**Cures Act Final Rule--BEST PRACTICES**

**Risk Tip Sheet 5**

**Progress Note:**

* Remind your team about the importance and need for clinical documentation
* Acknowledge that your documentation uses medical terminology which may be unfamiliar to patients.
* Stick to facts, observations, clinical impression, and plan of care in your documentation
* Avoid inflammatory and/or subjective statements.
  + Be careful, professional and concise and avoid speculation.
* Use quotes when appropriate or best.
* Write as though a patient, family member, or lawyer may read the note.
* Explain the need for any test orders.
  + Tell the patient what you are looking for and what you may expect to find when ordering a test.
* Tell the patient when and where they can see their notes
* Manage patient expectations for communication

**Lab and/or Diagnostic Results:**

1. Create a document explaining how you handle test results and include comments regarding:

* Releasing ALL notes and results immediately.
* Ensure you and they understand the patient may see some results even before the doctor

1. Manage patient expectations for communication
   * Instruct the patient they may see their results before you do.
   * Notify the patient that you may need 2 business days to review the results
   * Advise the patient you will inform them of your opinion/plan at that time
   * Make the patient aware you look at every result and reassure them you will call to discuss any concerning results.
   * Tell the patient that you or your staff will contact them when urgent or emergent action is necessary.
2. Tell the patient that not all “abnormal” results are significant.

* Advise the patient some results are best discussed in person
* Remind patients reports may likely contain words that may be difficult to understand.
* Share with patients that some reports may show unexpected results.
* Use language such as, “We always plan to review these results with you and decide on a plan together. We prefer to do this either in person, video visit, or by phone.”

1. Be thorough and transparent. Discuss all potential outcomes/actions based on results received

**Policies**

* Review protocols for release of information.
* Plan for special situations (i.e. parents wanting access to teenager’s information). Modify your policies to be in compliance with the new rule.
  + Staff should advise patients they can still ask you for information not available on the EHR’s patient portal
  + Help patients and/or their caregiver(s) access the portal
* Explain how your practice will handle results
* Update your practice’s privacy and security policies and procedures
* Review and update HIPAA policies
* Increase the quantity and quality of structured patient data in your EHR(s).
* Develop an information blocking request workflow
  + Be proactive and timely when responding to requests for EHI

**Implementing the Cures Act Final Rule:**

There are potential downsides to Implementing the Final Rule. Some concerns include:

1. Unauthorized disclosures and unauthorized use of patient data.
2. Administrative burden and required documentation supporting the seven proposed exceptions to information blocking.
3. EHR vendors will focus on complying with these new rules rather than making the systems more user-friendly.
4. Some EHRs will lose their certifications, which will put practices at risk of not being able to fully participate in the quality reporting programs.
5. EHR products (i.e. patient portals, kiosks, etc.) and their associated interfaces will need to be assessed both for workability with new EHR version(s) and compliance with the information blocking provisions of the Cures Act.
6. Providers who elect not to participate will be listed as noncompliant, which could cause potential harm to their reputation.
7. Increased threat from hackers.
8. Proper authorizations and consents are still required. Be aware of both HIPAA rules and state laws.

Resources:

<https://www.opennotes.org/onc-federal-rule/>

<https://www.ama-assn.org/system/files/2020-02/patient-records-playbook.pdf>

<https://journal.ahima.org/the-compliance-clock-is-ticking-on-oncs-21st-century-cures-act-regulations/>

https://www.ama-assn.org/system/files/2020-10/onc-final-rule-ama-summary.pdf

<https://www.healthit.gov/curesrule/resources/information-blocking-faqs>

<https://www.healthit.gov/curesrule/what-it-means-for-me/clinicians>

<https://sironastrategies.com/wp-content/uploads/2020/03/HIT-Leadership-Roundtable-WP-FINAL.pdf>