Social Media and Patient Privacy

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Who We Are

Ankura Healthcare Compliance team helps design, implement, assess, and staff compliance programs. Ankura team members include healthcare operations consultants, certified coders, clinical analysts, and financial experts.

What We Do

• Interim staffing – Compliance, Privacy, Audit, Research
• Program Development
• Risk Assessments and Effectiveness Reviews
• Research Program Reviews
• Coding Audits – Inpatient, Outpatient, Specialty
• Clinical Audits
• Education & Training
Social Media Defined

Websites and applications that enable users to create and share content or to participate in social networking

Laws/Regulations Affecting Social Media

- HIPAA Privacy Rule
- HIPAA Security Rule
- HITECH
- State Law
Social Media Benefits

- Advertising
  - Low cost
  - Real-time
  - Easy process

- Large Audience
  - Depends on strength of following
  - Use of hashtags to expand beyond followers

- Self-publication
  - Freedom to customize message

- Convenience
  - Can be conducted from a personal computer, tablet, or cell phone

Social Media Dangers
Social Media Dangers

Double-edged sword
- Social media has many unintended consequences
- Advantages, when mishandled, become liabilities
- Fast, real-time feedback can be overwhelming

Large audiences
- Phrases spread fast
- Loss of control, liability
- Scapegoats

Self-publication
- Anyone with access to an account can now post inappropriate content to a large audience
- No vetting process
- One employee can single-handedly create a PR nightmare

Consensus
- The usual suspect when it comes to privacy violations

Social Media and Regulatory Impact

HIPAA (Passed in 1996)

Social Media and Privacy

HIPAA (Passed in 1996)

Social Media
- Facebook media site, Six Degrees, was launched in 1997
  - Create profile and connect with others
- Blogging starts in 1999
  - Orkut
- Myspace, LinkedIn (Early 2000s)
- YouTube (2005)
- Facebook/Twitter (Popular by 2006)
- Camera Phone (1997)
- iPhone (2007)
How Compliance can Help

Compliance programs help bridge the privacy rules with the modern technology

- Training
- Policies and Procedures
  - Both with marketing and the individual employee
- Risk assessment
  - What’s your risk appetite?
- Compliance and Marketing
  - Need for collaboration
  - Include Privacy Officer/Officer

Posting Do’s and Don’ts

Do:
- Begin by asking patient for permission to post their PHI
  - If they agree, no further steps needed
- De-identify each post
  - Check for labels and computer screens in the background
  - Remove all 17 identifiers as required by the Privacy Rule
- Watch out for product logos in a picture
Posting Do’s and Don’t’s (2)

Don’t:
• Publish posts that contain PHI without prior patient approval
• Don’t publish posts that contain any of the 17 identifiers
• Don’t post without consulting your organization’s social media policy and procedure
• Ignore the feelings of your patients

The Proper Role of Social Media in Healthcare

• Marketing tool
• Privacy/Compliance oversight
• Heavily emphasized in annual training
• Permitted by all staff members? A question for your organization
• Feelings of your patients De-identifying a photo only absolves you legally, not morally (think ethics)
What is considered a HIPAA violation on Social Networks

A breach of protected health information ("PHI") is defined as the acquisition, access, use, or disclosure of unsecured PHI, in a manner not permitted by HIPAA, which poses a significant risk of financial, reputational, or other harm to the affected individual.

Examples of social media HIPAA violations include:

- Posting sensitive "gossip" about a patient to unauthorized individuals, even if the name is not disclosed.
- Sharing of photographs, or any form of PHI, without written consent from a patient.
- A mistaken belief that posts are private or have been deleted when they are still visible to the public.
- Sharing of seemingly innocent comments or pictures, such as a workplace lunch which happens to have visible patient files and both.

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10 Tips for Social Media Compliance

1. Don’t Mention Patient Names: Revealing a patient’s name in a Facebook post is considered as identifying protected health information.

2. Be Careful With Your Photos: Make sure your photos are free of PHI, including patient names or files. If you plan on featuring a patient in a photo, you will need written consent from the patient.

3. Create an Organization-wide Social Media Policy: Having a written policy that clearly explains the expectations and regulations can help prevent violations.

4. Select Someone Familiar with HIPAA to Be in Charge: Select a team member who knows and understands how HIPAA can impact social media. Allow them to review content before posting it.

5. Monitor Your Channels: To help monitor social activity, find a program to help monitor the comments and interactions so they can be reviewed for any giving rise. You can also flag certain words to prevent their comments from becoming public to your followers.
10 Tips for Social Media Compliance

6. Develop a Strategy: Establish a strategy that determines what content will look like for your organization. This can help deter from posting content that may be called into question.

7. Create Canned Responses to Comments: Having pre-approved and expertly crafted responses can save you time but ensure everything you say is compliant.

8. Apply Policies and HIPAA Regulation to Private Accounts: Your Social Media Policy should state that HIPAA should extend to personal accounts and PHI should never be disclosed on any profiles.

9. Never Friend Patients: Along with not posting about patients on social platforms, it’s important to not friend them on Facebook or other platforms.

10. Take a Look at what Health and Human Services (HHS) Has to Say: To learn more and gather a better understanding of HIPAA and how it applies to social media, visit the HHS website.

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