The Consequences of HIPAA Violations

Beyond "Just" Penalties

An IDC infographic sponsored by Sage

HIPAA Violations Can Damage Reputation (In Addition to the Fines)

Patients are the key stakeholders for reputational risk



*Source: Deloitte

Reputation problems have the biggest impact on revenue and brand value

Survey respondents who previously experienced a negative reputation event say the 3 biggest impact areas were:

Revenue

Loss of brand value

Regulatory investigations*

Full Cost of a Violation

HHS reported that the Office of Civil Rights (OCR) had referred 750 cases to the DOJ for criminal investigation as of June 30, 2019*



cases or will work cooperatively with DOJ where a DOJ investigation on other grounds reveals a potential HIPAA violation. A person may be subject to criminal penalties if

OCR will refer matters to DOJ for criminal enforcement in some



· Uses or causes to be used a unique health identifier;

he or she knowingly (and in violation of HIPAA):

- · Obtains individually identifiable health information relating to an individual; or
- Discloses individually identifiable health information to another person.
- Sources:

 * Enforcement Highlights on HHS website hhs.gov

 * 2005 Memorandum Opinion for the General Counsel Department of Health and
 Human Services and the Senior Counsel to the Deputy Attorney General ("DOJ Memo")



Criminal penalties can include a



offenses is committed "with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm." Source: DOJ Memo

• The highest penalties are incurred if one of these

"knowingly" refers to knowledge of the facts that constitute the offense, not knowledge of the law being violated (HIPAA).

The DOJ Memo explains that



HIPAA Is Serious and Violations Are Corrected HHS: 98% of complaints 70% of investigations involved

are resolved Status of All Privacy Rule Complaints: June 2019

Complaints Remaining Open 3,969 2% Complaints Resolved 207,140 98% **Total Complaints Received** 211,109

a corrective action

Corrective Action Obtained (Change Achieved)	27,015	70%	
No Violation	11,828	30%	
Total Complaints Investigated	38,843		

Total Investigated Resolutions: June 2019

Payment Activities Non-Compliance Carries Significant Risk and Costs

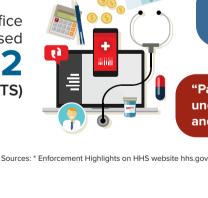
The Value of Securing

Impermissible Uses and

\$102,681,58 in HIPAA penalties.* (COSTS)

As of June 2019, HHS's Office

of Civil Rights has imposed



of HIPAA Violation. (RISK) "Payment" violations fall

Disclosures is the #1 Type

and Disclosures

under Impermissible Uses

Patient privacy and data security rules have important implications

Healthcare organizations need to consider the use of PHI carefully in the context of the services their organization provides:



Issuing a refund to a patient

· Having patient contact information alone could be a violation (i.e. Mental Health Services organization)

Providing additional services to patients (i.e. clothing or housing allowances)

What You Should Do Now



Expert Advice:

information system reviews are the cornerstones of an effective HIPAA security compliance program."



"Risk analysis, ongoing risk management, and routine

Review business associate agreements

-Leon Rodriguez, Former Director of OCR

- **Next Steps:** Review HIPAA privacy and security policies and procedures
- · Document risk analysis Issue training materials

Issue privacy notices

- Review security policies and procedures
- · Conduct security risk analysis



IDC research indicate IDC's endorsement of Sage's products/or strategies.