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ENTERPRISE MVP JUMPSTART

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Introduction

This 3Lions Publishing, Inc.'s (“3LP”) engagement (“Engagement”) helps customers Jumpstart their solution required to comply with the three most insidious and disruptive requirements under §164.524 in the recently proposed 2021 Privacy Rule; referred to herein as the right to access and inspect. As a reminder, the three most insidious and disruptive rights are as follows:

First the Patient has the right to request an inspection of their PHI at the time of an appointment (“TOA”) at the point of care (“POC”) **“to view, take notes, take photographs, and use other personal resources to capture their information.”** This right is the most disruptive for several reasons: (1) POC staff must be prepared to allow the request; (2) patient has not previously specified PHI scope; (3) there may not be sufficient time to gather the PHI requested; and (4) POC staff, if not trained properly may create liability instead of mitigating it.

The request must be honored because the Rule requires it and is constrained only by the “readily available” standard (e.g., EHR, Portal, PCs, Laptops, etc.). The 2013 Omnibus Rule made clear that a designated record set is more than the EHR, and may include electronic documents such as those found in Word, Excel, PDFs, etc. Our Mini-MVPs derived from its Enterprise MVP, establishes all POC staff requirements including, policies, processes, liability avoidance, training, time allocation, definition of “readily available” and the legal considerations for which POC staff must be aware.

Second, the Patient has the right to request to inspect with Notice, **“arranging a convenient time and place”** (e.g., medical records facility) with the provider, which also allows the patient **“to view, take notes, take photographs, and use other personal resources to capture their information.”** This right is inferred from the NPRM’s guidance. The “readily available” standard does not apply to this option. Because when “arranging a convenient time and place” a provider can inquire regarding the patient’s PHI scope. We refer to this requirement as the CP&T requirement.

This CP&T right to inspect likewise does not specify the time a patient must be allotted. Our Enterprise MVP for this right provides the patient with **additional time** to inspect PHI because reviewing PHI at a **medical records facility is less disruptive** to a provider’s operations (example from NPRM). Again, our Mini-MVP contains all requirements for this right. The time decision, together with the legal analysis and rationale to support it, is consistent the Rule’s Balancing Act Standard, and is likewise contained within its corresponding Mini-MVP.

Third, the Patient has the right to request Access to their (without inspection) PHI, analogous to the old Privacy Rule’s right to access; except that the timeframe has been cut from 30 to 15 calendar days, with one 15-day extension. The clock on the fifteen days starts ticking as soon as the provider receives the patient’s request.

The rights enumerated above were selected from others required by the new Rule because they are the three most likely to lead to OCR audits, CMPs, and other liability yet unforeseen (e.g., class actions lawsuits). All the significant liability occurs downstream at the POC, medical records

facilities, and similar patient entry points because this is where the patient exercises the right to inspect their PHI (i.e., where patient encounters occur).

Core Deliverables

1. Provides a vehicle to drive organizational change;
2. Compresses the time to make strategic decisions;
3. Reviews Enterprise MVP is where all the heavy lifting occurs as previously discussed. Legal/process decisions are made, supported, and defended pursuant to one or more legal standards, use cases, process, diagrams, etc. This is where the solution is defined,
4. Reviewal of Mini-MVPs, one for each MVR in depth, including policies, processes, tracking patient encounters, liability avoidance and more. Mini-MVPs represent where our solution is executed;
5. Trains key stakeholders;
6. Provides implementation requirements;
7. Discusses and inform stakeholders as to other expansive rights contained in §164.524 of the Rule, their meaning, and implications for the organization; and
8. Implement “Tweaks” to Process Diagrams to align with the customer’s operational environment.

Acceptable Process Modification Criteria

3LP provides existing process/Swimlane diagrams, one for each of the disruptive requirements described above. These are contained in our Enterprise MVP and are comprehensive. However, many mid-to-large organizations will almost certainly want to make “Tweaks” that more closely align with their respective operational environments. These “Tweaks” should be raised in stakeholder interviews as discussed below.

During each interview, stakeholders are required to identify “showstoppers” and if so identified, provide a written analysis as to why the process as defined by 3LP will not work. Further, if a showstopper is identified the stakeholder will be asked to proffer alternatives, also in writing.

