

MARCH 2019

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IN THIS ISSUE

FEATURE ARTICLE

• Careless Talk Sees University of Iowa Worker Fired for HIPAA Privacy Violation

HIPAA Quiz

(See Page 2 for Question & Answer)

DID YOU KNOW...



HIPAA privacy rule: Myths & Facts

Myth: "Patients Can Sue Healthcare Providers for Violating HIPAA"

Fact: You break the law, and you get sued. It's common sense. Common folks need to have the ability to sue healthcare providers for not complying with HIPAA regulations, right?

Even in case of a violation of the HIPAA Privacy Rule, patients cannot sue healthcare providers.

It's all about steady justice. If a healthcare provider fails to comply with HIPAA privacy regulations, you must file a written complaint. If there are reasonable grounds to investigate the complaint, the Secretary of Health and Human Services may do so at its own discretion.

Best case scenario, there may be some civil penalties and criminal sanctions imposed on said healthcare provider. But you as a patient don't have as much say as you might have hoped.

Resource:

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



Careless Talk Sees University of Iowa Worker Fired for HIPAA Privacy Violation

A medical assistant at the University of Iowa has had her employment terminated – after 14 years working for student health – after she accidentally disclosed the health status of a patient, with a recent unemployment hearing ruling in the favor of the university.

The patient in question was the girlfriend of a "well known athlete" who had visit the hospital to have a pregnancy test performed. Kathryn Trump disclosed the results of the test out loud, with at least one other person hearing her comment about the positive pregnancy test result.

In an unemployment hearing, Trump claimed to have said at the time "I said I hope it was a happy situation." The individual who overheard the comment, only referred to as Beth at the hearing, reportedly spoke to two other members of staff about the matter asking for more information.

In addition to Trump's inadvertent disclosure, she was also alleged to have accessed the patient's medical records twice more than the hospital deemed was required. As a result of the disclosure and the unauthorized access, Trump's employment was terminated. On the same day, January 12, 2015, "Beth" was disciplined.

According to Trump, the accidental disclosure was just her talking to herself, as she was concerned about student falling pregnant. She said it is not something that students generally want and she was concerned. She also said that she "was only commenting out loud to herself because the athlete and her nephew had the same color hair."

Under the Health Insurance Portability and Accountability Act, individuals given access to medical records must only access those records when required to do so for work purposes. They often are not permitted to even check their own patient records unless there is a legitimate reason for doing so.

Read entire article:

<https://www.hipaajournal.com/careless-talk-iowa-university-worker-fired-for-hipaa-privacy-violation-7007/>

DID YOU KNOW...



Violations of the Privacy Rule: About Breaches

A "breach" is when information is accessed, used or disclosed inappropriately. Privacy Rule violations occur when steps aren't taken to keep information private.





Physician Receives Probation for Criminal HIPAA Violation

A physician who pleaded guilty to a criminal violation of HIPAA Rules has received 6 months' probation and has escaped a jail term and fine. The case concerned the wrongful disclosure of patients' PHI to a pharmaceutical firm. The case was prosecuted by the Department of Justice in Massachusetts in conjunction with a case against Massachusetts-based pharma firm Aegerion.

In September 2017, the Novelion Therapeutics subsidiary Aegerion agreed to plead guilty to mis-branding the prescription drug Juxtapid. The case also included deferred prosecution related to criminal liability under HIPAA for causing false claims to be submitted to federal healthcare programs for the drug.

Aegerion admitted to conspiring to obtain the individually identifiable health information of patients without authorization for financial gain, in violation of 42 U.S.C. § 1320d-6(a) and 1320-6(b)(3) and HIPAA Rules. Aegerion agreed to pay more than \$35 million in fines to resolve criminal and civil liability.

