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Ensuring Patient Privacy: Are your Educational Materials Free From Harm?

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HANDOUTS are geared
for read/write learner –
Podium presentation has less text

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Purpose and Outcomes

- The purpose is to **Share My Story** about a Privacy Violation when Protected Health Information (PHI) was inadvertently included in our Magnet™ Document.
- After this presentation, the nursing professional development (NPD) practitioner will be able to:
 - Find a reliable resource on PHI.
 - Incorporate one strategy for "PHI Free" educational materials.

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Additional Disclosure



I am Not an Attorney...

...I am a Nurse!

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WIFM? The Relevance ...

- Educators have an **inherent obligation** to assure nursing students and staff are educated on the ethical and legal responsibilities to protect and maintain the privacy of individuals within their care.
- NPD practitioners plan, implement and evaluate education focused on patient privacy.
- All healthcare professionals are required, by law, to adhere to privacy laws.

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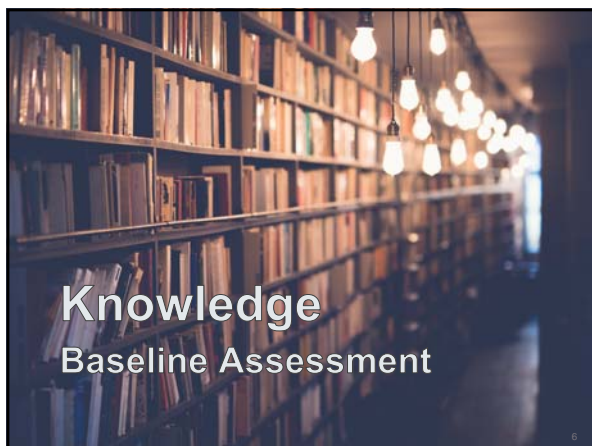
#HIPAA Happened to Me ...My "Community Service"

Privacy Violations are under-studied and under discussed

Most NPD practitioners are unaware of the full extent of the law

Billboard by David Chen from the Noon Project

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**Knowledge
Baseline Assessment**

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Knowledge Check: Does your Educational Material have a PHI Violation

Use this card ...

Content contains a Privacy Violation

Use this card ...

If the Content is Free From a Privacy Violation

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Is this a Privacy Violation? #1

- You are teaching a class on documentation. You include a screen shot and it shows the **patient's name**

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Is this a Privacy Violation? #2

- You identify caring for patients with sepsis is problem prone.
- You select a **case study** as the pedagogical strategy and outline the plan of care.
- Using the affective domain, you say "**this really happened here**".

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Is this a Privacy Violation? #3

- You are developing content for a charge nurse class.
- The goal is to improve how RN assignments are made.
- You recall a busy shift where the unit cared for **8 kidney transplant recipients** in a **24-hour period of time**.
- You use these details to create the case study.

Is this a Privacy Violation? #4

- It is New Year's Eve...
- You are the NPD on the birthing unit and "News 1234" has a competition for first baby born.
- Your unit wins! At 0007 a baby girl is born and at 0015 a baby boy is born.
- TWINS! Babies are transferred to NICU.
- Mom is doing well, but sleepy.
- The News Station learns of the babies and comes to the unit to take pictures.
- You use the pictures in your unit's newsletter as a fun feature in a module on post-partum care.

Is this a Privacy Violation? #5

- You are writing a grant to improve the health of your community.
- You give supporting details on why **Zip Code 49XXX** is the focus of the event.

Is this a Privacy Violation? #6

- In a sensitivity training class you discuss:
 - A 55 year-old female patient who has obesity and is seeking bariatric surgery.
 - A 55 year-old male patient who has cancer.
 - He has breast cancer.

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Is this a Privacy Violation? #7

- New care plans (IPOCs) are being implemented, on your senior adult unit, you share a plan of care for a 90-year old male patient.

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Is this a Privacy Violation? #8

- Data from a needs assessment indicates there is a knowledge deficit on accurate skin assessments.
- As a teaching strategy, you plan to show pictures of hospital acquired pressure injuries (HAPI).
- You take pictures of:
 - A stage I HAPI on a 55 year-old man's heels
 - A stage II HAPI on bilateral ear lobes

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Is this a Privacy Violation? #9

• As you develop a case study on documentation, you use actual parts of the electronic medical record. In your materials you chose not to redact this information:

- The caregiver's phone number – the patient lives with the caregiver
- fax number,
- Email address for follow up
- Social Security Number
- Account number
- Financial Number
- Medical Record Number
- License plate, device id / serial number
- The URL address or the IP address of the patient's computer
- Biometric IDs
- This happens to be a research study and you include the Unique Codes



Situation:



THIS IS MY STORY...

