

**CalOHII Communications**

**December 2019**

***In this month’s communication,*** the California Office of Health Information Integrity (CalOHII) provides updates on CalOHII activities, news from the federal Health and Human Services (HHS) as well as links to various news articles related to the Health Insurance Portability and Accountability Act (HIPAA) and healthcare industry.

**CalOHII Updates**

**CalOHII “Year in Review”** – we are proud to share highlights of our achievements this year:

* Corrective Action Plans (CAP) - Three departments worked through CAPs in 2019 - one department completed all CAP items.  The CAP process resulted in:
  + 43 CAP items completed
  + 46 CAP items remain – these will be carried over to 2020
* Compliance Reviews
  + Two department reviews were completed
  + One department review is underway
  + We are finalizing preparations for a Focused Review of Risk Analysis/Risk Assessment documentation – we expect to reach out to departments in the coming weeks
* Technical assistance - at least 30 requests for information or assistance were completed
* 2019 Statewide Health Information Policy Manual (SHIPM) Update - 70 change log items were reviewed, resulting in updates to 39 policies, six definitions, and one attachment
* State Legislation - 159 bills were reviewed for potential policy impacts, this resulted in:
  + Eight bills being actively reviewed – actions included technical assistance provided to departments and/or author’s offices, proposed amendments and coordination with Departments on the impacts of regulatory changes
  + 15 bills were tracked
  + Seven bills will carry over to the upcoming session
* Federal Legislation
  + Nine bills are being tracked for possible HIPAA and data privacy impacts
* Federal Proposed Rules and Requests for Information
  + Ten Notice of Proposed Rulemaking (NPRMs) or Requests for Information (RFI) were tracked due to possible HIPAA changes, this resulted in three formal responses for Agency consideration

**Other CalOHII news:**

* CalOHII attended the Workgroup for Electronic Data Interchange (WEDI) Winter Conference this month – we are providing the materials from the Office for Civil Rights presentation to department Privacy Officers and Information Security Officers in a separate email.
* CalOHII is preparing for the 2020 Covered Entity Assessment – we are authorized by state statute to coordinate and monitor HIPAA compliance by all California State entities within the executive branch of government covered or impacted by HIPAA. To help ensure full compliance with HIPAA, CalOHII conducts an assessment (our last assessment was in 2017) asking state entities to self-assess their collection, use, and/or maintenance of health information. Communications will begin in early 2020 providing more information on the 2020 Assessment.
* State Legislation Review– During the 2019 Legislative session several bills were signed that impact state entities covered by HIPAA beginning January 1, 2020.  CalOHII will make updates to SHIPM in the next revision published in June 2020.  The following provides a summary of the impacts:
  + **AB175 (Foster care: rights)** - This bill expands, clarifies, and revises various rights of foster youth, found under the Foster Youth Bill of Rights.  Specifically, Welfare and Institutions Code §16001.9(a)(22)(B) was added to *allow foster youth the right to review and receive copies of their medical records at no cost until they are 26 years of age*.  SHIPM Policy 5.4.1 – Patient’s (Individual’s) Right to Access Health Information will be updated.
  + **AB398 (Protection and advocacy agency)** - Updates were made to Welfare and Institutions Code §§4900 – 4903 regarding the release of medical records to Disability Rights California to ensure compliance with current federal laws and regulations.  *Current SHIPM policies do not provide details about what information is released, CalOHII advises state entities to consult with their legal counsel.*
  + **AB728 (Homeless multidisciplinary personnel teams)** - This bill allows the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Clara, and Ventura to provide multidisciplinary personnel team (MDT) staff access to medical/mental health records of homeless adult and families without authorization which is counter to HIPAA, Part 2 and Health and Safety Code § 11845.5.  MDT staff include both medical and non-medical participants – disclosure of health information to non-medical staff can be done with a proper authorization.  *Regarding Substance Use Disorder treatment information covered by 42 CFR Part 2 and Health and Safety Code § 11845.5 – state entities* ***should not*** *change their uses and disclosures policies and procedures for this bill.*
  + **AB1130 (Personal information: data breaches)** – A change was made to Civil Code §1798.29(d)(1)(D) to *update the breach notification template to include the internet website of the organization in the contact information*.  SHIPM Policy 2.4.1 Breach and Breach Notification will be updated.

**HHS News**

* **Office for Civil Rights (OCR) Imposes a $1.6 million Civil Money Penalty against Texas Health and Human Services Commission –** OCR penalized the commission for violations that occurred between 2013 and 2017 – including inadequate audit controls. More information about [this case](https://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/agreements/txhhsc/index.html) is on the OCR website.
* **OCR reaches $3 million Settlement with University of Rochester Medical Center –** The center failed to encrypt mobile devices that were lost and therefore impermissibly disclosed protected health information (PHI). More information about [this case](https://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/agreements/urmc/index.html) is on the OCR website.
* **OCR reaches $2.175 million Settlement with Sentara Hospitals** – The hospitals failed to properly notify HHS of a breach of unsecured PHI. The hospitals incorrectly defined the data that should be considered PHI that resulted in under estimating the patients impacted by the breach. More information about [this case](https://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/agreements/sentara/index.html) is on the OCR website.
* **HHS announced Timothy Noonan as the Deputy Director for Health Information Privacy at OCR** - The Health Information Privacy Division administers and enforces the Health Insurance Portability and Accountability Act (HIPAA) Privacy, Security, Breach Notification, and Enforcement Rules, and the confidentiality provisions of the Patient Safety Rule, through investigations, rule-making, guidance, and outreach.
* **OCR publishes Fall OCR Cybersecurity Newsletter** – The Fall newsletter focuses on ransomware – including information on preventing, mitigating and responding to ransomware. We are providing the full newsletter to department Privacy Officers and Information Security Officers in a separate email.

**Contact Us…**

**If you have any questions or comments about the content of this newsletter, contact us at** [**OHIComments@ohi.ca.gov**](mailto:OHIComments@ohi.ca.gov)**.**

*Past CalOHII Communications can be found on the* [*CalOHII Communications - Archive*](https://www.chhs.ca.gov/ohii/about-calohii/calohii-communications-archive/) *page.*