



HIPAA Refresher in the Electronic Age: Social Media, Cell Phones and Personal Computers in the Workplace

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Objective

- ✓ Understand how social media threatens HIPAA protections
- ✓ Assess staff understanding of social media HIPAA concerns
- ✓ Educate teams
- ✓ Develop policies and procedures, P&P

Definition of Protected Health Information

- Protected health information is health data created, received, stored, or transmitted by HIPAA-covered entities and their business associates in relation to the provision of healthcare, healthcare operations and payment for healthcare services.
- Protected health information is often shortened to PHI, or in the case of electronic health information, ePHI.
- Relates to the past, present, or future physical or mental health or condition of an individual
 - Transmitted by electronic media;
 - Maintained in electronic media; or
 - Transmitted or maintained in any other form or medium.

Definition of PHI

Names (Full or last name and initial)	Certificate/license numbers	Health insurance beneficiary numbers
Phone Numbers	Fax numbers	Email addresses
Social Security numbers	Account numbers	Medical record numbers
All geographical identifiers smaller than a state	Dates (other than year) directly related to an individual	Vehicle identifiers (including serial numbers and license plate numbers)
Device identifiers and serial numbers;	Web Uniform Resource Locators (URLs)	Internet Protocol (IP) address numbers
Biometric identifiers, including finger, retinal and voice prints	Full face photographic images and any comparable images	Any other unique identifying number, characteristic, or code except the unique code assigned by the investigator to code the data

PHI on Unencrypted Devices

- Texting patient information such as vital signs or test results is an easy way to relay information quickly, ***but is not secure***
- Text messages go through multiple servers
- Sender has no control over how long the data is stored on receiving devices, or other servers
- Not yet specifically defined under HIPAA regulations
- Fines and penalties have been assessed
- Accessing patient information on home computers may not be secure

Failure to Encrypt Mobile Devices Leads to \$3 Million HIPAA Settlement

- November 5, 2019
- The University of Rochester Medical Center (URMC) has agreed to pay \$3 million to the Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services (HHS), and take substantial corrective action to settle potential violations of the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Rules. URMC includes healthcare components such as the School of Medicine and Dentistry and Strong Memorial Hospital. URMC is one of the largest health systems in New York State with over 26,000 employees.

Settlement in Stolen Laptop HIPAA Case

- A cardiac monitoring vendor got into HIPAA hot water when a laptop containing hundreds of patient medical records was stolen from a parked car
- The settlement?

OCR reached a **\$2.5 million settlement** with the vendor

MP+ MedPro

<https://www.medprodisposal.com/20-catastrophic-hipaa-violation-cases-to-open-your-eyes>

Social Media

Most hospital employees can recognize HIPAA statements

Many, if questioned can explain HIPAA definition

A surprising number of employees, if audited, will be in violation of HIPAA on social media

Inappropriate “selfies”

Social media comments

“Liking” or “sharing”

Common Social Media HIPAA Violations

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

Social Media Comments Can Be PHI

- A nurse was fired for HIPAA violation after discussing cop-killer patient
- The nurse wrote a Facebook post saying that she had come face to face with evil, and hoped the (alleged) cop killer would rot in hell
- Did not mention the patient's name, condition, or physical description
- Did mention "cop killer," thus confirming that the accused was taken to that hospital

When ██████'s bosses learned of her Facebook posts they advised ██████ that they would have to investigate the matter and ██████ promptly removed the posts. She expected disciplinary action would be limited to a reprimand or even a suspension, but the hospital terminated her employment for violating HIPAA data privacy rules.

<https://www.hipaajournal.com/oakwood-healthcare-worker-fired-hipaa-violating-facebook-comments/>

Employee Out of a Job after Sending Tweet

- Governor ***** wrote this on Twitter page, "Glad the Legislature recognizes our dire fiscal situation. Look forward to hearing their ideas on how to trim expenses."
- Less than an hour later, (employee) tweeted this to the Governor: "Schedule regular medical exams like everyone else instead of paying (hospital) employees over time to do it when clinics are usually closed."
- When questioned, the employee responded: "That's just what people do on Twitter"



Jussie Smollett Case

- At least 50 Hospital Workers Fired For Alleged HIPAA Violations
- Inappropriately viewing or accessing the records
- Sharing comments on Social Media



Nurse Outs STD Patient to Man's Girlfriend

- Sister-in-law's boyfriend was diagnosed with an STD
- Sent six text messages, warning the man's girlfriend about the disease
- Nurse fired
- Boyfriend sued clinic

Nurses Fired After Posting to Snap Chat

- Assisted living facility in Glendale, Arizona, has fired three employees
- Video taken by the employees shows an elderly woman using a walker
- Patient heard telling the workers she "almost fell" and is seen asking for her pills
- The caption on the video reads, "Nuuuuuuuuuurse ... All damn day."
- Instead of helping the woman, the nurses continue filming as they watch the woman and mock her
- Facility could face fines and penalties due to their employee actions

Nurse Fired for Social Media Comments

- The pediatric ICU/ER nurse worked at Texas Children’s Hospital.
- Posted comments on Facebook about a rare case of measles at the hospital.
- The nurse was an anti-vaxxer and posted about the experience of seeing a boy at the hospital suffering from the disease – a disease that could have been prevented through vaccination.