Accepting a stakeholder “Tweak” requires that the suggested modification must be: (1) compelling; (2) not break 3LP’s legal framework or downstream processes defined in the respective Mini-MVPs; and (3) not render the existing process incomprehensible after inclusion. If the interview team decides that a suggested modification is not compelling, it will put it in the “Parking Lot.” If compelling, but the suggested modification breaks 3LP’s legal framework, it will also be placed in the Parking Lot. If a modification is rejected by the interview team, the stakeholder must make the case for adding it to the SMT. The Interview Team provides written justification for rejected modifications and likewise posts these documents in the Parking Lot.

Compelling modifications must be captured in a written document by the stakeholder providing the rationale for the modification's compelling status, and what is lost if the compelling modification is not incorporated into the existing process diagram. Compelling modifications, that are not eliminated based on the criteria defined above, will be added to the respective process diagram in a manner that satisfies the "Us Plus Three" limit.

Process

The Process below is designed to be agile while at the same time using a facilitated session approach most stakeholders are accustomed to.

Us Plus Three

Up to three compelling modifications will be added to 3LP's "As Is" respective process diagram. Why this limit? Because after three compelling modifications the unintended consequences of adding more compelling modifications to a process will make it difficult for 3LP, and stakeholders, to anticipate the first order and second order effects of the unintended interdependencies between a greater number of modifications. Additional complexity increases the risk that stakeholders will be less likely to readily understand the process as modified, in defiance of the minimally viable principle. Less is more. If the organization decides to break these rules than 3LP will continue with the engagement but not accept any responsibility for it legal or process validity. That becomes the organizations responsibility.

Kickoff

Meet with SMT to **(1)** confirm deliverables; **(2)** confirm methodology; **(3)** confirm need for a dedicated customer project manager; **(4)** identification of a maximum of eight additional customer stakeholders; **(5)** expectations of SMT during kickoff training, during the interviews, and in the facilitated session; **(5)** confirm SMT's understanding of "Us Plus Three" modifications; and **(6)** confirm 3LP's rationale for accepting or rejecting "Tweaks" to our existing well defined processes where the modification required is compelling and does not break the legal framework established at the level of our **Enterprise MVP**.

If the organization plans to use outside counsel, then counsel must be included as a necessary stakeholder at the outset. Outside counsel must weigh in early in the process to prevent eleventh hour surprises. 3LP's CEO, attorney Carlos Leyva ("Leyva"), a recognized HIPAA authority for over a decade, and the driving force underpinning the legal decisions made in our Enterprise MVP, as supported by the legal standards/rationale that justify the decision, and make the decision legally defensible, is willing to engage as necessary for the provision of legal advice if required, but this further legal advice is not included in the 40 hour fixed fee engagement and must be a fee based engagement entered into as described below.

Under a separate fee-based engagement with the [Digital Business Law Group, P.A.](#) is willing to provide legal services, opinion letters, and otherwise engage with inside and outside counsel, should additional legal consultation add value. It is anticipated that the organization that contracted for the Jumpstart will pay these legal fees, as defined within a formal engagement letter.

Conducted virtually

3LP will only accept this engagement if it can be conducted virtually. We see no reason why it can't, including all the instances where face-to-face communications are required, which includes every process section.

Conduct two-hour training session with Key Stakeholders

This training session initiates the engagement with stakeholders other than the SMT. Outside counsel, training, human resources, records management, and other functional area stakeholders impacted by these processes should be designated as key stakeholders thereby representing an integral part of team.

The above recommendation should be viewed as a mere suggestion, except outside counsel. The SMT is responsible for naming the key stakeholders. 3LP recommends that no more than eight key stakeholders be named as team participants. Additional stakeholders will require more interviews and likely a diminished opportunity to reach consensus. Further, the number of billable hours, currently set at forty (40) for this fixed fee engagement will increase, driving a corresponding increase in the fixed fee cost. Finally, an increased number of stakeholders will extend the elapsed time, currently three weeks, within which 3LP has promised a completed engagement. 3LP will not accept any responsibility delay in the elapsed time attributed to the customer's organization. During the three weeks elapsed time 3LP willing to move as fast as possible under the proposal as written. Interview logistics and other considerations analogous to that is why a reasonable amount of elapsed time is built into the engagement.

Each stakeholder will be required to read both the Enterprise MVP documentation and each Mini-MVP documentation in preparation for their one-on-one meeting.

Conduct and record one-hour interviews

Interviews will be conducted with each named key stakeholder, driven by 3LP's engagement owner ("EO"), with the designated customer project manager ("PM") participating for the entirety of the engagement. The EO and the PM will jointly decide which compelling modifications meet the necessary threshold defined above and are therefore included in the respective processes until the Us Plus Three constraint is reached. After each interview a summary report will be sent to the SMT describing interview results. The PM is required to produce and deliver this report, with EO support. If the PM and EO disagree as to what is "compelling" then 3LP's EO makes the determinative decision.