The DOJ also charged a Georgia-based pediatric cardiologist with criminal violations of HIPAA Rules for allowing a sales representative of Aegerion to access the confidential health information of patients without first obtaining patient consent. The sales rep was allowed to view the information of patients who had not been diagnosed with a medical condition that could be treated with Juxtapid (lomitapide) in order to identify new potential candidates for the drug.

This is the second such criminal HIPAA violation case in Massachusetts in the past four months to result in probation rather than a jail term or fine.

Read entire article:

<https://www.hipaajournal.com/physician-receives-probation-for-criminal-hipaa-violation/>

HIPAAQuiz

I work in the ED at a regional hospital. While working, I noticed my neighbor arrive in the ambulance and overheard someone say he needed to be taken to the operating room. I was on duty, but was not responsible for treating my neighbor. However, I felt compelled to call his wife, who works in another department in the hospital, to let her know what happened. If I were to tell my neighbor's wife that he was just brought into our hospital, would that constitute a HIPAA violation?

Answer: CMS patients' rights standards mandate the notification of someone on behalf of patients who are admitted urgently, assuming the patient cannot speak for him or herself. Here, the patient's wife is the obvious next of kin, so she should be notified. The issue here is whether you should be the one notifying the next of kin. The answer is no, unless this is part of your job. Presumably, your ED has notification procedures for these situations. Talk to your supervisor if you are unsure, but it is a HIPAA violation to use or disclose any information you obtain in the course of doing your job for any reason not pertaining to your job. Caring or concern is not a sufficient reason for you to use your access to information for a purpose that is not part of your work.

EyeSouth Partners Email Account Breach Impacts 24,000 Patients of Georgia Eye Associates



EyeSouth Partners has announced that a hacker has gained access to an employee's email account and has potentially viewed/obtained the electronic protected health information (ePHI) of as many as 24,000 patients.

EyeSouth Partners is a business associate of Georgia Eye Associates, South Georgia Eye Partners, Cobb Eye Center, and Georgia Ophthalmology Associates. On October 25, 2018, EyeSouth Partners became aware that an unauthorized individual had gained access to the email account of one of its employees.

Prompt action was taken to secure the email account and assess the security of its systems. Procedures were also implemented to enhance information security safeguards to prevent any further email account breaches.

The breach investigation revealed the hacker first gained access to the email account on September 11, 2018. Access remained possible until October 25.

Third-party computer forensics experts were hired to assist with the investigation and determine which patients had had their ePHI exposed. On December 19, 2018, EyeSouth Partners was informed that the hacker had potentially accessed emails that contained the ePHI of patients of Georgia Eye Associates.

The information contained in emails and email attachments differed from patient to patient but may have included names, addresses, contact telephone numbers, email addresses, insurance provider names, type of insurance carrier, payment histories, account balances, summaries of charges, summaries of services and procedures, and internal patient ID numbers. A small number of patients also had their Social Security number exposed.

All patients affected by the breach have now been notified by mail and offered complimentary credit monitoring services.

Resource:

<https://www.hipaajournal.com/eyesouth-partners-email-account-breach-impacts-24000-patients-of-georgia-eye-associates/>

LINK 1

Can HIPAA Violations Get Any Worse?

<https://www.medpagetoday.com/resource-centers/osteoporosis/can-hipaa-violations-get-any-worse/446/>

LINK 2

Small cardiology practice to pay \$100,000 to settle allegations of HIPAA violations

<https://www.lexology.com/library/detail.aspx?g=9ff59194-a271-4a25-8e8e-7c608b1cb77f>

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

4 Social Media HIPAA Violations That Are Shockingly Common....

According to Healthcare Compliance Pros, there are four breaches of HIPAA compliance on social media.

1. Posting information about patients to unauthorized users (even if their name is left out)
2. Sharing photos of patients, medical documents, or other personal information without written consent
3. Accidentally sharing any of the above while sharing a picture of something else (e.g. visible documents in a picture of employees)
4. Assuming posts are deleted or private when they're not

Do you have exciting or interesting Compliance News to report?

Email an article or news link to:

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