JULY 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

HIPAA Privacy Rule Myths & Facts

Myth

"Exchange of medical records between doctors is prohibited under HIPAA"

Fact

Not true!

HIPAA allows a doctor to securely exchange medical records with another doctor even without explicit authorization.

It allows the doctors to consult patients' conditions with another physician or discuss a patient's treatment regimen with a nurse who will be involved in the patient's care.

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

Is it a HIPAA Violation to Ask for Proof of Vaccine Status?

HIPAA and Its Purpose

The Health Insurance Portability and Accountability Act (HIPAA) was created primarily to modernize the flow of healthcare information, stipulate how personally identifiable information maintained by the healthcare and healthcare insurance industries should be protected from fraud and theft, and address limitations on healthcare insurance coverage.

Personal details such as whether or not an individual has been vaccinated against COVID-19 comes within the "provision of care" classification of health information that should be protected when it can be combined with other personal details (i.e., name, social security number, etc.) that can identify the individual. Protected health information is commonly referred to as PHI.

The HIPAA Privacy Rule limits uses and disclosures of individuals' PHI to uses and disclosures required for treatment, payment, or healthcare operations. Other uses and disclosures generally require consent to be provided by the individual in writing. However, HIPAA only applies to certain organizations and businesses. So how does HIPAA relate to requests for proof of vaccine status?

HIPAA and Proof of Vaccine Status

Vaccination information is classed as PHI and is covered by the HIPAA Rules; however, HIPAA only applies to HIPAA-covered entities – healthcare providers, health plans, and healthcare clearinghouses – and their business associates. If an employer asks an employee to provide proof that they have been vaccinated in order to allow that individual to work without wearing a facemask, that is not a HIPAA violation as HIPAA does not apply to most employers.

It would not be a HIPAA violation for an employer to ask an employee's healthcare provider for proof of vaccination. It would however be a HIPAA violation for the employee's healthcare provider to disclose that information to the employer, unless the individual had provided authorization to do so. If an employer is running their own vaccination program and an employee chooses to have their vaccine privately, that individual may have to authorize their healthcare provider to disclose certain information about their vaccine to their employer as proof that they have been vaccinated.

Asking about vaccine status would not violate HIPAA but it is possible that other laws could be violated. For instance, requiring employees to disclose additional health information such as the reason why they are not vaccinated could potentially violate federal laws in some instances, although this would not be a HIPAA violation. It is also possible for states to introduce laws that prohibit employers from asking employees about their vaccine status.

Read entire article:
https://www.hipaajournal.com/is-it-a-hipaa-violation-to-ask-for-proof-of-vaccine-status/

DID YOU KNOW...

How long is Protected Health Information (PHI) protected?

*Information protected under HIPAA, known as Protected Health Information (PHI), is covered for **50 years after death**. This balances the privacy interests of surviving individuals with the crucial needs of biographers and historians who use this information for historical purposes.*

Resource:
https://www.cloudnexusit.com/2020/12/31/hipaa-fun-facts/

MIDLAND HEALTH

NEWS

Healthcare Groups Raise Concern About the Proposed HIPAA Privacy Rule Changes

Several healthcare groups have expressed concern about the HIPAA Privacy Rule changes proposed by the Department of Health and Human Services (HHS) in December 2020 and published in the Federal Register in January. The HHS has received comments from more than 1,400 individuals and organizations and will now review all feedback before issuing a final rule or releasing a new proposed rule.

There have been calls for changes to the HIPAA Privacy Rule to be made to align it more closely with other regulations, such as the 21st Century Cures Act, the 42 CFR Part 2 regulations covering federally assisted substance use disorder (SUD) treatment programs, and for there to be greater alignment with state health data privacy laws. Some of the proposed HIPAA Privacy Rule changes are intended to remove barriers to data sharing for care coordination, but the changes may still conflict with state laws, especially in relation to SUD treatment. There is concern that poor alignment with other regulations could be a major cause of confusion and could create new privacy and security risks.

