

# One-Minute Compliance

## Storms, Emergency Preparedness & HIPAA

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# Storms, Emergency Preparedness & HIPAA

"□Protect against any reasonably anticipated threats or hazards to the security or integrity of such information.□ This required standard is not □addressable□or optional."

As of June 1, 2015 the Atlantic hurricane season has started as has been the traditional start date for decades. <sup>1</sup> Over time the season end dates have changed, but the beginning has remained the same marking the period when concerns that should always be present should increase and preparations should be given greater consideration. For coastal states it is a time period that has seen devastating problems including loss of life and massive property damage, e.g. Lili, Matthew, Katrina, Sandy and other storms.<sup>2</sup> The extensive effects included the loss of medical facilities and operational medical structures for an extended period of time.<sup>3</sup>

The HIPAA Privacy & Security Regulations have among many other requirements the mandate to protect health information, e.g. the Security Rule required standard to □ □ Protect against any reasonably anticipated threats or hazards to the security or integrity of such information.□ <sup>4</sup> This required standard is not □ addressable□ or optional. <sup>5</sup> Additionally there is a continuing requirement under the same regulations to determine potential risks by a □ risk analysis□ specifically to □ Conduct an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity, and availability of

"Implement security measures sufficient to reduce risks and vulnerabilities to a reasonable and appropriate level"

electronic protected health information held by the covered entity or business associate." <sup>6</sup> It is necessary to have policies in place on how such risk assessments will be implemented as well as the methods of implementation and results. Once the results of assessments are known there must be efforts to □ Implement security measures sufficient to reduce risks and vulnerabilities to a reasonable and appropriate level".<sup>7</sup> This same requirement since 2013 applies to business associates, i.e. entities handling protected health information for covered entities (CE) such as physicians. <sup>8</sup>

Additionally there are similar requirements for physicians accepting incentives under the government program for conversion to electronic health records (EHR) and following objectives for meaningful use. One Meaningful Use Objective Measure requires the Eligible Professional (EP) accepting the incentives to □ Protect electronic health information created or maintained by the certified EHR technology (CEHRT)□ □ and to □ Conduct or review a security risk analysis□ □ <sup>9</sup> There must be attestation by the eligible professional (EP) that this measure is being met and there are no exclusions. <sup>10</sup>

Clearly there is an historic potential for risk to medical information by hurricanes and related storms and damage can be □ reasonably

"All medical practices should update their risk evaluations and other disaster mitigation plans"

anticipated".<sup>11</sup> Other damaging events across the country, e.g. fires, tornados can also be anticipated and should have the same considerations. The risk evaluations and necessary appropriate actions should be ongoing, but take on even more significance in this season. All medical practices should update their risk evaluations and other disaster mitigation plans as soon as possible. Other general government HIPAA disaster preparedness planning information is available at the [Department of Health & Human Services \(HHS\)](#).<sup>12</sup>

This information provided by MER Consulting llc is risk management opinion and should not be construed as legal advice. Legal advice should be obtained from licensed legal representation. Information is prepared as a service only to healthcare providers and is not intended to grant rights or impose obligations. References or links to statutes, regulations, policy materials, documents, or opinion in any form is intended for reference only. No contained information is intended to take the place of either the written law or regulations. Readers are always encouraged to review any specific statutes, regulations, and other interpretive materials for a full and accurate understanding of their contents.

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Endnotes:

<sup>1</sup>Dorst N. When is Hurricane Season?. National Oceanic & Atmospheric Administration (NOAA). Site: [www.aolm.noaa.gov](http://www.aolm.noaa.gov). <http://www.aoml.noaa.gov/hrd/tcfaq/G1.html>. Pub. June 4, 2015. Accessed June 4, 2015

<sup>2</sup>Roth D. Louisiana Hurricane History. National Weather Service. Site: [www.srh.noaa.gov](http://www.srh.noaa.gov). <http://www.srh.noaa.gov/images/lch/tropical/lahurricanehistory.pdf>. Pub. Update January 13, 2010. Accessed June 4, 2015

<sup>3</sup>Rudowitz R. et al. Healthcare in New Orleans Before & After Katrina. Health Affairs. Site: [www.content.healthaffairs.org](http://www.content.healthaffairs.org). <http://content.healthaffairs.org/content/25/5/w393.full>. Pub. November 28, 2006. Accessed June 4, 2015

<sup>4</sup>US Dept Health & Human Services Office of Civil Rights. HIPAA Administrative Simplification Regulation Text. Site [hhs.gov](http://www.hhs.gov). <http://www.hhs.gov/ocr/privacy/hipaa/administrative/combined/hipaa-simplification-201303.pdf>. March 26, 2013. Accessed November 4, 2013. Pgs 63 & 64.

<sup>5</sup>Ibid p. 64

<sup>6</sup>Ibid

<sup>7</sup>Ibid

<sup>8</sup>Federal Register. Omnibus Final Rule. Government Printing Office. <http://www.gpo.gov/fdsys/pkg/FR-2013-01-25/pdf/2013-01073.pdf>. Published 1/25/2013. Vol.78; No.17 Accessed June 4, 2015

<sup>9</sup>HHS. Meaningful Use Core Measure 9 of 17. CMS. Site: [www.cms.gov](http://www.cms.gov). [http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/downloads/Stage2\\_EPCore\\_9\\_ProtectElectronicHealthInfo.pdf](http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/downloads/Stage2_EPCore_9_ProtectElectronicHealthInfo.pdf). Accessed June 4, 2015

<sup>10</sup>Ibid

<sup>11</sup>US Dept Health & Human Services Office of Civil Rights. HIPAA Administrative Simplification Regulation Text. Site [hhs.gov](http://www.hhs.gov). <http://www.hhs.gov/ocr/privacy/hipaa/administrative/combined/hipaa-simplification-201303.pdf>. March 26, 2013. Accessed November 4, 2013. Pgs 63 & 64.

<sup>12</sup>HHS. Disclosures for Emergency Preparedness. Health Information Privacy. Site: [www.hhs.gov](http://www.hhs.gov). <http://www.hhs.gov/ocr/privacy/hipaa/understanding/special/emergency/decisiontoolintro.html>. Accessed June 5, 2015

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Dr. Rhea is a medical liability and risk consultant to medical practices and other health related organizations. He was in medical and surgical practice for over 30 years and for the past 17 years has been a consultant in medical risk and liability management. He is the owner and Managing Partner of Medical Education and Risk Consulting, called MER Consulting. Dr. Rhea has been dealing with risk and federal regulatory compliance areas such as the HIPAA privacy and security regulations beginning with the Privacy Rule in 2000.

Dr. Rhea writes monthly white papers on various sections of the HIPAA regulations in regard to those most encountered in office practice. The information will be summarized from actual federal law with both references and multiple choice questions for your teaching use.

HIPAA training is required by the regulations must be ongoing and this monthly information can be used as part of efforts to meet those requirements. These HIPAA articles can be used and documented as part of your staff and administrative training program.

While these educational materials will not by any means cover everything you need to do for HIPAA privacy and security compliance they provide more documented evidence of training and intent to comply.

If you have any questions on the information Dr. Rhea can be contacted directly. [krheamd@mdriskconsulting.com](mailto:krheamd@mdriskconsulting.com)



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