

OCTOBER
2021



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

Jackson Health Investigating Nurse Social Media HIPAA Violation

HIPAA Humor (See Page 2)

HIPAA Quiz (See Page 2 for Question & Answer)

DID YOU KNOW...



HIPAA Privacy Rule Myths & Facts

Myth

"Email is covered by HIPAA but text messaging is not."

Fact

Not true!

Many believe a text message is only governed by the Telephone Consumer Protection Act (TCPA), so HIPAA doesn't apply. Not true. Email and text messages are both considered forms of electronic communications under HIPAA and must comply with the HIPAA Privacy and Security Rules. Text messaging ALSO must comply with the TCPA.

Resource:

<https://thehipaetool.com/beware-hipaa-myths/>



Jackson Health Investigating Nurse Social Media HIPAA Violation

Jackson Health has launched an investigation into a nurse social media violation after photographs of a baby with a birth defect were posted on Facebook.

A nurse who worked in the neonatal intensive care unit at Jackson Memorial Hospital posted two photographs on Facebook of a baby with gastroschisis – a rare birth defect of the abdominal wall that can cause the intestines to protrude from the body. The photos were accompanied by the captions, "My night was going great then boom!" and "Your intestines posed (sic) to be inside not outside baby! #gastroschisis." The disturbing images were posted on accounts belonging to Sierra Samuels.

The posting of images of patients on social media without first obtaining authorization is a serious breach of patient privacy. Photographs of patients are classed as protected health information and posting images on social media platforms, even in closed Facebook groups, is a violation of the Health Insurance Portability and Accountability Act (HIPAA) unless prior authorization is obtained from the patient.

HIPAA requires healthcare providers to provide privacy policy training to staff members. Training must be provided within a reasonable time after an employee joins a covered entity's workforce and training must be regularly reinforced. The best practice is to provide refresher HIPAA privacy training annually. A sanctions policy must also be developed and implemented that clearly states the sanctions employees will face if they violate the HIPAA Rules.

After being alerted to the social media posts Jackson Health launched an investigation into the privacy violation and immediately placed the nurse on administrative leave pending the outcome of the investigation. "Protecting the privacy of our patients is always a top priority at Jackson Health System. Any potential privacy breach is taken seriously and thoroughly investigated," said a spokesperson for Jackson Health. Jackson Health also confirmed that when employees violate patient privacy, despite being educated, they will be subject to disciplinary action which may involve suspension or termination.

Resource:

<https://www.hipaajournal.com/jackson-health-investigating-nurse-social-media-hipaa-violation/>

DID YOU KNOW...



Important Updates to HIPAA

- HIPAA Signed into Law by President Bill Clinton – August 1996
- Effective Date of the HIPAA Privacy Rule – April 2003
- Effective Date of the HIPAA Security Rule – April 2005
- Effective Date of the HIPAA Enforcement Rule – March 2006
- Effective date of HITECH and the Breach Notification Rule – September 2009
- Effective Date of the Final Omnibus Rule – March 2013

Resource: <https://www.hipaajournal.com/future-of-hipaa/>





Future of HIPAA: Reflections at the 25th Anniversary of HIPAA

The Health Insurance Portability and Accountability Act is now 25 years old. How effective has this healthcare law been and what is the future of HIPAA?

It is now exactly 25 years to the day since the Health Insurance Portability and Accountability Act (HIPAA) was signed into law by President Clinton. On August 21, 1996, when President Clinton added his signature to the legislation, few people would have realized how HIPAA would evolve and grow into the comprehensive national health privacy law that it is today.

It is difficult to argue that HIPAA has not been an overall success, but the legislation has attracted a fair amount of criticism over the years, especially due to the considerable administrative burden it initially placed on healthcare organizations. On balance, the improvements to healthcare that have come from compliance with HIPAA more than outweigh the negatives.

The biggest successes are the improvements to patient privacy and data security, the rights given to patients with respect to their healthcare data, greater efficiency in the healthcare system, and changes that have helped to reduce waste and healthcare fraud. The improvements have generally been made for relatively little cost.

HIPAA certainly has its strengths, but there are also limitations that have become increasingly apparent in recent years and even now, 25 years after the legislation was first introduced, there is still some confusion about what HIPAA is, who HIPAA applies to, and what HIPAA compliance entails.

