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COMPLIANCE CONNECTION: Providing Relevant Issues and Hot Topics IN THIS ISSUE

FEATURE ARTICLE

• Healthcare Worker Charged with Criminally Violating HIPAA Rules

HIPAA Quiz

(See Page 2 for Question & Answer)

DID YOU KNOW...



HIPAA privacy rule: Myths & Facts

Myth: "If a patient refuses to sign an acknowledgment stating that she received the health care provider's notice of privacy practices, the health care provider can, or must, refuse to provide services."

Fact: The HIPAA Privacy Rule grants the patient a 'right to notice' of privacy practices for protected health information, and requires that providers make a "good faith effort" to get patients to acknowledge they have received the notice. The law does not grant health care providers the right to refuse to treat people who do not sign the acknowledgement, nor does it subject the provider to liability if a good faith effort was made. A health care provider or health plan "must provide a notice that is written in plain language" that informs the patient of "the uses and disclosures of protected health information that may be made by the covered entity, and of the individual's rights and the covered entity's legal duties with respect to protected health information." The HIPAA Privacy Rule requires a covered health care provider with direct treatment relationships with individuals to give the notice to every individual no later than the date of first service delivery to the individual, to provide a copy of the notice to the patient upon request, to post a copy of the notice in a prominent location, and to "make a good faith effort to obtain a written acknowledgment of receipt of the notice" except in emergency situations. (The acknowledgment of the receipt of notice of the privacy practices is not a consent for treatment. It is not an authorization for the release of medical records. A patient's signature acknowledging receipt of the notice, or her refusal, does not create or eliminate any rights, so it should not be the basis for providing or refusing treatment.)

Healthcare Worker Charged with Criminally Violating HIPAA Rules

A former University of Pittsburgh Medical Center patient information coordinator has been indicted by a federal grand jury over criminal violations of HIPAA Rules, according to an announcement by the Department of Justice on June 29, 2018.

Linda Sue Kalina, 61, of Butler, Pennsylvania, has been charged in a six-count indictment that includes wrongfully obtaining and disclosing the protected health information of 111 patients.

Kalina worked at the University of Pittsburgh Medical Center and the Allegheny Health Network between March 30, 2016 and August 14, 2017. While employed at the healthcare organizations, Kalina is alleged to have accessed the protected health information (PHI) of those patients without authorization or any legitimate work reason for doing so.

Additionally, Kalina is alleged to have stolen PHI and, on four separate occasions between December 30, 2016, and August 11, 2017, disclosed that information to three individuals with intent to cause malicious harm.

Kalina was arrested following an investigation by the Federal Bureau of Investigation. The case was taken up by the Department of Justice and she is being prosecuted by Assistant United States Attorney, Carolyn Bloch, on behalf of the federal government.

If found guilty on all counts, Kalina faces up to 11 years in jail and could be ordered to pay a fine of up to \$350,000. The sentence will be dictated by the seriousness of the offenses and any prior criminal history.

The Department of Justice is taking a hard line on individuals who violate HIPAA Rules and impermissibly access and disclose PHI with malicious intent. There have been several other cases in 2018 that have seen former healthcare workers indicted for criminal HIPAA violations, with three cases resulting in imprisonment.

In June 2018, a former employee of the Veteran Affairs Medical Center in Long Beach, CA, Albert Torres, 51, was sentenced to serve 3 years in jail for the theft of protected health information and identity theft. Torres pleaded guilty to the charges after law enforcement officers discovered the records of 1,030 patients in his home.

In April, 2018, former receptionist at a New York dental practice, Annie Vuong, 31, was sentenced to serve 2 to 6 years in jail for stealing the PHI of 650 patients and providing that information to two individuals who used the data to rack up huge debt's in patients' names.

Read entire article:

<https://www.hipaajournal.com/healthcare-worker-charged-criminally-violating-hipaa/>

DID YOU KNOW...



Common HIPAA Violation: "Right to Revoke Clause"

PHI disclosure "Authorization" forms must have a "Right to Revoke Clause" or the form is invalid. These are used to disclose information other than for treatment, payment, and other uses and disclosures for which an authorization is not required. Therefore, any information released to a third party pursuant to an authorization without a "right to revoke" clause would be in violation of HIPAA regulations.





