶ *violates the provisions* of Avera's Policies on Confidentiality, Security and Privacy of Avera Information or any state/federal laws related to the security, privacy, and confidentiality of patient information.

2018 Accidental Disclosures

Month	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
Accidental Disclosures	19	23	24	13	19	22	20	26	22	48	144	34	414
Billing Errors to Wrong Patient	1	0	2	2	1	3	0	4	2	0	1	1	17
Breaches Requiring Notification	0	4	5	4	4	0	3	8	6	3	2	6	45
Transcription Reports sent in Error	4	2	7	5	6	6	12	8	4	15	3	9	81
Total Disclosures Made in Error	24	29	38	24	30	31	35	46	34	66	150	50	557

Administrative Policy

- ▶ Evaluation of Alleged Inappropriate Disclosures of Confidential Information
- ▶ Implemented January 2019

Level 1 Inappropriate Disclosures

- ▶ When an employee or other applicable person outlined in this policy *unintentionally or carelessly* accesses, reviews, or reveals Confidential Information without a legitimate “need to know” .

Level 1 Examples

- ▶ Discussing Confidential Information in a public area;
- ▶ Leaving a copy of PHI in a public area;
- ▶ Leaving a computer unattended in an accessible area while logged on; not logging off; not securing the device;
- ▶ Sending a fax to an incorrect recipient by not verifying the correct number, or dialing the number rather than using a pre-programmed number; or
- ▶ Inadvertently distributing Confidential Information to the wrong individual or mailing information to the wrong patient or address.

Level 1 Discipline

- ▶ A coaching opportunity or verbal warning.
- ▶ The HRO or designee may provide relevant policies and training to the employee to reinforce Avera's commitment to confidentiality.

Level 2 Inappropriate Disclosures

- ▶ When an employee or other applicable person outlined in this policy *intentionally* accesses or discusses Confidential Information for purposes other than the care of the patient or other authorized purposes but for reasons unrelated to personal gain.

Level 2 Examples

- ▶ Looking up birth dates, addresses of friends or relatives;
- ▶ Accessing and reviewing Confidential Information of a friend or family member out of concern or curiosity;
- ▶ Reviewing a public personality's medical record;
- ▶ Looking up co-worker's Confidential Information; or
- ▶ Repetitive Level 1 Inappropriate Disclosures.

Level 2 Discipline

- ▶ A final written warning.
- ▶ The HRO shall, as part of the final written warning, require the employee to review relevant policies and training modules to reinforce Avera's commitment to confidentiality.
- ▶ HIPAA Re-education will be assigned.

Level 3 Inappropriate Disclosures

- ▶ When an employee or other applicable person reviews or discusses information *for personal gain or with malicious intent.*

Level 3 Examples

- ▶ Reviewing Confidential Information to use information in a personal relationship;
- ▶ Compiling a mailing list for personal use or to be sold;
- ▶ Divulging Confidential Information to a newspaper for personal profit; or
- ▶ Accessing medical records on a job applicant.

Level 3 Discipline

- ▶ Due to the severity of actions of a Level 3 Inappropriate Disclosure and the negative impact on Avera, this shall result in suspension and/or termination.
- ▶ Depending on the circumstances, reports will be made to applicable licensing boards.
- ▶ Violations of a criminal nature will be reported to the appropriate authorities.

Breach

Definition

The acquisition, access, use, or disclosure of protected health information in a manner not permitted under HIPAA privacy rules which *compromises the security or privacy of the protected health information.*

2018 Breach Notifications

Types of Breaches Requiring Notification	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
Inappropriate access to EMR			1	1	3			2	4	1	1	1	14
Information accessed per patient portal			1					4	1			4	10
Information shared by e-mail, text or social media			2	1							1		4
Information faxed to wrong number		2											2
Information shared verbally or by phone		1					1		1				3
Paper with PHI given to wrong patient												1	1
PHI mailed to wrong individual		1	1	2	1		2	2		2			11
Total	0	4	5	4	4	0	3	8	6	3	2	6	45



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