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OCR ANNOUNCES HIPAA SETTLEMENT RELATING TO WIDESPREAD FAILURE TO ADHERE TO HIPAA RULES

By: Deborah A. Cmielewski, Esq.

On September 2, 2015, the Office of Civil Rights (“OCR”) announced the execution of a Resolution Agreement with Cancer Care Group, P.C. (“CCG”), one of the nation’s largest private radiation oncology practices servicing Indiana hospitals and clinics, arising from alleged noncompliance with the HIPAA rules. CCG has agreed to pay a fine of \$750,000 and to enter into a Corrective Action Plan (“CAP”) mandating the correction of significant deficiencies in its HIPAA compliance program.

The OCR initially investigated CCG following its submission of a breach report in 2012 relating to the theft of a laptop bag containing CCG’s unencrypted computer server backup media from an employee’s car. The bag was left unattended on the passenger side of the vehicle, visible to thieves who broke the window and accessed the information. The OCR’s investigation revealed that prior to the breach, CCG had failed to conduct an enterprise-wide risk analysis and generally demonstrated widespread noncompliance with the HIPAA rules. Among the violations cited by the OCR included CCG’s failure to maintain appropriate policies and procedures governing the removal of ePHI from its offices and the movement of such devices within the facility. Overall, the OCR determined that CCG’s actions compromised the clinical and insurance information of approximately 55,000 former and existing cancer patients.

The CAP requires CCG to conduct and regularly maintain a risk analysis, to develop a comprehensive risk management plan addressing any risks and vulnerabilities identified in the risk analysis and to evaluate and make necessary revisions to its policies and procedures and training programs. CCG must submit the risk analysis and the proposed modifications to the risk management program, policies and procedures and training programs to the HHS for review and approval prior to implementation. Finally, the CAP requires CCG to submit Annual Reports to the HHS.

This significant action by the OCR again reinforces the need for HIPAA-regulated businesses to evaluate and monitor their HIPAA compliance programs. SPSK is available to assist clients in the review of such programs, implementation of corrective actions and administration of workforce training measures.

DISCLAIMER: This Client Alert is designed to keep you aware of recent developments in the law. It is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of the client. If someone you know would like to receive this Client Alert, please send a message to Deborah A. Cmielewski, Esq., a partner in Schenck, Price, Smith & King’s Health Care Practice Group as well as the Pharmaceutical Industry and Pharmacy Practice Group at dac@spsk.com.

FLORHAM PARK

220 Park Avenue
PO Box 991
Florham Park, NJ 07932
Tel: 973-539-1000
www.spsk.com

PARAMUS

Country Club Plaza
115 West Century Road Suite 100
Paramus, NJ 07652
Tel: 201-262-1600

SPARTA

351 Sparta Avenue
Sparta, NJ 07871
Tel: 973-295-3670

NEW YORK

116 West 23rd Street
Suite 500
New York, NY 10011
Tel: 212-386-7628