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MIDLAND HEALTH  
Compliance Hotline  
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# 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

Public Health Emergency Privacy Act Introduced to Ensure Privacy and Security of COVID-19 Data

**HIPAA Humor** (See Page 2)

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### DID YOU KNOW...



## Public Health Emergency Privacy Act Introduced to Ensure Privacy and Security of COVID-19 Data

On January 28, 2021, Democratic senators introduced the Public Health Emergency Privacy Act to protect the privacy of Americans and ensure data security measures are applied to safeguard COVID-19 related health data collected for public health purposes.

The Public Health Emergency Privacy Act was introduced by Sens. Mark Warner, D-Va., Richard Blumenthal, D-Conn. and U.S. representatives Anna Eshoo, D-CA., Jan Schakowsky, D-IL., and Suzan DelBene, D-WA and requires strong and enforceable privacy and data security rights for health information to be set.

"Technologies like contact tracing, home testing, and online appointment booking are absolutely essential to stop the spread of this disease, but Americans are rightly skeptical that their sensitive health data will be kept safe and secure," said Sen. Blumenthal. "Legal safeguards protecting consumer privacy failed to keep pace with technology, and that lapse is costing us in the fight against COVID-19."

The Public Health Emergency Privacy Act will ensure strict privacy protections are implemented to ensure any health data collected for public health purposes will only ever be used to achieve the public health purpose for which it was collected.

The Public Health Emergency Privacy Act restricts the use of data collected for public health purposes to public health uses, prohibits the use of the data for discriminatory, unrelated, or intrusive purposes, and prevents government agencies that play no role in public health from misusing the data.

The Act requires data security and data integrity protections to be applied to safeguard health data, for the data collected to be restricted to the minimum necessary information to achieve the purpose for which it is collected and requires tech firms to ensure the data is deleted once the public health emergency is over.

Read entire article:

<https://www.hipaajournal.com/public-health-emergency-privacy-act-covid-19-data/>



## HIPAA Privacy Rule Myths & Facts

### Myth

"HIPAA requires you to obtain written authorization from the patient before speaking with family members."

### Fact

You can talk with family members or even close personal friends of the patient to the extent these individuals are involved in the patient's care or payment for care as long as the patient has had an opportunity to agree or object. A patient's verbal permission for you to speak with his or her spouse, parent, or child is sufficient; a formal authorization form is not required.

Resource:

<https://www.aafp.org/journals/fpm/blogs/inpractice/entry/hipaa-myths.html>

### DID YOU KNOW...



### HIPAA Mandates Reporting Violations

HIPAA rules mandates that the data centers, or any service provider for that matter, to report any misuse of personal health information to the Department of Health and Human Services (HHS) in the Office of Civil Rights (OCR). It thus places an additional responsibility on the service provider, than merely follow the laid down protocols.

Resource:

<https://lifelinecenters.com/colocation/five-things-probably-know-hipaa-compliance/>





## Excellus Health Plan Settles HIPAA Violation Case and Pays \$5.1 Million Penalty

The Department of Health and Human Services' Office for Civil Rights has announced the health insurer Excellus Health Plan has agreed to pay a \$5.1 million penalty to settle a HIPAA violation case stemming from a 2015 data breach that affected 9.3 million individuals.

The breach in question was discovered by Excellus Health Plan in 2015, the same year that massive data breaches were discovered by the health insurers Anthem Inc. (78.8 million records) and Premera Blue Cross (10.6 million records). All three entities have now settled breach investigations with OCR and have paid substantial financial penalties.

Excellus Health Plan, doing business as Excellus BlueCross BlueShield and Univera Healthcare, serves individuals in upstate and western New York. In August 2015, the health insurer discovered hackers had gained access to its computer systems. The breach investigation revealed access to its systems was first gained around December 23, 2013 and continued until May 11, 2015. The breach was reported to OCR on September 9, 2015.

The hackers installed malware on its systems, performed reconnaissance, and were found to have accessed the healthcare data of around 7 million Excellus Health Plan members and approximately 2.5 million members of Lifetime Healthcare, its non-BlueCross subsidiary. The information accessed by the hackers included names, contact information, dates of birth, Social Security numbers, health plan ID numbers, claims data, financial account information, and clinical treatment information.

OCR launched an investigation of the breach in June 2016 to determine whether Excellus Health Plan was in compliance with the HIPAA Privacy, Security, and Breach Notification Rules. The investigation identified five standards of the HIPAA Rules where Excellus was potentially noncompliant.

Read entire article:

<https://www.hipaajournal.com/excellus-health-plan-settles-hipaa-violation-case-and-pays-5-1-million-penalty/>

## HIPAA Quiz

As a healthcare worker, you may share PHI for

- a. treatment
- b. payment
- c. healthcare operations.
- d. all of the above.

Answer: d

**HIPAA does not restrict healthcare workers from sharing PHI for treatment, payment, or healthcare operations. This includes using or disclosing PHI to properly care for a patient, ensure proper billing, and aid in quality-improvement efforts.**

### IN OTHER COMPLIANCE NEWS

LINK 1

M.D. Anderson Cancer Center Has \$4.3 Million OCR HIPAA Fine Overturned on Appeal

<https://www.hipaajournal.com/m-d-anderson-cancer-center-has-4-3-million-ocr-hipaa-fine-overturned-on-appeal/>

LINK 2

OCR Continues HIPAA Right of Access Crackdown with \$200,000 Fine

<https://www.hipaajournal.com/ocr-continues-hipaa-right-of-access-crackdown-with-200000-fine/>

LINK 3

Largest Healthcare Data Breaches in 2020

<https://www.hipaajournal.com/largest-healthcare-data-breaches-in-2020/>

LINK 4

2020 HIPAA Violation Cases and Penalties

<https://www.hipaajournal.com/2020-hipaa-violation-cases-and-penalties/>



## HHS Proposes Modifications to the HIPAA Privacy Rule to Empower Patients, Improve Coordinated Care, and Reduce Regulatory Burdens

The Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services (HHS) announces proposed changes to the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule to support individuals' engagement in their care, remove barriers to coordinated care, and reduce regulatory burdens on the health care industry.

The Notice of Proposed Rulemaking (NPRM) is part of HHS's Regulatory Sprint to Coordinated Care, initiated under HHS Secretary Alex Azar's value-based transformation agenda and led by HHS Deputy Secretary Eric Hargan, which seeks to promote value-based health care by examining federal regulations that impede efforts among health care providers and health plans to better coordinate care for patients.

The proposed changes to the HIPAA Privacy Rule include strengthening individuals' rights to access their own health information, including electronic information; improving information sharing for care coordination and case management for individuals; facilitating greater family and caregiver involvement in the care of individuals experiencing emergencies or health crises; enhancing flexibilities for disclosures in emergency or threatening circumstances, such as the Opioid and COVID-19 public health emergencies; and reducing administrative burdens on HIPAA covered health care providers and health plans, while continuing to protect individuals' health information privacy interests.

Read entire article:

<https://www.hhs.gov/about/news/2020/12/10/hhs-proposes-modifications-hipaa-privacy-rule-empower-patients-improve-coordinated-care-reduce-regulatory-burdens.html>

### HIPAA Humor



"Our HIPAA compliance program made great progress last year. We finally managed to get everyone to spell HIPAA correctly."

## 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

