

JUNE 2019

REQUIREMENTS

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COMPLIANCE CONNECTION: Providing Relevant Issues and Hot Topics

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FEATURE ARTICLE

Facebook Makes Changes to Health Support Groups to Better Protect Users' Privacy

HIPAA Quiz

(See Page 2 for Question & Answer)

DID YOU KNOW...



HIPAA privacy rule: Myths & Facts

Myth: "Employers must have the ability to research health information about their current or potential employees. It's on the same level as information about their labor experience, education, skills, driving license, etc."

Fact: HIPAA prohibits healthcare providers from disclosing personal health information to employers without patient's consent.

In most cases, employers are not allowed to access a patient's medical records. This is not dependent on whether they are paying for their care or on their insurance plan.

The employer may obtain access to your medical records but only if you give your explicit, written permission. However, HIPAA does not cover healthcare information collected separately — for example, through HR surveys.

Resource:

<https://www.qminder.com/hipaa-myths-debunked/>

Facebook Makes Changes to Health Support Groups to Better Protect Users' Privacy



Facebook is making changes to Facebook Groups used to discuss health conditions. The move comes following criticism that Facebook Groups were being promoted as private and confidential when information about participants in health groups was being made available to third parties for advertising purposes.

In January, a complaint was filed with the Federal Trade Commission alleging the content of private Facebook health groups had been shared with third parties. Some members of these health support groups claimed they had been targeted by advertisers who had offered products and services related to health conditions that had only ever been discussed in closed, private Facebook health groups.

The groups are used by individuals with health conditions to obtain advice and receive support. Groups have been set up to help people with a wide range of health conditions, including cancer, substance abuse disorder, and mental health issues. Information was being openly discussed by members of the groups in the belief that the groups were confidential. Not only were advertisers able to contact members of these groups, it was also possible for members of the public to find out the names of people who were members of the groups.

Facebook was accused of deceptively soliciting patients to sign up and use closed and private health groups when their personal health information was actually being used to generate advertising income.

In response to the complaint, Facebook has made changes that will allow users to post information anonymously in health groups. The groups will be given a special designation – Health Support Group – and will be treated differently to other Facebook Groups. Members of the groups will be allowed to request that group administrators post messages on their behalf. This measure will allow posts to be made that will not be tied to a user's Facebook profile and their name will not appear on those posts. The move was announced by Facebook founder, Mark Zuckerberg, at Facebook's annual developer conference.

Read entire article:

<https://www.hipaajournal.com/facebook-makes-changes-to-health-support-groups-to-better-protect-users-privacy/>

DID YOU KNOW...



Healthcare Providers Can Share Information With a Patient's Family

Under the Health Insurance Portability and Accounting Act (HIPAA), doctors and healthcare providers are allowed to share information about a patient's care and/or treatment with their family, friends, or other individuals involved in their care or payment. With that said, the healthcare provider must verify the person's identity. Failure to check the person's driver's license or some other verifiable type of identify could result in a HIPAA-related fine or other consequences.



NEWS



Arizona Court of Appeals Rules Patient Can Proceed with Negligence Claim Based on HIPAA Violation

An Arizona man who sued Costco over a privacy violation and had the lawsuit dismissed by the trial court has had the decision overturned by the Court of Appeals, which ruled that the patient can sue the pharmacy for negligence based on a violation of the Health Insurance Portability and Accountability Act (HIPAA).

The privacy violation in question occurred in 2016. The man had received a sample of an erectile dysfunction drug in January 2016 and received a telephone call from Costco letting him know that his full prescription was ready to be collected. The man cancelled the prescription but when he contacted the pharmacy a month later about a separate prescription, he discovered the cancellation had not been processed. He then cancelled the prescription for a second time but, again, the prescription was not cancelled.

The man subsequently authorized his ex-wife to collect his regular prescription. While at the pharmacy, the pharmacist joked with his ex-wife about the uncollected erectile dysfunction prescription. The man was attempting to reconcile with his ex-wife at the time. The man alleges the impermissible disclosure to his ex-wife was the reason that attempt failed.

The man complained to Costco about the privacy violation and received a letter in reply stating the pharmacist had violated Costco policies and HIPAA Rules by disclosing details of the prescription to his ex-wife. The man subsequently sued Costco alleging a variety of tort claims relating to the failure to cancel the prescription and the privacy violation, but the lawsuit was dismissed by the trials court.

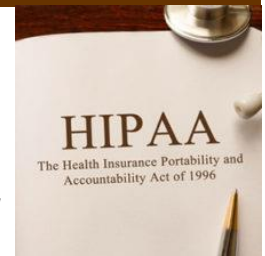
Read entire article:

<https://www.hipaajournal.com/arizona-court-of-appeals-rules-patient-can-proceed-with-negligence-claim-based-on-hipaa-violation/>



DO NOT
discuss patients or patient's condition with family or friends.
DO NOT
discuss patient's health information in public places.

MD Anderson Cancer Center Appeals Against \$4,348,000 HIPAA Penalty



In 2018, University of Texas MD Anderson Cancer Center was issued with a \$4,348,000 civil monetary penalty by the HHS' Office for Civil Rights (OCR) following the discovery of multiple alleged HIPAA violations that contributed to three data breaches that were experienced in 2012 and 2013.

OCR launched an investigation into the breaches and determined there had been an impermissible disclosure of the electronic protected health information (ePHI) of 34,883 patients and that HIPAA Rules had been violated as a result of the failure to use encryption. OCR reasoned that had encryption been used, the breaches could have been prevented.

MD Anderson contested the financial penalty and the case was sent to an administrative law judge who ruled that the MD Anderson must pay the financial penalty.

MD Anderson has now filed a complaint against the Secretary of the HHS and has launched an appeal with the U.S. Court of Appeals, Fifth Circuit in Texas.

MD Anderson alleges the civil monetary penalty is unlawful, that OCR has exceeded its authority by issuing the penalty, and the penalty is excessive. MD Anderson is seeking a permanent injunction to prevent OCR from collecting the penalty and have OCR cover its legal costs associated with its case.

Three counts are detailed in the complaint. MD Anderson alleges the CMP is unlawful as OCR only has the authority to issue a CMP against a person, which is either an individual, a trust, estate, partnership, or a corporation. MD Anderson is an academic institution and cancer treatment and research center that is part of the University of Texas and is a state agency and, it is argued, state agencies are except from OCR civil monetary penalties.

Read entire article:

<https://www.hipaajournal.com/md-anderson-cancer-center-appeals-against-4348000-hipaa-penalty/>

HIPAAQuiz

You are curious about why a neighbor was in the hospital. You have access to this information. Is it OK to look?

Answer: It is **not OK** to access medical information if you don't need it to do your job.

IN OTHER COMPLIANCE NEWS

LINK 1

Ransomware Attacks Increased by 195% in Q1, 2019 but Trojans Remain the Biggest Threat

<https://www.hipaajournal.com/ransomware-attacks-increased-by-195-in-q1-2019-but-trojans-remain-the-biggest-threat/>

LINK 2

Washington State University Settles Class Action Data Breach Lawsuit for \$4.7 Million

<https://www.hipaajournal.com/washington-state-university-settles-class-action-data-breach-lawsuit-for-4-7-million/>

LINK 3

Key Findings of the 2019 Verizon Data Breach Investigations Report

<https://www.hipaajournal.com/2019-verizon-data-breach-investigations-report-findings/>

LINK 4

Touchstone Medical Imaging Fined \$3 Million by OCR for Extensive HIPAA Failures

<https://www.hipaajournal.com/touchstone-medical-imaging-3-million-ocr-fine-hipaa-failures/>

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

