



Compliance TODAY

February 2013

A PUBLICATION OF THE HEALTH CARE COMPLIANCE ASSOCIATION

WWW.HCCA-INFO.ORG

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Social media and HIPAA compliance: Balancing benefits and risks

- » Make social media work for you, rather than against you.
- » Ensure that social media programs and HIPAA compliance practices converge.
- » Balance the benefits and risks of social media with proper oversight of HIPAA violations.
- » Implement a risk-based approach for effective social media governance.
- » Strengthen credibility with robust social media policies and controls.

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The effectiveness and dangers of using social media in the health care industry are currently under debate. All of us use social media networks like Facebook, LinkedIn, and Google+ to communicate with our friends and relatives. We use them as tools to share information and to discuss ideas and issues. From a marketing perspective, social media platforms provide customers with quick and easy access to information and help companies engage customers directly in real time.

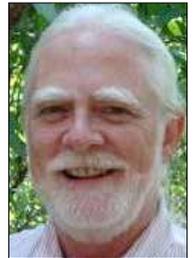
When it comes to the health care industry too, social media provides many benefits. But it has also caused health care organizations to land in the news for the wrong reasons. Recent reports of cases where health care professionals uploaded the photos of patients on social networking sites have led to penalties and tighter regulatory scrutiny. Such incidents not only violate a patient's privacy, but also demonstrate non-compliance with the Health Insurance Portability and Accountability Act (HIPAA). Therefore, health care providers

need to carefully consider the risks of social media and strengthen their social media governance program. The end objective should be to leverage social media to its full potential rather than treat it as a risk.

At a crossroad

The HIPAA Security Rule, which has been in effect since 2005, requires all individually identifiable health information or protected health information (PHI) that an organization creates, receives, maintains, or transmits in electronic form to be protected. This rule extends to all information transmitted through social media platforms.

With increasing regulatory enforcement, health care providers need to be extra careful about transmitting and disclosing patient information through social media. The fines for willful neglect range from \$10,000 upwards. And right now, regulators are looking to hold up examples of health care providers that don't effectively comply with HIPAA on social media sites.



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Regulators have also begun conducting HIPAA audits of covered entities subject to the HIPAA Privacy and Security rules. The audit program, which is already under way, is expected to involve 115 random audits by the end of 2012. This means that health care providers need to have the appropriate social media policies, controls, monitoring procedures, training, and documentation in place. Otherwise, they could get into serious trouble.

That being said, organizations shouldn't stay away from social media out of the fear of non-compliance with HIPAA. Having a social media presence helps protect one's reputation. It enables organizations to control what is being said in their name by, for instance, a disgruntled former employee. Therefore, it is important to effectively manage and monitor social media interactions so that it works for an organization, rather than against it.

Leveraging social media

Social media is a great tool for both patients and health care providers because it breaks the barriers of both distance and time. Patients generally use social media to compare notes on doctors, medications and their side effects, and treatment experiences. They may also want to share their emotional and physical difficulties with fellow sufferers, as well as their health care providers. For the digitally savvy younger generation, social media may be the mode of communication they prefer to employ with doctors.

Health care providers benefit from social media in three major ways:

► **Sharing treatment information**

Social media presents a quick and efficient way of letting patients know about group therapies or new treatments. However, privacy concerns need to be addressed. When

it comes to health information—especially mental health-related information—the loss of privacy could have significant risk. HIPAA requires health care providers to act according to the preferences of patients. Providers can communicate with patients through social media

only with their patients' express permission, and after informing them of the involved risks and probable impact of those risks.

► **Professional support**

Social networking forums are a great place to create support groups where doctors pool information and experiences on diseases and their treatment. However, strict controls for IT security, access, and information sharing need to be implemented. HIPAA rules also need to be followed to ensure that professionals do not share the private details and case histories of patients.

► **Marketing and branding**

Providers may want to reach out to patients and the larger community for marketing and branding purposes. But these efforts should adhere to HIPAA guidelines such that patient confidentiality rules are not breached. For example, there are cancer survivors who actively publicize that they've survived cancer and take part in awareness drives. But there are also others who prefer that no one knows of their experience, and they will mind being included in a marketing database. Hence, health care

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organizations need to embed HIPAA compliance requirements into each aspect of their social media governance program.

Building an effective social media strategy

If ineffectively managed, social media risks can not only harm patient privacy, but can also lead to heavy regulatory sanctions and, more importantly, permanent reputational damage. Therefore, it is crucial that health care organizations implement a robust and well-planned approach to assess and mitigate these risks, and ensure that social media use is controlled and carefully monitored. Below are a few steps to keep in mind while developing a social media strategy:

► **Do your research and define expectations**

Before establishing a social media presence, health care providers need to find out what is being said about their organization online. They also need to check if someone is wrongfully representing the organization. Be it receptionists or doctors, staff members should not represent the organization in an official capacity on their personal profiles, because they may not have an accurate overall picture.

After conducting this research, health care providers should set expectations and define the purpose of their social media strategy—be it to share treatment information, create a professional support group, or enhance marketing. Accordingly, stakeholders need to decide which key messages should be conveyed.

► **Establish roles and responsibilities**

Organizations cannot afford to take their social media presence for granted. The role of coordinating, monitoring, and controlling social media conversations should be assigned to select employees. Responsibilities need to be clearly defined as to *who* will handle any breaking or negative news and how it will be handled.

In addition, formal approvals should be obtained. The IT security and HIPAA

compliance departments, for instance, will need to understand what the privacy and security implications of leveraging social media are, and what kinds of violations may arise, before approving any type of social media communication.