Read entire article:

<https://www.hipaajournal.com/future-of-hipaa/>

HIPAA Quiz

A patient may inspect or copy his or her entire medical record except for

- psychotherapy notes
- notes or information compiled for use in a civil, criminal, or administrative proceeding
- information that a licensed provider determines will likely endanger the life or safety of the patient or another person
- all of the above

Answer: d

Patients have the right to inspect and obtain copies of their medical records. HIPAA allows a few exceptions to this rule, including psychotherapy notes, information that may endanger the patient or others, and information compiled for use in civil, criminal, or administrative proceedings.

LINK 1

Patients Sue DuPage Medical Group over July 2021 Ransomware Attack

<https://www.hipaajournal.com/patients-sue-dupage-medical-group-over-july-2021-ransomware-attack/>

LINK 3

NCCoE Releases Final Cybersecurity Practice Guide on Mobile Application Single Sign-On for First Responders

<https://www.hipaajournal.com/nccoe-releases-final-cybersecurity-practice-guide-on-mobile-application-single-sign-on-for-first-responders/>

LINK 2

WhatsApp Slapped with €225 Million GDPR Violation Penalty

<https://www.hipaajournal.com/whatsapp-slapped-with-e225-million-gdpr-violation-penalty/>

LINK 4

Data Breaches at Business Associates Affect LifeLong Medical Care & Beaumont Health Patients

<https://www.hipaajournal.com/data-breaches-business-associates-lifelong-medical-care-beaumont-health/>

U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES
**OFFICE FOR
CIVIL RIGHTS**

OCR Announces 20th Financial Penalty Under HIPAA Right of Access Enforcement Initiative

The Department of Health and Human Services' Office for Civil Rights (OCR) has imposed its 20th financial penalty under the HIPAA Right of Access enforcement initiative that was launched in late 2019.

Children's Hospital & Medical Center (CHMC), a pediatric care provider in Omaha, Nebraska, has been ordered to pay a penalty of \$80,000 to resolve the alleged HIPAA Right of Access violation, is required to adopt a corrective action plan to address the noncompliance discovered by OCR, and will be monitored for compliance by OCR for a period of one year.

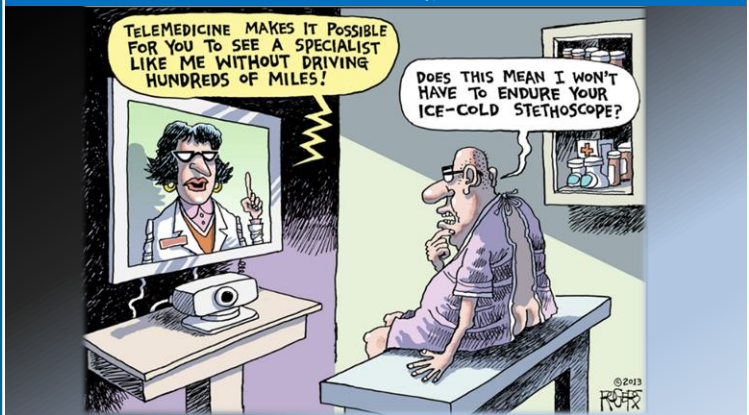
The Privacy Rule of the Health Insurance Portability and Accountability Act gave individuals the right to obtain a copy of their protected health information held by a HIPAA covered entity, and for parents and legal guardians to obtain a copy of the medical records of their minor children. HIPAA covered entities must provide the requested records within 30 days and are only permitted to charge a reasonable cost-based fee for providing copies. In certain circumstances, covered entities can apply for a 30-day extension, making the maximum time for providing records 60 days from the date the written request for access is received.

When individuals feel their HIPAA rights have been violated, they cannot take legal action against a HIPAA-covered entity for a HIPAA violation, but they can file a complaint with OCR. In this case, OCR received a complaint from a parent who alleged CHMC had not provided her with timely access to her minor daughter's medical records. CHMC received the parent's request and provided some of her with some of her daughter's medical records but did not provide all the requested information.

Read entire article:

<https://www.hipaajournal.com/ocr-announces-20th-financial-penalty-under-hipaa-right-of-access-enforcement-initiative/>

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

