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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.

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DID YOU KNOW...

U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES

**OFFICE FOR
CIVIL RIGHTS**

OCR Lifts HIPAA Penalties for Use of COVID-19 Vaccine Scheduling Apps

A new OCR enforcement discretion will allow providers to use online or web-based apps for scheduling COVID-19 vaccine appointments in good faith without the risk of a HIPAA penalty.

The Office for Civil Rights announced another enforcement discretion amid the pandemic, lifting penalties for potential HIPAA violations related to the good faith use of online or web-based scheduling applications (WBSAs) to create patients' vaccine COVID-19 appointments.

Effective immediately, the enforcement discretion applies to covered entities and their business associates. The discretion also applies to all WBSA vendors providing the tech used by these entities in these efforts, regardless of whether the vendor has "actual or constructive knowledge that it meets the definition of a business associate" under HIPAA. It has a retroactive date effective to December 11, 2020.

It's the fifth penalty waiver announced by OCR during the pandemic. The agency previously made exceptions for first responders, telehealth use, business associates, and Community-Based Testing Sites. "OCR is using all available means to support the efficient and safe administration of COVID-19 vaccines to as many people as possible," said March Bell, Acting OCR Director, in a statement. According to OCR, a WBSA is a non-public facing online or web-based app that enables the scheduling of individual appointments for services tied to large-scale COVID-19 vaccine. These apps by default only allow the intended patients to access the data created, received, maintained, or transmitted by the app.

The enforcement action does not include appointment scheduling tech that directly connects to the EHR used by covered entities. The exercise of the latest enforcement discretion applies to when these entities use WBSAs in good faith and only for the limited purpose of scheduling individual appointments for COVID-19 vaccinations amid the public health emergency. In light of the public emergency, covered entities will need to quickly schedule a mass amount of patient appointments for the COVID-19 vaccination and may use WBSAs to accomplish the task.

However, OCR recognized some of these apps and the methods used may not fully comply with HIPAA requirements. As such, penalties for noncompliance with HIPAA will not be imposed for good faith use of WBSAs. While use of these platforms is acceptable, OCR also stressed that its important entities take all necessary safeguards to protect the privacy and security of protected health information. These measures should include using only the minimum necessary PHI, encryption tech, and enabling all available privacy settings. OCR also encouraged entities to ensure any storage of PHI by the vendor is temporary, including metadata that constitutes PHI. For example, the PHI should be returned to the covered entity or destroyed as soon as practicable, but no later than 30 days after the appointment.

Read entire article:

<https://healthitsecurity.com/news/ocr-lifts-hipaa-penalties-for-use-of-covid-19-vaccine-scheduling-apps>



HIPAA Privacy Rule Myths & Facts

Myth

"HIPAA is applicable to specific healthcare providers."

Fact

HIPAA is applicable to all healthcare providers, health plans, and healthcare clearinghouses (PHI) that transmit health data electronically in connection with transactions for which the Department of Health and Human Services has adopted standards.

Resource:

<https://www.cloudappex.com/hipaa-myths-vs-facts/>

DID YOU KNOW...



HIPAA Takes Business Associates Agreements Seriously

HIPAA mandates having a thorough and comprehensive Business Associates Agreement (BAA) that documents and communicates the laid down policies. Not having such a BAA may construct as willful negligence, and make the parties liable for fines ranging from \$10,000 to \$50,000 per incident and potential criminal charges.

Resource:

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





WellnessLiving Confirms HIPAA Compliance with Compliancy Group

WellnessLiving, a leading provider of business management software for health and wellness businesses, has been confirmed as HIPAA compliant by Compliancy Group.

Any software provider that provides products that have potential to 'touch' PHI is classed as business associates under HIPAA and must ensure HIPAA-compliant policies and procedures are developed and followed and safeguards are implemented to ensure the confidentiality, integrity, and availability of PHI.

The Toronto, Canada-based software provider works closely with many healthcare providers and is aware of its responsibilities under HIPAA with respect to protected health information (PHI). When booking an appointment with a healthcare provider, patients or clients are required to input personal information such as their name, birth date, or email address. Since WellnessLiving processes and stores protected health information, HIPAA compliance is essential.

"Protecting our customer's data is a responsibility we take very seriously," said Len Fridman, co-founder and CEO of WellnessLiving. "We took the steps to re-certify our software platform with the Compliancy Group to verify we're providing the most secure software platform – that is fully HIPAA compliant – to our customers that do business with healthcare providers, including fitness centers, health clubs, medical offices, medical spas, massage therapists, yoga studios, and personal trainers."

