

APRIL  
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MIDLAND HEALTH  
Compliance Hotline  
877-780-9367

# COMPLIANCE CONNECTION

This newsletter is prepared by the Midland Health Compliance Department and is intended to provide relevant HIPAA privacy issues and hot topics.

## IN THIS ISSUE

### FEATURE ARTICLE

Public Health Emergency Privacy Act Introduced to Ensure Privacy and Security of COVID-19 Data

**HIPAA Humor** (See Page 2)

**HIPAA Quiz** (See Page 2 for Question & Answer)

**DID YOU KNOW...**



## HIPAA Enforcement by State Attorneys General

The Department of Health and Human Services' Office for Civil Rights is the main enforcer of HIPAA compliance; however, state Attorneys General also play a role in enforcing compliance with the Health Insurance Portability and Accountability Act Rules.

The Health Information Technology for Clinical and Economic Health (HITECH) Act gave state attorneys general the authority to bring civil actions on behalf of state residents who have been impacted by violations of the HIPAA Privacy and Security Rules and can obtain damages on behalf of state residents.

The Connecticut Attorney General was the first to exercise this right in 2010 against Health Net Inc. for the loss of unencrypted hard drive containing the electronic protected health information 1.5 million individuals and delayed breach notifications. The case was settled for \$250,000. The Vermont Attorney General followed suit with a similar action against Health Net in 2011 that was settled for \$55,000, and Indiana brought a civil action against Wellpoint Inc. in 2011 that was settled for \$100,000.

HIPAA Enforcement by State Attorneys General in 2020

State	Entity	Amount	Individuals Affected	Reason for Investigation	Findings
Multistate 28 states	Community Health Systems / CHSPSC LLC	\$5,000,000	6.1 million	Hacked by Chinese APT group	Failure to implement and maintain reasonable security practices
Multistate 43 states	Anthem Inc.	\$39.5 million	78.8 million	Phishing attack and major data breach	Multiple violations of HIPAA and state laws
California	Anthem Inc.	\$8.7 million	78.8 million	Phishing attack and major data breach	Multiple violations of HIPAA and state laws

Read entire article:

<https://www.hipaajournal.com/hipaa-enforcement-by-state-attorneys-general/>



## HIPAA Privacy Rule Myths & Facts

### Myth

*"Email correspondence between doctors and patients is prohibited under HIPAA."*

### Fact

HIPAA does not prohibit the electronic transmission of PHI. It allows healthcare providers to use multiple means of communication, including email, although HIPAA-covered entities must apply reasonable safeguards when transmitting PHI related information to ensure the confidentiality and integrity of data.

Resource:

<https://www.cloudapper.com/hipaa-myths-vs-facts/>

### DID YOU KNOW...



### HIPAA Does not Recommend and Set Procedure

HIPAA does not specify or recommend any technology platform or design to secure the data. The onus is on the provider to use industry best practices, or face the risk of being considered as negligent. As such, a mere self-proclamation of the data center being HIPAA compliant doesn't actually convey anything. Clients need to dig deeper and find out how exactly the data center is ensuring HIPAA compliance security.

Resource:

<https://lifelinedatacenters.com/colocation/five-things-probably-know-hipaa-compliance/>





## OCR Announces Enforcement Discretion Regarding Use of Online or Web-based Scheduling Applications for COVID-19 Vaccination Appointments

The Department of Health and Human Services' Office for Civil Rights has announced it will be exercising enforcement discretion and will not impose financial penalties on HIPAA-covered entities or their business associates for violations of the HIPAA Rules in connection with the good faith use of online or web-based scheduling applications (WBSAs) for scheduling individual appointments for COVID-19 vaccinations.

The notice of enforcement discretion applies to the use of WBSAs for the limited purpose of scheduling individual appointments for COVID-19 vaccinations during the COVID-19 public health emergency. The notification is effectively immediately, is retroactive to December 11, 2020, and will remain in effect for the duration of the COVID-19 nationwide public health emergency.

A WBSA is a non-public facing online or web-based application that allows individual appointments to be scheduled in connection with large scale COVID-19 vaccination. The purpose of a WBSA is to allow covered healthcare providers to rapidly schedule large numbers of appointments for COVID-19 vaccinations.

A WBSA, and the data created, received, maintained, or transmitted by the WBSA, should only be accessible to the intended parties, such as the healthcare provider or pharmacy providing the vaccinations, an authorized person scheduling appointments, or a WBSA workforce member that requires access to the solution and/or data for providing technical support.

The notice of enforcement discretion does not apply to an appointment scheduling application that connects directly to electronic health record (EHR) systems..

Read entire article:

<https://www.hipaajournal.com/ocr-announces-enforcement-discretion-regarding-use-of-online-or-web-based-scheduling-applications-for-covid-vaccination-appointments/>

# HIPAAQuiz

**Your cousin is a patient at your practice. You are not involved in her treatment but would like to send her a get-well card. What is the best way to find out details about her treatment?**

- a. Ask her physician for the information.
- b. Ask her directly.
- c. Access her medical record.
- d. Do nothing at all. HIPAA does not allow you to send her a get-well card.

**Answer: b**

The privacy rule includes a minimum necessary standard that requires providers to determine who needs what information and only provide the necessary amount and type.

## IN OTHER COMPLIANCE NEWS

**LINK 1**

**March 1, 2021: Deadline for Reporting 2020 Small Healthcare Data Breaches**

<https://www.hipaajournal.com/march-1-2021-deadline-for-reporting-2020-small-healthcare-data-breaches/>

**LINK 2**

**Renown Health Pays \$75,000 to Settle HIPAA Right of Access Case**

<https://www.hipaajournal.com/renown-health-pays-75000-to-settle-hipaa-right-of-access-case/>

**LINK 3**

**HHS Secretary Announces Limited HIPAA Waiver in Texas Due to the Winter Storm**

<https://www.hipaajournal.com/hhs-secretary-announces-limited-hipaa-waiver-in-texas-due-to-the-winter-storm/>

**LINK 4**

**January 2021 Healthcare Data Breach Report**

<https://www.hipaajournal.com/january-2021-healthcare-data-breach-report/>



## Whistleblower Who Falsely Claimed Nurse Violated HIPAA Jailed for 6 Months

A Georgia man who falsely claimed a former acquaintance had violated patient privacy and breached the HIPAA Rules has been fined \$1,200 and sentenced to 6 months in jail.

In October 2019, Jeffrey Parker, 44, of Rincon, GA, claimed to be a HIPAA whistleblower and alerted the authorities about serious privacy violations by a nurse at a Savannah, GA hospital, including emailing graphic pictures of traumatic injuries of hospital patients internally and externally.

According to court documents, Parker "engaged in an intricate scheme" to frame a former acquaintance for violations of the Federal Health Insurance Portability and Accountability Act's Privacy Rule. To back up the fake claims, Parker created multiple email accounts in the names of real patients and used those accounts to send false accusations of privacy violations. Emails were sent to the hospital where the nurse worked, the Federal Bureau of Investigation (FBI), and the Department of Justice (DOJ).

Read entire article:

<https://www.hipaajournal.com/whistleblower-who-falsely-claimed-nurse-violated-hipaa-jailed-for-6-months/>

### HIPAA Humor



## THUMBS UP to all MH Departments for implementing awareness of...

HIPAA, PII, PHI, ePHI, Security, and Social Media



- Main Campus
- West Campus
- Legends Park
- 501a Locations