The Letter I Received in the Mail from ANCC...

PLEASE VERIFY RECEIPT OF THIS EMAIL

The Appraiser Team has identified a potential HIPAA violation which needs to be addressed before the documentation review phase may continue.

The Magnet Recognition Program requires that the submitted written documentation comply with the HIPAA (Health Insurance Portability and Accountability Act of 1996). In accordance with the above, the purpose of this communication is to notify you that the evaluation of your health care organization's documentation submission for Magnet designation under the Magnet Recognition Program has been temporarily suspended due to a potential HIPAA violation in the submitted documentation. The evaluation process cannot proceed until requested information is received. The organization will be given the opportunity to remove the information from the documents.

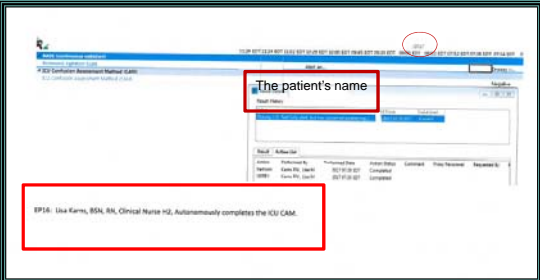
The following applies:

- The appraisers have stopped their review when the first patient sensitive information was identified.
- The appraisers identified **potential** protected health information (PHI) in the following **SUCES**: **EP/SA**. There may be other areas in the documentation that contain **potential** protected health information and it is the responsibility of the organization to find and remove/redact this information.
- Notify Privacy Officer.

By Wednesday, July 26, 2017 **(in 10 business days)** review your documents and determine if there are other areas where protected health information (PHI) is found. Remove/redact PHI and send the updated documents to the appraisers Magnet Program Office. If sending the documents prior to the 10 business days email me with the arrival date so I can notify the appraisers. **If for any reason you cannot meet this deadline, contact me for further guidance. If the revised documents are not provided within ten (10) business days and there is no notification of the delay, the appraisers will not move forward with their review.**

At the time the re-submitted documents (hard copy and digital) are sent to the Magnet Program Office and the Appraisers include:

WHAT? @\$%^&*()!@#\$\$%^&*()!@#\$\$%^&*()



Am I Going to Nurse Jail?



I broke the law...

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What I Knew at the Time ... Connecting Dots of Story

- To be a Privacy Violation, one had to be able to “connect the dots”
 - Name
 - Date of Birth
 - Medical Diagnosis



THAT'S NOT THE CASE

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Breaking the Law has Consequences

Violation Category	Each Violation	All such Violations of an identical provision in a calendar year
(A) Did NOT know	\$100 - \$50,000	\$1,500,000
(B) Reasonable Cause	\$1,000 - \$50,000	\$1,500,000
(C)(i) Willful Neglect – Corrected	\$10,000 - \$50,000	\$1,500,000
(C)(ii) Willful Neglect – Uncorrected	\$50,000	\$1,500,000

Four Tiers of Penalty for HIPAA Rule Enforcement

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Compromising PHI – It can happen anywhere!



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Background: Health Insurance Portability & Accountability Act (HIPAA)

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Protected Health Information is...

Individually Identifiable Health Information

Information that is linked to a patient -- either specifically or reasonably

PHI relates to past, present or future care / condition

The past, present or future payments of care

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Action Plan Taken to "Fix" Privacy Violation

- Took Deep Breath
- Grieved the loss of perfection
- Clock ticking -- Nine days left
- Surveyed Colleagues -- All thought just name and DOB
- "Googled" HIPAA Law
- Clarified what the law entailed with Magnet Program Office -- they referred me back to the federal law
- Met with our Integrity Officer
- Redacted the Magnet™ Document
- Vowed to share this experience
- Advocate for safe educational materials

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Ethical & Legal Principles for NPD

Standard 7: Ethics

- "Employs educational principles, standards and methodologies in a manner that preserves privacy"
- "Evaluates factors related to privacy, security, and confidentiality in the use of handling data and information"
- Be compliant with HIPAA

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According to HIPAA Law: 18 Elements of PHI

<input type="checkbox"/> Name	<input type="checkbox"/> Phone, Fax, Email
<input type="checkbox"/> Dates of Hospitalization	<input type="checkbox"/> MRN, FIN
<input type="checkbox"/> SSN	<input type="checkbox"/> Certificates
<input type="checkbox"/> Age if older than 89	<input type="checkbox"/> License Plate
<input type="checkbox"/> Full Face Pictures	<input type="checkbox"/> Device IDs
<input type="checkbox"/> Zip Codes	<input type="checkbox"/> URL / IP Addresses
<input type="checkbox"/> Date of Birth	<input type="checkbox"/> Unique Identifiers