Compliancy Group's tried and tested proprietary HIPAA compliancy methodology was adopted by WellnessLiving and the company's progress was tracked using Compliancy Group's compliance tracking software solution – The Guard – with assistance provided along that journey by Compliancy Group's Compliance Coaches.

Read entire article:

<https://www.hipaajournal.com/wellnessliving-confirms-hipaa-compliance/>

HIPAA Quiz

The most secure passwords are

- names of sports teams.
- personal names or fictional characters.
- combinations of upper and lowercase letters that are at least six characters long.
- dates of birth.

Answer: c

Using at least a six-character password of upper- and lowercase letters and numbers is more secure than using names or dates of birth. Consider using a word or subject that interests you and converting it into a character sequence meaningless to everyone but you.

LINK 1

Cancer Treatment Centers of America Announces 105,000-Record Data Breach

<https://www.hipaajournal.com/cancer-treatment-centers-of-america-announces-105000-record-data-breach/>

LINK 3

Misconfiguration Resulted in Exposure of the PHI of 65,000 Mobile Anesthesiologists Patients

<https://www.hipaajournal.com/misconfiguration-resulted-in-exposure-of-the-phi-of-65000-mobile-anesthesiologists-patients/>

LINK 2

Massachusetts Mental Health Clinic Settles HIPAA Right of Access Case for \$65,000

<https://www.hipaajournal.com/massachusetts-mental-health-clinic-settles-hipaa-right-of-access-case-for-65000/>

LINK 4

Hospice CEO Pleads Guilty to Falsifying Healthcare Claims and Inappropriate Medical Record Access

<https://www.hipaajournal.com/hospice-ceo-pleads-guilty-to-falsifying-healthcare-claims-and-inappropriate-medical-record-access/>

U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES

OFFICE FOR CIVIL RIGHTS

New Jersey Plastic Surgery Practice Pays \$30K to OCR to Settle HIPAA Right of Access Case

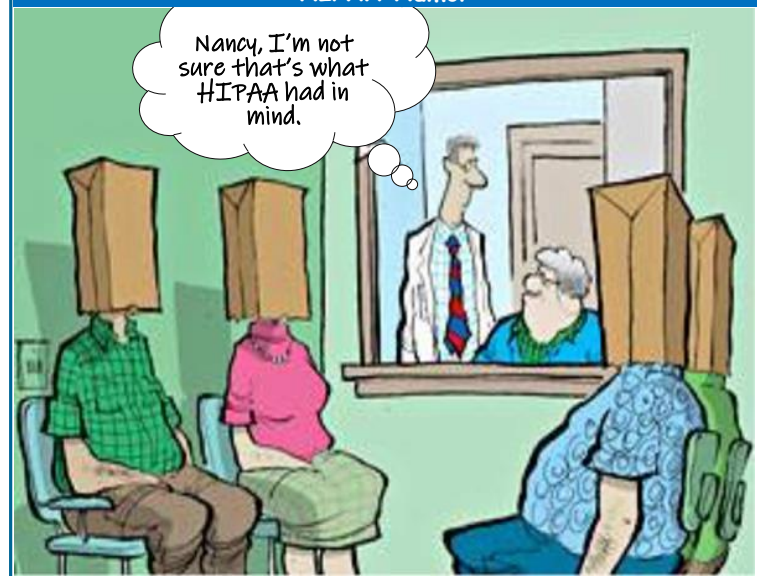
The HHS' Office for Civil Rights has announced a settlement has been reached with Ridgewood, NJ-based Village Plastic Surgery to resolve potential violations of the HIPAA Right of Access. Under the terms of the settlement, Village Plastic Surgery will pay a \$30,000 penalty and will adopt a corrective action plan that requires policies and procedures to be implemented related to access to protected health information (PHI). OCR will also monitor Village Plastic Surgery for compliance for 2 years.

OCR launched an investigation into Village Plastic Surgery following receipt of a complaint from a patient of the practice on September 7, 2019. The patient had requested a copy of the medical records held by the plastic surgery practice but had not been provided with those records within the maximum time allowed by the HIPAA Privacy Rule. OCR intervened and, during the course of its investigation, Village Plastic Surgery did not provide the patient with the requested records.

Read entire article:

<https://www.hipaajournal.com/new-jersey-plastic-surgery-practice-pays-30k-to-ocr-settle-hipaa-right-of-access-case/>

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

