

HIPAA and Business Associate Agreements

Hi. I'm Dan Smith of DPS Legal Counsel, and welcome to today's video.

Today, I'm going to be talking about HIPAA, and I want to mention first a recent development involving in MD Anderson and its Cancer Center.

Last year, HHS's Office for Civil Rights, OCR, imposed a civil monetary penalty against MD Anderson of \$4.3 million, approximately, based on the loss or theft of three particular devices that held protected health information of patients.

In one case, a laptop was stolen from the residence of one of the employees of MD Anderson and in the other two cases, thumb drives containing electronic protected health information were lost.

The penalty has now been appealed by MD Anderson to the Fifth Circuit Court of Appeals just in the past few days. And so we'll see where that case goes.

But that case as well as others in which OCR imposes large penalties for violation of HIPAA points out the importance for all health care professionals who have access to and control over the protected health information of patients to make sure that they safeguard and maintain the confidentiality of that protected health information.

Today, I wanted to mention, in particular, the importance of having Business Associate Agreements with any vendor or any contractor or anyone who has access to your patients' protected health information.

It is important. It's necessary that you have Business Associate Agreements in place with respect to anybody who has access to your protected health information.

There are, obviously, samples and templates that are available, including on the HHS website. But you want to make sure that you don't just treat this in a cavalier manner, that this is not an important issue, because it is.

If you were to have an OCR audit of your practice or some contractor with whom you share protected health information of your patients is audited, and it turns out that you cannot produce and they cannot produce a Business Associate Agreement, then you will have a problem. And so don't underestimate the importance of making sure, doing an internal audit, of your practice to make sure that there are in place Business Associate Agreements with any contractor or any person with whom you are sharing patient electronic protected health information.

So that's it for today. I hope this helps, thanks.