According to HIPAA.gov

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Privacy Violation

- Full Names
- Initials
- Room Number
- Details of the Patient
 - diagnosis
 - Age if older than 89 years old
 - Demographics
 - Full face pictures or identifying body parts without consent
- "This really happened here"

Acceptable Practice

- Just use "the patient"
- Consider using a fictitious name—consistently
 - Mr. Jones / Mr. Smith
 - Bob / John / Xavier
 - Ms. Jones / Mrs. Smith
 - Jane / Jenny / McCauley
- Replace with **COULD** ...

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Privacy Violation

- Admitted on June 1, 2017
- Discharged on July 4, 2016

Acceptable Practice

- Only the year
 - In 2016
 - Over a span of 34 days
 - The patient had an extended LOS
 - On day three post-op

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Privacy Violation

- Zip codes ...
- Depends on the size of the community
 - Denver would be okay but not **Aguilar**, Colorado

Acceptable Practice

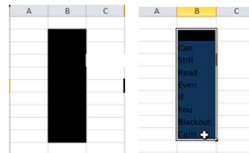
- In a small community in Colorado ...

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Nursing Orientation Key Elements

- Ensure RNs understand and **value**
 - Only legally permitted to access patient information of the patients they are **assigned to care** for
 - Only able to access patient information when they are **working**
 - **Expectant RNs ... Are patients**
- Cannon & Caldwell. HIPAA Violations among nursing students:
Teaching moment or terminal mistake – A case study.

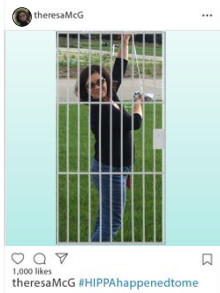
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Learn From my Mistakes – and “Jail Time”

- #HIPAA happened to me
- Value Privacy Laws
- Collaborate with Privacy Officer
- Find a sense of humor
- Pair and Share – for PHI content review & edits
- Think about security of information



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Link to Information on Privacy Law

<https://www.hhs.gov/hipaa/index.html>

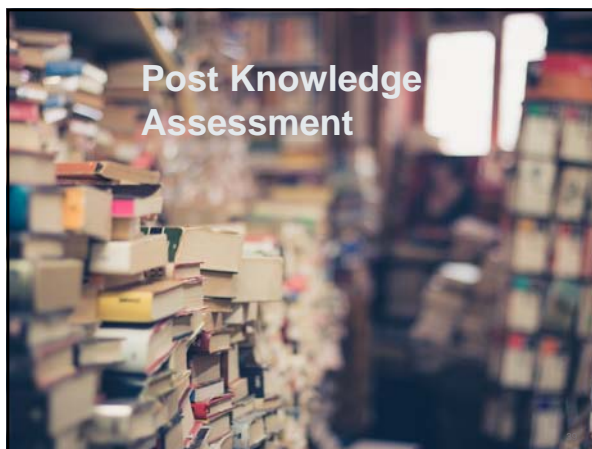
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Additional Resources

- U.S. Department of Health and Human Services
- Office for Civil Rights – HIPAA Compliance
- WWW.HHS.gov

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Post Knowledge Assessment

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Unless you have consent?
to share pics



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Unless the population
is greater



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- A stage II HAPI on bilateral ear lobes



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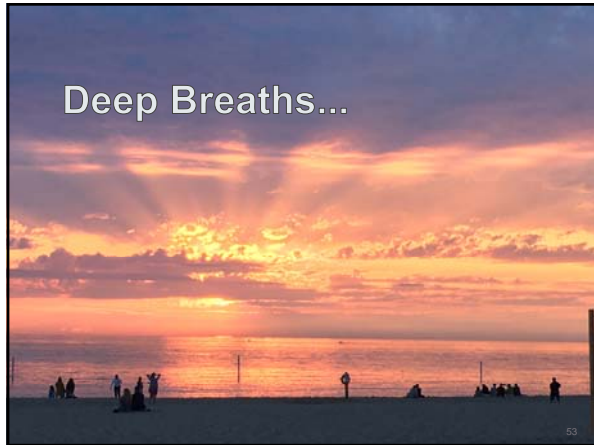
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 - Biometric IDs
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In Summary

- NPD practitioners have an inherent obligation to protect patients and their information
- The wishes of the patient and family
- It is a Law and there are penalties for breaking the law
- www.Hipaa.gov



Questions? Feedback? Reflection...

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