What Makes a Photo PHI?



Any portion of the face



Tattoos



Other identifying characteristics



Captions or comments that lead to identification

Nursing Student Learns the Hard Way



It Really Happened

Scandal as hospital staff take selfies, play games & hold parties while patients lie unconscious

Oona McGee Jan 6, 2015



▼ In line for the “what-were-they-thinking?” award of the year is this worker – who actually tagged the hospital director behind her – used the hashtag #inthemiddleofanoperation, and then posted her picture online.



This Really Happened...

People **bodies**

“Lady I can deliver your baby but first let me take a selfie”



...the controversial image depicted ***** smirking at the camera while a woman, who is naked from the waist down, gives birth behind him. “Little devils are brought into the world...”

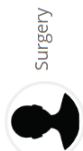


Shared by:

Unprofessional behaviour in the workplace is never to be condoned, but those in the medical profession are commonly held to even higher standards by dint of their greater responsibility – they are expected to uphold patient confidentiality rights, protect patients' personal data and adhere to ethical norms regulatin...

♥ 41 likes 🗨 18 comments
" You cannot buy happiness, happiness is born."
#deliveryroom #newlife #medschool
JULY 21, 2015

Healthcare professionals should respect the place where they work and patients, they should control themselves and respect their work place especially hospitals where emergency cases are everywhere, really childish doings and they deserve what... **(Total 60 words)**



surgery

As stated by almost everyone who commented so far, taking selfies in the workplace is not acceptable when the privacy of the patients are being invaded. I am not much of selfie person but I will jump into one if the nurses or fellow doctors wanna take one together...as long as it is not done during an inappropriate time and when no patients are around to see the silliness. I

A Tale of Two Cities

- *Mercy Walworth Medical Center in Lake Geneva, WI*: two nurses allegedly used their cell phone cameras to take photos of a patient's x-ray and later posted them on the internet
- Several employees and other individuals at Florida's Martin Memorial Health Systems allegedly used their cell phone cameras in the emergency department to photograph the injuries of a shark attack victim who later died
- Nurses in Wisconsin were fired
- Employees in Florida were given verbal warning. It was determined there was no malicious intent
- **Neither hospital had social media policy**

Public Business on Private Platforms

- California Supreme Court ruled that private emails dealing with public business are not shielded from the state's public records law
 - Email
 - Text Messages
 - Facebook – Private Groups
 - Twitter
- Likely to spark challenges in other states



Policy Guidelines

Employees cannot take a photo of a patient on their personal phones (or possibly any phone)

Keep personal social media accounts separate from work accounts

Avoid “friending” patients, clients or vendors

Understand that a deleted post can still exist in cyberspace

Even if a patient posts details about his or her medical issues, no medical professional or staff should repost, retweet or "regram" this information on their personal pages

Policy Statement

[Hospital] respects employees' right to participate in social media for personal reasons during ***non-work hours***. All employees participating in social media and online commentary—even on their own personal accounts—are expected to use sound professional judgment prior to posting anything online that is connected in any way to our patients or our practice, and to adhere to all confidentiality policies. Any work-related comments should also be respectful and relevant in ways that protect the facilities reputation and follows both the spirit and letter of compliance laws.

References

- <https://www.hhs.gov/hipaa/for-professionals/security/guidance/cybersecurity/index.html>
- <https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/Enforcements/EnforcementandComplianceFAQs>
- <https://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/index.html>
- <https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/HIPAA-ACA/HIPAAAdministrativeSimplificationandACAFAQs>

Thank You



- Stroudwater Revenue Cycle Solutions was established to help our clients navigate through uncertain times and financial stress. Increased denials, expanding regulatory guidelines and billing complexities have combined to challenge the financial footing of all providers.
- Our goal is to provide resources, advice and solutions that make sense and allow you to take action.
- We focus on foundational aspects which contribute to consistent gross revenue, facilitate representative net reimbursement and mitigate compliance concerns. Stroudwater Revenue Cycle Solutions helps our clients to build processes which ensure ownership and accountability within your revenue cycle while exceeding customer demands.
- **Contact us to see how we can help.**

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