



## Recent Changes for Privacy and HIPAA Regulations

- **HITECH Act-** Health Information Technology for Economic and Clinical Health: Introduced the Breach Notification Rule in 2009/2013. Addresses requirements for ePHI and Technology practices encompassing healthcare for Cybersecurity. This is part of MIPS' Security Risk Analysis requirements. HITECH also outlines requirements of entities to notify patients of breach of PHI information.
- **21<sup>st</sup> Century CURES ACT-** (passed 2016/ finalized 2022) Overseen by **CMS, OCR and the ONC** (Office of the National Coordinator for Health Information Technology) Prohibits providers, developers, and health information networks from engaging in practices that would inhibit patients from receiving their own data or practices that inhibit patient data from flowing where patients would like it to go. It mandates that patients have rapid, free and full access upon request to test results, medication lists, referral information, and clinical notes, all in electronic formats. Some refer to the Cures Act Final Rule as the "Open Notes Rule."
- **INFORMATION BLOCKING-** As Part of the CURES ACT, Information blocking is a practice by an "actor" (or Provider, EHR, Insurance company, etc) that is likely to interfere with the access, exchange, or use of electronic health information (EHI), except as required by law or specified in an recognized exception. Information Blocking Rules are put in place to help enhance patients' rights to access their health information and to promote communication and sharing of information between healthcare providers and with health information technology companies.
- **Medical Record Requests-** Federal and State laws have been updated to reflect the ease of access to patients to their personal medical records. Fees for personal requests (not 3<sup>rd</sup> party requests) can only be charged at reasonable and explainable charges. A provider may charge patients one of three ways- but **ONLY** one way:
  - **Flat rate** (not to exceed \$6.50- this includes the shipping charge)
  - **Average rate** (must show cost breakdowns of historical record producing costs)
  - **Actual Cost** (must provide a breakdown in form format showing actual costs to produce the record).
- **HIPAA Privacy Rule update: Patients are no longer required to provide WRITTEN requests for personal access to records.** However, a Practice must make effort to verify Identity of requesting patient (DOB, Address, etc) and document in notes/pt chart.
- **HIPAA PRIVICACY RULE UPDATE: sharing PHI with other providers MANDATORY rather than just permissible.**

## HIPAA Violation Penalties

