### LAXOR, Inc.

CPS Workgroup April 12, 2007 John DesMarteau, MD President & CEO

### Privacy & Security **People Are Concerned** Markle Foundation\* 91% of respondents very concerned about privacy & security of health information People with chronic health care issues and frequent health care users somewhat less concerned Many recent high-profile data leaks

\*2003 Survey of 1,246 US Adults

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- Many PHRs are
  - Not Covered Entities (CE) as currently defined by HIPAA
  - Should they be?

See questions and answers beginning next slide

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# 1) Collection/Sharing of Information

- □ The LAXOR<sup>®</sup> PHR is patient-controlled
- To access their PHRs patients must invite their:
  - Providers
  - LAXOR<sup>®</sup> Personal Health Information Managers (PHIMs)
  - Family Members

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# 1) Collection of Information

- Document Uploading by Patients, Providers & LAXOR<sup>®</sup> PHIMs
  - Faxes to Digital via LAXOR<sup>®</sup> Fax-Server
    - □ LAXOR<sup>®</sup> Toll-free number
  - Scans to Digital
    - Local: Patient-controlled PCs
    - Remote: PHIM-controlled PCs
  - Native Digital Document
    - Local: Patient-controlled PCs
    - Remote: PHIM-controlled PCs

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# 1) Sharing of Information

- Patients Establish Access
  - Providers
  - PHIMs
  - Family Group Members
- Access
  - Routine
  - Emergency
    - Data subset
- □ Time delimited
  - Providers always have access to data they created

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# 2) Protection

#### Storage

- Hosting: Tier 1 facility
- Hacking
  - Strong passwords
  - Managed firewalls
  - Database encryption
- Loss: co-location
  - Mirroring
- Transmission & Access
  - Encryption: SSL for the entire PHR
  - Automatic time-out logouts
- Identity Theft
  - No storage of SSN or credit card numbers

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# 3) Privacy & Security Breaches

- Notification of Clients
  - Paramount
- Administrative
  - Internal Breach Management
    - Termination
    - Possible criminal charges
  - External Breach Management
    - Business Associate agreements
      - Same standards as LAXOR<sup>®</sup>
- Physical
  - Repeated threat analysis and threat testing
- Technical

Repeated threat analysis and threat testing

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### 4) Communication of Protection

### Notice of Privacy Practices

- Public Website
  - Summary
  - Downloadable as PDF (Copies available)
- PHR itself

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# 5) Consumer Control

### □ The LAXOR<sup>®</sup> PHR is:

- Patient-owned
- Patient-controlled
  - Patients can append comments to any document
  - Patients cannot change documents provided by their providers
  - Access is granted by the patient

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## 6) Operation of Law

- LAXOR<sup>®</sup> is not a HIPAA covered entity (CE)
- Yet voluntarily follows HIPAA where appropriate to its business operations

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# 7) LAXOR<sup>®</sup> Abiding By HIPAA\*

Believes improves competitiveness

Increases LAXOR's trustworthiness

Believes improves interoperability

#### Facilitates data acquisition from data creators

#### Especially health care providing organizations

\*Where applicable to LAXOR's business operations

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# 8) HIPAA Compliance

#### LAXOR®

Not a Covered Entity as defined by HIPAA

- Is not a health plan
- Is not a health clearinghouse
- Is not a health provider
- Yet abides by HIPAA\*
- Does not feel cost outweighs benefits
  - Has done so essentially from inception
  - Improves competitiveness via trustworthiness
  - Improves interoperability

\*Where applicable to LAXOR's business operations

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### 9) Minimum HIPAA Privacy Set\*

Need to Balance Access/Use with Protection

- □ Ability to Amend (§164.526)
  - Patient-entered comments into the LAXOR<sup>®</sup> PHR
- Access & Right of Restriction (§164.524; §164.522)
  - Emergency & Routine
  - Already under LAXOR<sup>®</sup> members' control
- Business Associates (§164.308; (§164.314)
- Complaint Management (Chief Privacy Officer) (§164.530)
  - Method in place
  - Documentation of complaints
  - Workforce sanctions
  - Mitigation of complaints
  - No retaliation

\*As appropriate to LAXOR's business operations

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# 9) Minimum HIPAA Privacy Set\*

Need to Balance Access/Use with Protection - Continued

- Disclosure Accounting (§164.528)
  - LAXOR's patient-controlled automatically generated, always available audit trail (see next slide)
- □ HIPAA Training (§164.530)
- Limited data set & usage for research (§164.514)
- Marketing (§164.508)
  - Opt-in only
  - PHIMs acting as intermediaries no direct connection with vendors except by patient request
- Minimum Necessary (§164.514)
- Notice of Privacy Practices (§164.520)
- Policies & Procedures (§164.316)

\*As appropriate to LAXOR's business operations

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### 9) Example: Disclosure Accounting

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### 10) Non-Relevant HIPAA Principles

#### Authorizations (§164.506; §164.508; §164.510)

- No use of PHI by LAXOR<sup>®</sup> for treatment, payment or health care operations
  - Acceptance of terms of usage (TOU) conditional to use of LAXOR<sup>®</sup> PHR
    - Members control access and therefore disclosures for:
      - Emergency access
      - Routine access

Facility Directories (§164.510)

# 11) Certification Process

LAXOR<sup>®</sup> Submission dependent on:

- Requirement specifications
- Cost
  - Time
  - Personnel
- Periodicity
- National acceptance for value
  - Governmental promotion of the certification standard

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### 12) Market Forces

### Competition

- Marketing advantage
- Consumer Trust
  - Much concern on part of consumers
  - Trustworthiness is vital to usage
- Liability
  - The PHR business is a fledgling industry
    - One major mishap could imperil LAXOR<sup>®</sup> or even the industry as a whole

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### 13) Business Associates

- LAXOR not yet a business associate, but...
  - Would make certain that its operations meet requirements of any entity for which it becomes a business associate
    - PHR companies that are not health plans, clearinghouses or providers should have a business associate modified to account for the differences in their operations from these entities
    - Business associate agreements negotiated by CEO with assistance of LAXOR's counsel
      - LAXOR will be developing a standard contract appropriate to its business operations for its business associates

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### 13) Business Associates

LAXOR<sup>®</sup> has one subcontractor

- Provides hosting services only
- Has signed a robust confidentiality agreement
- LAXOR<sup>®</sup> feels that accountability for meeting relevant HIPAA requirements is vital to its business operations

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