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TRIAGE: RAPID LEGAL LESSONS FOR BUSY
HEALTH CARE PROFESSIONALS



Protecting Patient Information
in Bankruptcy Cases

Margaret R. Westbrook

HIPAA STANDARDS

- 1996– Privacy Rule
- PII– information related to healthcare and identity
- Can include social security number and non-health related personal information
- State law requirements
- Exception for payment collection– can disclose social security numbers for this purpose to authorized persons

FED. RULE OF BANKR. P. 9037

- Section 107(a)– enacted in 2005
- Rule 9037– enacted in 2007–may include only:
 - Last 4 digits of social security number or taxpayer ID
 - Year of birth
 - Initials of minor
 - Last 4 digits of financial account number

FILING PROOF OF CLAIMS

- Since 2008, no longer paper filing– electronic filing– electronic access to filing users but public access at terminals
- Supporting documents attached
- Redaction instructions

POSSIBLE PENALTIES

- Rule 9037(d) allows the Bankruptcy Court to protect the information by restricting electronic access
- Also power to sanction under Section 105(a)
- Actual damages, fees, punitives, non-monetary
- Open questions
 - Patient account numbers?
 - Dates of admission or discharge?

Today's Presenter



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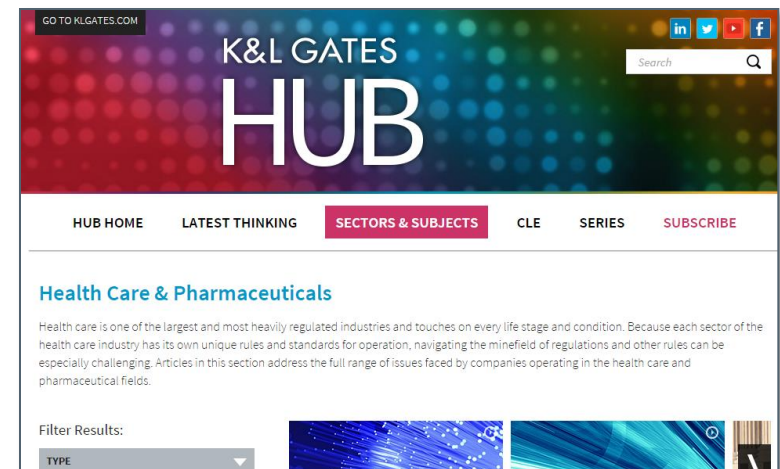
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