Patient Privacy and Security Are Greatest Healthcare Concerns for Consumers

NEWS

A recent survey conducted by the health insurer Aetna explored consumers' attitudes to healthcare, their relationships with their providers, and what they view as the most important aspects of healthcare. The Health Ambitions Study was conducted on 1,000 consumers aged 18 and above, with a corresponding survey conducted on 400 physicians – 200 primary care doctors and 200 specialists. The consumer survey showed consumers are paying attention to their healthcare. A majority pay attention to holistic health and seek resources that support better health and wellbeing. 60% of respondents to the survey said that if they were given an extra hour each day they would spend it doing activities that improved their health or mental health. 67% of women and 44% of men would devote the hour to these activities. Fewer women believed their physicians understood their health needs than men. 65% of women and 80% of men said their doctor is familiar with their health goals. Women find it harder than men to talk to their physicians about their lifestyle habits (70% vs 81%) and women were much less likely than men to take their doctor's advice. Only 50% of women said they would be very likely to take their doctor's advice compared with 81% of men. "Women are often the primary caregiver for their families," said Aetna President Karen Lynch. "So, when it comes to health and lifestyle goals, women need more support to feel confident in their health decisions for themselves and others. One of the main areas where improvements are seen to be needed are reducing stress – a major goal for 45% of women and 28% of men – and getting help with mental health issues – improving mental health was a major goal of 36% of respondents.

Read entire article:

<https://www.hipaajournal.com/patient-privacy-and-security-are-greatest-healthcare-concerns-for-consumers/>

Federal Court Rules in Favor of Main Line Health in Age Discrimination Case Over HIPAA Violation

In 2016, Radnor, PA-based Main Line Health Inc., terminated an employee for violating Health Insurance Portability and Accountability Act (HIPAA) Rules by accessing the personal records of a co-worker without authorization on two separate occasions.

In such cases, when employee or patient records are accessed without authorization, employees face disciplinary action which can include termination. Gloria Terrell was one such employee who was terminated for violating company policies and HIPAA Rules. Main Line Health fired Terrell for "co-worker snooping."

Terrell filed an internal appeal over her termination and maintained she accessed the records of a co-worker in order to obtain a contact telephone number. Terrell said she needed to contact the co-worker to make sure a shift would be covered, and this constituted a legitimate business reason for the access as she was unable to find the phone list with employees' contact numbers.

After firing Terrell, Main Line Health appointed a significantly younger person to fill the vacant position. Terrell took legal action against Main Line Health in September 2016 claiming age discrimination. In the lawsuit, Terrell claimed Main Line Health had experienced similar snooping incidents in the past and failed to apply the same rules for younger employees. Terrell claimed she knew of three younger co-workers who were not terminated following the discovery of HIPAA violations. However, Terrell could not substantiate those assertions and all three employees denied they had been involved in any improper accessing of patient records.

Main Line Health explained appropriate training on HIPAA Rules and company policies had been provided to staff on multiple occasions and that there were established policies related to the protection of confidential employee and patient information. Those policies clearly state disciplinary action will be taken if company policies and HIPAA Rules are violated, which may include immediate discharge from employment. Main Line Health maintained Terrell was terminated for a legitimate, non-discriminatory reason, and since the case failed to raise a triable issue, Main Line Health was entitled to a summary judgement.

Terrell's case (Gloria Terrell v. Main Line Health, Inc., et al – Civil action No. 17-3102) went to federal court in the Eastern District of Pennsylvania. U.S District Court Judge Richard Barclay Surrick recently granted Main Line Health's summary judgement, ruling Terrell failed to establish a viable age discrimination claim.

Read entire article:

<https://www.hipaajournal.com/federal-court-rules-in-favor-of-main-line-health-in-age-discrimination-case-over-hipaa-violation/>

HIPAAQuiz

You need to access information about a patient, so you log on to the computer. You need to make a quick phone call in the next room, but you plan to return to the computer soon. Should you log off or not?

Answer: If you need to leave computer containing PHI, you should ALWAYS log off. Passwords help to protect information by limiting access. By staying logged on, you allow other people to have access.

IN OTHER COMPLIANCE NEWS

LINK 1

MD Anderson Slapped with \$4.3M Penalty for HIPAA Violations

<https://www.beckershospitalreview.com/cybersecurity/md-anderson-slapped-with-4-3m-penalty-for-hipaa-violations.html>

LINK 2

Cass Regional Medical Center Hit with Ransomware, Suffers EHR Downtime: Updated

<https://www.beckershospitalreview.com/cybersecurity/cass-regional-medical-center-hit-with-ransomware-suffers-ehr-downtime.html>

THUMBS UP!!!

Thumbs Up To ALL Departments For Implementing

Awareness of HIPAA, PII, PHI, ePHI & Social Media



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

A closer look at Protected Health Information (PHI)....

Remember, PHI is any health information an organization has or gets from another organization that could be used to identify a specific individual.

Where is printed PHI?

- ▶ in a patient's chart
- ▶ on a wrist tag
- ▶ in faxes or printed emails that include patient information

Where is printed PHI?

- ▶ on a lab report
- ▶ on an X-ray
- ▶ on a list of patients be treated

Where is printed PHI?

- ▶ on billing statements
- ▶ in mailings to patients
- ▶ on a prescription bottle

Do you have exciting or interesting Compliance News to report?

Email an article or news link to:

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