

Does HIPAA Apply to Free Clinics? Free & Charitable Clinic HIPAA Toolbox May 2014

AmeriCares and the National Association of Free and Charitable Clinics (“NAFC”) are pleased to share this HIPAA Toolbox designed by Ropes & Gray, a law firm focusing on healthcare practices. **The Toolbox is designed to assist free and charitable clinics with understanding and complying with HIPAA requirements.** AmeriCares also wishes to thank the GE Foundation for its generous support of this project.

The Toolbox is directly applicable to healthcare providers that are considered “Covered Entities” under HIPAA; however other providers may choose to comply with certain HIPAA principles in order to meet patients’ general expectations about the privacy of their health information. The Toolbox does not address any privacy or security obligations imposed by state law or by payors. Particular provider-specific questions or situations (such as a potential “breach” of health information) should be addressed with counsel. Below are summaries of the documents in the Toolbox with links to each document.

1. HIPAA Frequently Asked Questions (FAQs)

This list of Frequently Asked Questions reflects questions submitted by AmeriCares and the NAFC on behalf of partners and members regarding HIPAA compliance. It is suggested that readers review these FAQs first in order to determine, “Is our free clinic a Covered Entity? Does HIPAA apply to us?”

2. HIPAA Guide

The HIPAA Guide summarizes current HIPAA Privacy, Security, Data Breach Notification, and Enforcement Rule requirements regarding common situations relevant to Covered Entities. The Guide is intended to provide an overview of a Covered Entity’s obligations; however, it is not a substitute for the development and implementation of Covered Entity-specific policies and procedures.

3. Sample HIPAA Training

This training covers the HIPAA Privacy Rule, Security Rule, Data Breach Notification Rule and the Enforcement Rule and can be used as part of a HIPAA Covered Entity’s obligations to train and refresh workforce members’ understanding of their HIPAA obligations.

4. HIPAA Compliance Self-Assessment Checklist

This checklist sets forth Covered Entity’s HIPAA requirements for use in a self-evaluation of its HIPAA compliance and opportunities for future improvement.

5. Template HIPAA Forms

The template HIPAA forms include a Notice of Privacy Practices, a Business Associate Agreement, and a HIPAA Authorization, some common forms that Covered Entities need and use. The forms may serve as a reference for Covered Entities in developing their own tailored forms.

- The Template Notice of Privacy Practices should be modified to reflect an individual Covered Entity's privacy practices.
- The Template Business Associate Agreement contains sample language for the negotiation with a business associate.
- The Template Authorization for Disclosure of PHI should be modified to include contact information for the Covered Entity's designated Privacy Official. These forms have been updated to comply with the Omnibus Final Rule Regulations (the "Omnibus Rule") published in January 2013.

6. HIPAA Audit Program Protocol

This Audit Program Protocol, published by the HHS Office for Civil Rights ("OCR"), was used by OCR when auditing Covered Entities in 2012 through its pilot program. The Protocol provides insight into OCR's interpretation of regulatory requirements and may help a Covered Entity prepare for some questions that it might receive if it is the subject of an audit in the future. The Office for Civil Rights has not yet updated the Audit Protocol to reflect the Omnibus Final Rule's amendments to the HIPAA regulations.

7. HIPAA Omnibus Rule Presentation

This presentation describes the Omnibus Rule's changes to the HIPAA regulations that are relevant to Covered Entities and can be used to update workforce members on regulatory developments. It is intended for an audience that has already received basic HIPAA training.