



July 14, 2015

OCR ANNOUNCES HIPAA SETTLEMENT RELATING TO INTERNET-BASED DOCUMENT SHARING ISSUE

By: Deborah A. Cmielewski, Esq.

On July 10, 2015, the Office of Civil Rights (“OCR”) announced the execution of a Resolution Agreement with St. Elizabeth’s Medical Center (“SEMC”), a tertiary care hospital in Brighton, Massachusetts, arising from alleged failure to comply with the HIPAA rules. The settlement requires SEMC to pay a fine of \$218,400 and to enter into a Corrective Action Plan (“CAP”) mandating the correction of deficiencies in its HIPAA compliance program.

The imposition of fines and penalties against SEMC was based on two particular incidents of potential HIPAA noncompliance involving at least 1,093 individuals. The OCR’s initial investigation followed a 2012 complaint of alleged HIPAA issues involving at least 498 individuals, which was made by an SEMC workforce member. The complaint arose from the hospital’s use of a questionable internet-based document sharing application. The OCR continued its investigation in August of 2014, after SEMC reported a breach of unsecured electronic protected health information (“ePHI”) of 595 individuals stored on a personal laptop and USB flash drive belonging to a former SEMC workforce member. Overall, the OCR determined that SEMC had unlawfully disclosed the PHI of at least the 1,093 affected individuals, failed to identify and address a known security incident in a timely manner, and failed to properly implement security measures relative to ePHI.

The CAP requires SEMC to perform a thorough self-assessment, including identification of policies and procedures and training programs ripe for revision, preparation of proposed policy and training program amendments and development of an oversight mechanism to facilitate workforce compliance. It further mandates submission of the revised policies, procedures and training materials to the OCR for review and approval. Finally, the CAP requires SEMC to promptly investigate future reports of workforce member incidents and to advise OCR of any future failures of workforce members to adhere to SEMC’s policies and procedures.

The OCR’s most recent enforcement activity once again underscores the need for HIPAA-regulated businesses to evaluate and monitor their compliance programs. SPSK is available to assist clients in the review of such programs and in the development and administration of training programs involving HIPAA and other compliance issues.

DISCLAIMER: This Client Alert is designed to keep you aware of recent developments in the law. It is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of the client. If someone you know would like to receive this Client Alert, please send a message to Deborah A. Cmielewski, Esq., a partner in Schenck, Price, Smith & King’s Health Care Practice Group as well as the Pharmaceutical Industry and Pharmacy Practice Group at dac@spsk.com.

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