Make the modifications to MVPs

The PM is required to make the necessary changes to the process diagrams, along with changes required in supporting documentation, so that the compelling modifications are succinctly defined and readily understood by other stakeholders. The EO will support the PM in making these modifications.

Two hour facilitated session

After interviews are conducted and the compelling modifications added, the revised process diagrams will be routed to all stakeholder for their review prior to the facilitated session. Arriving at

the facilitated session (“Session”) unprepared is unacceptable. There should be no showstopper objections raised during the Session. Showstopper objections must be raised and resolved prior to this Session. However, there will certainly be questions stakeholders have not previously thought of, which can and should be raised.

Session Rules

Normal Session rules will be enforced, including but not limited to, the following: (1) check your egos and titles as the door; (2) no one can speak twice pursuant to a particular issue until all stakeholders have had an opportunity to weigh in on the issue presented; (3) the focus of the Session is to gain consensus pursuant to the three MVP process reviewed, therefore, conversations, questions, and “rabbit holes” not directly relevant to this objective will be cutoff by the EO, and placed in the Parking Lot.

First Hour

The first hour of the Session will focus on consensus building on the three MVP processes reviewed. The second hour of the Session will focus on next implementation steps for the three MVP processes (e.g., review and acceptance by the extended part of the organization impacted by these processes, training POC staff and others, inside/outside counsel reviewing additional data items that they may want included in Requestor updates, etc.). 3LP will only participate in the implementation under a competitive billable hour fee as defined below.

Second Hour

Finally, the second hour of the Session will discuss the additional MVPs that §164.524 requires. 3LP has identified the additional MVPs and will distribute a document that contains the definition of same, along with key challenges posed. These additional MVPs are far less disruptive than the ones that this engagement addressed because: (1) they do not directly touch the patient (although indirectly they certainly do); (2) they involve to a large degree B2B interactions; and (3) there is far less opportunity to generate significant liability.

Wrap-up EO and PM

The EO and PM will close all takeover turnover issues and identify issues that were not resolved during this meeting. To the extent the billable hours remain, the EO, and PM will continue to resolve these issues.

Wrap-up Session with SMT

The EO, PM and SMT will meet to discuss the status of the engagement. Prior to this session the PM, with support from the EO, will produce a summary of the status to be reviewed during the session.

After this session 3LP’s engagement as described herein ends.

Costs

The costs for this time-boxed offering, 40 billable hours over an approximately three-week elapsed time is twenty-five thousand (\$25,000.00) USD; half paid prior to the commencement of the engagement and the remainder paid within ten (10) days after the engagement concludes. This cost

could change as discussed above if key stakeholders greater than eight in number are identified the SMT to participate as team members.

If customer requires additional 3LP consulting post engagement, on an ad hoc basis, these hours will be billed at \$250.00 per hour and delivered by the EO.

This engagement **expressly excludes the delivery of legal advice in any way, shape, or form whatsoever**, although legal recommendations were made by a licensed attorney, Carlos A. Leyva, Esq, CEO of 3LP. They cannot be relied on as legal advice because 3LP is not a law firm.

Additional MVPs

3LP does not have an offering that addresses these additional requirements because they are largely information technology centric, and 3LP remains, to a large degree, a pure product play. This professional services engagement is the single exception. 3LP's principals, having both worked in large organizations, recognized that cross functional issues in larger organizations could be a serious impediment to enterprise-wide change and success.

Therefore, 3LP decided to attack this pain point with this offering, collaborating with larger customers, to jointly create a solution for the most disruptive and insidious requirements of §164.524. A solution based upon the significant investment that 3LP has already made in support of its existing subscribers, by providing the professional services in a box (e.g., our Enterprise MVP and Mini-MVPs, along with updated Privacy Rule products as mandated by the new Rule.

Our current subscribers obtain this additional value as part of their Subscription. New customers leverage the value once they purchase one. The purchase of a Subscription is required before 3LP commences this engagement. Although this should be self-evident 3LP is focused on eliminating misunderstandings with customers by attempting to be as transparent as possible

Although 3LP will not own defining MVPs for these additional requirements, 3LP will make the EO and other team members available as applicable, at a competitive hourly rate, when customers request assistance and where 3LP's expertise delivers value.