

# HIPAA BREACHES, SANCTIONS AND THE SHR ACT

2015 Health Directors Legal Update

Drake Maynard  
HR Services, LLC  
919.259.3415 | dmhrservices@gmail.com

## Types of HIPAA Breaches

- A. Technical violations not resulting in use/disclosure of protected information – If no disclosure/use, done by workforce member in good faith – not a breach.
  
- B. Violations that do involve use/disclosure of protected information
  - 1. Unintentional/accidental use/disclosure
  - 2. Intentional/deliberate use/disclosure

## Sanctions/Discipline

### Type A (Technical violation - no use/disclosure)

Discussion with supervisor  
Noted in employee's personnel file

## Sanctions/Discipline

### Type B. 1. (Unintentional use/disclosure)

Grossly inefficient job performance - range from no discipline to dismissal

Recommended: First occurrence, treat as Type A.

Subsequent occurrences, use successive disciplinary process

## Sanctions/Discipline

### Type B. 2. (Intentional use/disclosure)

Unacceptable personal conduct - range from demotion to dismissal

Recommended: First occurrence, suspension without pay

Any subsequent occurrence, dismissal

## Recommendations

- Link your HIPAA Breaches/Sanctions policy to your disciplinary policy or to the SHRC disciplinary rules online
- Consistently impose sanctions –  
“Treat similarly situated employees in a similar fashion”