

§ 164.306

disclosure, modification, or destruction of information or interference with system operations in an information system.

Technical safeguards means the technology and the policy and procedures for its use that protect electronic protected health information and control access to it.

User means a person or entity with authorized access.

Workstation means an electronic computing device, for example, a laptop or desktop computer, or any other device that performs similar functions, and electronic media stored in its immediate environment.

[68 FR 8376, Feb. 20, 2003, as amended at 74 FR 42767, Aug. 24, 2009; 78 FR 5693, Jan. 25, 2013]

§ 164.306 Security standards: General rules.

(a) *General requirements.* Covered entities and business associates must do the following:

(1) Ensure the confidentiality, integrity, and availability of all electronic protected health information the covered entity or business associate creates, receives, maintains, or transmits.

(2) Protect against any reasonably anticipated threats or hazards to the security or integrity of such information.

(3) Protect against any reasonably anticipated uses or disclosures of such information that are not permitted or required under subpart E of this part.

(4) Ensure compliance with this subpart by its workforce.

(b) *Flexibility of approach.* (1) Covered entities and business associates may use any security measures that allow the covered entity or business associate to reasonably and appropriately implement the standards and implementation specifications as specified in this subpart.

(2) In deciding which security measures to use, a covered entity or business associate must take into account the following factors:

(i) The size, complexity, and capabilities of the covered entity or business associate.

(ii) The covered entity's or the business associate's technical infrastruc-

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ture, hardware, and software security capabilities.

(iii) The costs of security measures.

(iv) The probability and criticality of potential risks to electronic protected health information.

(c) *Standards.* A covered entity or business associate must comply with the applicable standards as provided in this section and in §164.308, §164.310, §164.312, §164.314 and §164.316 with respect to all electronic protected health information.

(d) *Implementation specifications.* In this subpart:

(1) Implementation specifications are required or addressable. If an implementation specification is required, the word "Required" appears in parentheses after the title of the implementation specification. If an implementation specification is addressable, the word "Addressable" appears in parentheses after the title of the implementation specification.

(2) When a standard adopted in §164.308, §164.310, §164.312, §164.314, or §164.316 includes required implementation specifications, a covered entity or business associate must implement the implementation specifications.

(3) When a standard adopted in §164.308, §164.310, §164.312, §164.314, or §164.316 includes addressable implementation specifications, a covered entity or business associate must—

(i) Assess whether each implementation specification is a reasonable and appropriate safeguard in its environment, when analyzed with reference to the likely contribution to protecting electronic protected health information; and

(ii) As applicable to the covered entity or business associate—

(A) Implement the implementation specification if reasonable and appropriate; or

(B) If implementing the implementation specification is not reasonable and appropriate—

§(1) Document why it would not be reasonable and appropriate to implement the implementation specification; and

§(2) Implement an equivalent alternative measure if reasonable and appropriate.

(e) *Maintenance*. A covered entity or business associate must review and modify the security measures implemented under this subpart as needed to continue provision of reasonable and appropriate protection of electronic protected health information, and update documentation of such security measures in accordance with § 164.316(b)(2)(iii).

[68 FR 8376, Feb. 20, 2003; 68 FR 17153, Apr. 8, 2003; 78 FR 5693, Jan. 25, 2013]

§ 164.308 Administrative safeguards.

(a) A covered entity or business associate must, in accordance with § 164.306:

(1)(i) *Standard: Security management process*. Implement policies and procedures to prevent, detect, contain, and correct security violations.

(ii) *Implementation specifications:*

(A) *Risk analysis (Required)*. Conduct an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity, and availability of electronic protected health information held by the covered entity or business associate.

(B) *Risk management (Required)*. Implement security measures sufficient to reduce risks and vulnerabilities to a reasonable and appropriate level to comply with § 164.306(a).

(C) *Sanction policy (Required)*. Apply appropriate sanctions against workforce members who fail to comply with the security policies and procedures of the covered entity or business associate.

(D) *Information system activity review (Required)*. Implement procedures to regularly review records of information system activity, such as audit logs, access reports, and security incident tracking reports.

(2) *Standard: Assigned security responsibility*. Identify the security official who is responsible for the development and implementation of the policies and procedures required by this subpart for the covered entity or business associate.

(3)(i) *Standard: Workforce security*. Implement policies and procedures to ensure that all members of its workforce have appropriate access to electronic protected health information, as provided under paragraph (a)(4) of this sec-

tion, and to prevent those workforce members who do not have access under paragraph (a)(4) of this section from obtaining access to electronic protected health information.

(ii) *Implementation specifications:*

(A) *Authorization and/or supervision (Addressable)*. Implement procedures for the authorization and/or supervision of workforce members who work with electronic protected health information or in locations where it might be accessed.

(B) *Workforce clearance procedure (Addressable)*. Implement procedures to determine that the access of a workforce member to electronic protected health information is appropriate.

(C) *Termination procedures (Addressable)*. Implement procedures for terminating access to electronic protected health information when the employment of, or other arrangement with, a workforce member ends or as required by determinations made as specified in paragraph (a)(3)(ii)(B) of this section.

(4)(i) *Standard: Information access management*. Implement policies and procedures for authorizing access to electronic protected health information that are consistent with the applicable requirements of subpart E of this part.

(ii) *Implementation specifications:*

(A) *Isolating health care clearinghouse functions (Required)*. If a health care clearinghouse is part of a larger organization, the clearinghouse must implement policies and procedures that protect the electronic protected health information of the clearinghouse from unauthorized access by the larger organization.

(B) *Access authorization (Addressable)*. Implement policies and procedures for granting access to electronic protected health information, for example, through access to a workstation, transaction, program, process, or other mechanism.

(C) *Access establishment and modification (Addressable)*. Implement policies and procedures that, based upon the covered entity's or the business associate's access authorization policies, establish, document, review, and modify a user's right of access to a workstation, transaction, program, or process.