► **Conduct a risk analysis**

Before outlining social media policies and practices, health care providers need to understand the risks of non-compliance with HIPAA. Risk assessments help determine and quantify the probability and impact of such risks. Take, for instance, the risk of sharing dental appointment reminders on social networks. The probability that this information will be disclosed to the general public is high, but the impact of this disclosure is almost always nil. Most people wouldn't really care if anyone else knows that it's time for their annual dental appointment. In such cases, the overall risk score is low.

Based on these risk scores, organizations can determine high risk areas in their social media communication program and put in place controls to mitigate the risks.

Considering that the regulatory and corporate environment is constantly changing, it is beneficial to have an adaptable and streamlined risk management process—starting from risk identification, and extending to risk scoping, risk assessment, risk mitigation, and risk scoring.

It is also valuable to have a centralized risk-control library that helps standardize risk definitions and harmonize risk controls, especially in large health care organizations that have departments and business units scattered across locations. Common risk definitions and controls reduce risk management redundancies and enhance top-level visibility.

► **Implement and train employees on specific social media policies**

Based on HIPAA requirements and the feedback from the legal team, health care providers need to draw up policies with abundant

real-world cases that explain what can and cannot be discussed online. These policies need to be reviewed periodically to ensure that they are being followed in letter and in spirit.

In addition, all medical and paramedical professionals need to be trained on the do's and don'ts of using social media for patient and client interactions, as well as professional interactions. Clearly defined policies and procedures, and a closed-loop training program minimize the likelihood of serious breaches of privacy and security regulations. Through training, professionals also gain a forum on which they can ask their questions and get quick responses.

A systematic approach to the creation and storage of policies, reviews, and approvals; awareness and training; compliance tracking; and visibility should be established. Control redundancies can be avoided by dovetailing social media policies with other organizational policies. In addition, mapping each policy to the corresponding risks and controls makes it easier to implement policy changes, while also improving accountability and transparency.

► **Manage compliance effectively**

Leveraging social media will be the way forward for health care organizations, and this medium can be made more effective if it has an appropriate risk mitigation plan built in to manage HIPAA violations. Organizations need to know what kind of breaches can happen and how they can be controlled. They should clearly know what kind of information is shared, how it is shared, which social media platforms are used, and how the information is documented. They also need to decide which social media platform to use—private

platforms with very strict access controls are better than public sites.

No matter which platform they decide to use, health care providers need to regularly monitor social media conversations for possible HIPAA violations. If the traffic is low, like in a small clinic with just two doctors, one hour a week is all that is needed to manually “listen” to what is being said about the company online and to respond and react to it. On the other hand, a lot of traffic, especially in a large organization, merits a system that is more sophisticated.

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It should be able to automatically search for key words, send alerts to management, trigger corrective action, and align internal controls or policies, based on what is found online.

If a non-compliance incident, such as a violation of information confidentiality, occurs on a social media site, health care providers should have a fairly robust system in place to help them react fast, investigate the issue, and implement the appropriate corrective action. The system should be able to collate all the required details of the incident, help perform a root cause analysis, and track the entire corrective action process. More importantly, it should help organizations prevent such incidents from recurring by triggering alerts to change a control that isn't working or by revising training programs.

To proactively identify incidents, as well as compliance issues, risks, and areas of improvement, health care providers need complete and real-time visibility into their social media governance processes. A graphic risk matrix, for example, helps a provider identify where it is and where it ideally should be, as far as social

media policies and compliance requirements are concerned.

Prepare for HIPAA audits

Regulators conduct HIPAA audits on a random basis to ensure that all health care providers are following all regulations related to the HIPAA Privacy, Security, and Breach Notification rules. Providers will need to deliver all the information required for the audit in a short span of just three weeks. So, they should always be audit-ready, and have periodic internal audits to spot any areas where controls need to be revised.

While preparing for HIPAA audits, organizations need to be aware that HIPAA regulations are constantly being updated. To ensure that social media policies and practices reflect these updates, health care providers should track changes in HIPAA regulations, measure their impact, and align controls accordingly. The complete process of integrating with online Medicare and Medicaid information sources, capturing HIPAA change alerts, measuring their impact, and aligning the social media governance program accordingly can be automated.

Health care providers who leverage social media need to overcome the associated risks by building an effective social media governance, risk, and compliance program. This will help them realize the true benefits that social media provides. Why not leverage social media as an effective tool to monitor changes in the external environment, identify risks, and align internal operations? For example, social media conversations that highlight the negative impact of a particular drug or medical device can be monitored, analyzed, and acted upon accordingly by a hospital.

Social media gives health care providers a platform to establish closer relationships with patients, and can be an important marketing tool. Professionals can pool their knowledge

Social media policies

- ▶ Be brief and to the point
- ▶ Cover blogging, social networks, and collaborative wikis
- ▶ Separate personal and business activity
- ▶ Provide examples of what to do and what not to do
- ▶ Define how you will manage your business presence
- ▶ Define responsibilities for official representatives
- ▶ Define rules for establishing a new presence online
- ▶ Conduct regular reviews to ensure compliance

and experiences for the greater benefit of their patients. On the other hand, there is great potential for loss of privacy and security of patient information, and for unethical behavior on the part of providers.

Therefore, it is essential for health care providers to have a robust social media governance program supported by appropriate policies and practices, an enterprise-wide risk management process, a mechanism to continuously identify gaps, and a strategy to ultimately leverage social media to a health care organization's benefit. Such a system could help patients have real-time access to their providers and the latest medical information for their ailments without any worries about identity theft or loss of privacy. It will also help management have a clear overall picture of the risks in the internal and external environment and help formulate more effective plans for the future. ©