**AMCNO LEGAL ACTIVITIES**

**HIPAA Compliance: Reminder of “Final Rule” Changes Are You Ready?**

*By David Valent, Esq., Reminger Co., LPA*

This year the Federal Government published changes to HIPAA that will require “covered entities” (health care providers) to update their procedures related to the protection of patient health information. The changes became enforceable and may result in a penalty if not complied with beginning September 23, 2013. This article serves as a reminder of this recent deadline, and to further inform health care providers of some of the basics surrounding these new rules.

The HIPAA Final Rule mandates many changes, including but not limited to requiring that providers: have up to date Business Associate Agreements (containing specific new language regarding the protection of health information); make available a Notice of Privacy Practices form to all patients; implement a Breach Notification policy; honor a patient’s right to obtain his/her electronic health records; and, that providers perform a “risk analysis” to address the risks of the health care practice’s current procedures regarding the storage and transmission of protected health information, and to make improvements with regard to same, when reasonable. The Final Rule also provides new monetary penalties for failure to comply with these changes.

It should further be understood that many of the provisions of the Final Rule are “required” to be implemented, while many provisions are merely “addressable.” That said, the addressable provisions cannot be ignored. In the event of a government audit and/or investigation, your practice will need to establish that it did indeed “address” all the aspects of the Final Rule — specifically including undertaking of a risk analysis to determine if your practice can improve with regard its administrative safeguards, technical safeguards and/or physical safeguards for protecting patient health information.

While compliance was generally required by September 23, 2013, some of the changes implemented by this new law are still being met with challenges. In response to a recent lawsuit filed, the Department of Health and Human Services (DHHS) agreed just this week to postpone the enforcement of the new Final Rule requirements relating specifically to “marketing restrictions.” The provisions related to marketing will not become enforceable until November 7, 2013, according to the DHHS. This will give the government more time to further issue guidance and clarity regarding the Final Rule changes related to marketing. Presumably, other aspects of the Final Rule will also be challenged, postponed and/or clarified in the weeks to come.

The HIPAA Final Rule can be accessed at: [http://www.hhs.gov/ocr/privacy/hipaa/administrative/omnibus/index.html](http://www.hhs.gov/ocr/privacy/hipaa/administrative/omnibus/index.html). For further information and/or consultation regarding your practice’s compliance with these privacy rules, please contact David Valent, Esq. at Reminger Co., LPA, dvalent@reminger.com, (216) 430-2196.

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**Choosing Wisely Initiative Highlighted on Special Broadcast** *(Continued from page 10)*

work with them and other medical professionals on how to identify when treatments or tests may be unnecessary.

The program wrapped up with a video presentation provided by BHGC explaining their involvement in the Choosing Wisely campaign. Now that BHGC has identified the five health care situations they plan to focus on, the next step is to educate physicians, medical students and residents about the project. To that end, BHGC has created educational packets and kits that can be used in different environments — such as residency programs, grand rounds and sessions in the community.

*Editor’s note: The AMCNO has been a partner in the BHGC initiative since 2007 and we also have physician representation on the BHGC Leadership Team and Clinical Advisory Committee.*

Dr. Robert Hobbs, AMCNO board member and AMCNO representative member to the Better Health Greater Cleveland Choosing Wisely (CW) Steering Committee discusses cardiac testing during a CW interview.

Members of the studio audience await the start of the program (seated in front - far right - Dr. George Topalsky, AMCNO President, and Dr. Ronald Savrin, AMCNO Past President).