Another area of concern relates to personal health applications (PHA). The HHS has defined PHAs, but many groups and organizations have voiced concern about the privacy and security risks associated with sending protected health information (PHI) to these unregulated apps. PHAs fall outside the scope of HIPAA, so any PHI that a covered entity sends to a PHA at the request of a patient could result in a patient's PHI being used in ways not intended by the patient. A patient's PHI could also easily be accessed and used by third parties.

PHAs may not have robust privacy and security controls since compliance with the HIPAA Security Rule would not be required. There is no requirement for covered entities to enter into business associate agreements with PHA vendors, and secondary disclosures of PHI would not be restricted by the HIPAA Privacy Rule.

Read entire article:
https://www.hipaajournal.com/healthcare-groups-raise-concern-about-the-proposed-hipaa-privacy-rule-changes/

NEWS

Michigan Man Pleads Guilty to Theft and Sale of PII of UPMC Employees

A Michigan man has pleaded guilty to hacking into University of Pittsburgh Medical Center human resources databases in 2013 and 2014 and stealing the personally identifiable information (PII) and W-2 data of 65,000 UPMC employees.

Justin Sean Johnson, 30, of Detroit, MI, was a Federal Emergency Management Agency (FEMA) IT specialist known on darknet forums as The DearthStar and Dearthy Star. Six years after hacking the databases and selling stolen data, Johnson was indicted by a federal grand jury in Pittsburgh and was arrested and charged with conspiracy, wire fraud, and aggravated identity theft.

Johnson initially hacked the Oracle PeopleSoft HR database of UPMC in December 2013 and accessed the PII of 23,500 UPMC employees. Between January 2014 and February 2014, Johnson accessed the databases multiple times each day and exfiltrated PII. Johnson then sold the stolen data on darknet marketplaces such as AlphaBay to criminals who used the data in 2014 to file hundreds of fraudulent 1040 tax returns.

According to a Department of Justice press release, the scheme resulted in fraudulent tax refunds being paid by the IRS totalling approximately $1.7 million. The tax refunds were converted to Amazon.com gift cards that were used to purchase high value goods that were shipped to Venezuela. Johnson was paid approximately $8,000 in Bitcoin for the stolen UPMC employee data.

Read entire article:
https://www.hipaajournal.com/michigan-man-pleads-guilty-to-theft-and-sale-of-pii-of-upmc-employees/

HIPAAQuiz

In regard to PHI, front desk staff should

a. make sure PHI is not easily viewable to others by closing files and turning computer monitors
b. refrain from disclosing PHI to physicians during an emergency
c. avoid using sign-in sheets
d. share computer passwords to speed up patient wait times

Answer: a
The front desk is one area where patient information can easily be exposed, so staff should make every effort to protect it. Ensure patients approaching the desk can't easily view another patient's confidential information, especially when you step away from the desk.

HIPAA Humor

IN OTHER COMPLIANCE NEWS

LINK 1

Healthcare Organizations Facing Higher Cyber Insurance Costs for Less Coverage

https://www.hipaajournal.com/healthcare-organizations-facing-higher-cyber-insurance-costs-for-less-coverage/

LINK 2

Ransomware Attacks Affect Community Access Unlimited and CareSouth Carolina Patients

https://www.hipaajournal.com/ransomware-attacks-affect-community-access-unlimited-and-caresouth-carolina-patients/

LINK 3

Clinical Laboratory Settles HIPAA Security Rule Violations with OCR for $25,000

https://www.hipaajournal.com/clinical-laboratory-settles-hipaa-security-rule-violations-with-ocr-for-25000/

LINK 4

ZocDoc Says Programming Error Resulted in Exposure of Patient Data

https://www.hipaajournal.com/zocdoc-says-programming-error-resulted-in-exposure-of-patient-data/

THUMBS UP to all MH Departments
for implementing awareness of…

MIDLAND HEALTH

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