How to Ensure Proper PHI Disclosure Management in the Business Office

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By Mark Diamond

Health information management (HIM) professionals need to ask themselves if their records retention schedule is helping or hurting their records retention program.

Traditional records retention schedules largely assume that most information is paper-based, and depend to a large degree on employees manually classifying, tagging, or moving records into certain areas. These types of schedules worked okay for paper, but today more than 95 percent of the information a company receives is in electronic format. Even most paper documents are copies of electronic information. These paper-centric schedules work poorly with electronic information, and are the source of huge compliance gaps in records retention programs.

Organizations are increasingly updating their records retention policies and schedules to be modern, compliant, and easier-to-execute, reflecting both the pervasive presence of electronic media and how records programs need to work well with other compliance areas, including discovery, information security, and privacy.

Traditional Approaches to Retention Schedules

Traditionally, record retention schedules were designed for the retention and disposition of paper records. Much of record retention schedule implementation consisted of sorting the paper documents into offsite storage boxes or simply scanning them into systems. Yet during the past few decades information management has changed as organizations and employees have transitioned to electronic media including email, electronic health records (EHRs), and other types of electronic communications. Organizations are realizing that their traditional, paper-centric approaches do not work with electronic information.

This compliance risk comes in when there is a gap between what is called for in policies and what information is actually being retained and disposed. These traditional approaches fall short in many ways:

- They are outdated with an emphasis on paper records management, to the exclusion of the majority of records that are created or received in electronic media.
- They focus only on records with legal or regulatory requirements, with little to address records with business need or business value.
- Historically, the emphasis has been on creating longer and more complex schedules. Some schedules have thousands of lines for every single record in the organization. The misconception was that a longer schedule was more compliant. These detailed schedules are difficult and time consuming for employees to follow.
- Often, there is a heavy emphasis on creating a detailed policy itself with little consideration for how the policy will be executed.

A More Modern Approach

At the highest level, a good records retention schedule provides the foundation for an effective records management and information governance (IG) program. But what makes a records retention schedule good? The following are some common attributes:

- **Addresses Modern Records and Their Requirements.** A good schedule addresses all types of documents across all types of media, capturing not only traditional record types in typical areas such as finance and human resources, but also an organization's atypical or even unique records across a variety of functions. In other words, modern schedules truly represent important information across all parts of a complex enterprise.

- **Builds a Consensus.** A schedule should not be a policy club to be wielded against the business units to demand they delete non-records. Rather, an effective schedule represents a consensus across multiple stakeholders and groups on what data and documents need to be retained both for legal and regulatory requirements, while also addressing business value. It helps sort out what must and should be saved from non-record and low-value information.
- **Will Be Followed.** Compliance is achieved in the view of courts and regulators in not only having a policy, but rather demonstrating that a policy is being followed. They are not interested in whether you "checked the box" and drafted some policy documentation. They want to see how you implemented those policies and requirements. Compliance means showing you actually did what you said you were going to do. Modern records retention schedules are designed to be followed.

A good schedule not only drives compliance but also saves time and effort on downstream discovery, privacy, disposition, and other compliance initiatives. More importantly, identifying high-value information makes the employees and the overall business more productive.

Attributes of a Modern Retention Schedule

Six attributes of a modern retention schedule include:

Retention Compliance

Does your retention policy and schedule follow all the rules? An immature retention policy and schedule fails to consider the rules, does not provide the legal basis for retention periods, and does not mandate disposition of expired information. As a schedule matures, it should address general legal and regulatory requirements as well as any industry-specific regulations. For global companies, the most mature schedules include country-specific retention requirements.

But it doesn't stop there. A good policy should clearly define "What is a record?" and "What is not a record?" Without these definitions, employees are less likely to be compliant when trying to follow the policy and schedule. Likewise, giving employees permission to dispose of records is very important. Policies should be clear in stating that when records expire or are no longer needed, employees must dispose of them.

Comprehensiveness

Does your schedule represent all of the unique records in the organization? Companies often try to take shortcuts by copying from industry templates or sample schedules that purport to include all the records a company in that industry should have. These types of schedules really do organizations a disservice, because even though healthcare may be similar to other industries, individual healthcare organizations have unique qualities that others don't share.

Media

Does your organization's schedule look across all media formats where records may exist? The oldest and often the least mature schedules address only paper or a subset of the media present in the organization. By making a comprehensive list (i.e., an information-types inventory) of all the places things might live—paper, electronic in all of its different forms (i.e., CD/DVDs, USB drives, email, social media)—your organization will be well on its way to making sure the schedule is media-agnostic.

Clarity

HIM professionals should stop to consider whether their retention policies and schedules clearly define "What is a record?" and "What is not a record?" Likewise, do employees understand what records must be kept and what can be destroyed? Finally, HIM departments should determine if their schedules specify retention requirements, or if many categories are left as indefinite. The least mature policies do not define records or give incomplete definitions.

Consensus

Often, a records initiative is driven by one group in the company, such as legal or compliance, and little effort is made to engage the rest of the business. The result is rogue business units who either refuse to follow it or push back on its requirements. Such efforts are often seen as “legal poking its nose in our business” or “encroaching on our territory” and are therefore seen as unwelcome.

Usability

The most practical schedules provide a “goldilocks” approach to retention schedules: just enough information, not too little, not too much. They use a format that is easy to read, and they organize the schedule in a way that all employees can follow. A usable schedule follows a “big bucket” approach with a small number of record categories, rather than a “small bucket” approach with hundreds or even thousands of record line items. Finally, make the schedule concise. Don’t list every single record or example for a particular record category.

By understanding and following these best practices for developing a modern and compliant retention schedule, HIM professionals will improve the overall quality of their organization’s schedule, making it much easier to execute and achieve higher compliance from employees. By engaging the business, one shifts the balance of work from a boring, “check the box” activity to a more positive, affirming activity that will demonstrate great benefits for the organization.

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