

What's Your Compliance IQ?

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HIPAA News

The use of telehealth services, including video conferencing, in dealing with the Coronavirus can help lessen the demand on on-site healthcare resources while keeping sick and quarantined patients at a safe distance.

There has been understandable confusion among providers and patients about the privacy and security protections required when using these services.

A bill providing federal funding to help fight the pandemic was recently passed. Tucked in that bill were provisions known as the Telehealth Services During Emergency Periods Act of 2020 permitting the DHHS Secretary to waive certain requirements to allow some telehealth services.

While some restrictions were lifted

on Medicare billable telehealth services offered during the pandemic, safeguarding of patient PHI has not been diminished in any way; i.e., HIPAA is not waived.

Forty million patient records affected by a breach were reviewed from 2019. Hackers are attacking and finding success in US located mid-sized organizations not in large population areas. Healthcare data is valuable with a price tag of up to \$1000/record. To put this in perspective, your Social Security # is worth about \$1 and credit cards are worth about \$110.

Medical devices are 5X more vulnerable than laptops, logins, networks, etc. Healthcare is the most targeted industry in cybercrime.

Most HIPAA violations occur inad-

vertently without the lab ever realizing it. The 5 most common HIPAA violations to look for are:

- Insufficient access control. Access must be limited to authorized associates for authorized purposes.
- Not removing former associate access. Access must be barred as soon as employment ends.
- Lack of encryption. Not using encryption or an equivalent solution for protecting electronic health records creates violations.
- Personal email. Associates using personal email accounts to store, use or transmit PHI should not be allowed.
- PHI on personal devices. Must be alert to associates downloading PHI on personal, other electronic devices.

Compliance News

At the 2020 Quality Conference, CMS Administrator Verma said CMS is looking at ways to enhance accrediting agency oversight. Inconsistencies have been noted in recent years in the way accrediting agencies inspect providers.

She noted some agencies accept consulting fees from hospitals they grade and that is a "glaring conflict of interest." She indicated there will be more about this in the future.

A Connecticut trucking company has been ordered to pay a driver more than \$150,000 for retaliating against him for raising safety concerns. He had repeatedly voiced concerns about faulty vehicle maintenance.

The CMS crack down on fraud may

soon be aided by Artificial Intelligence tools placing more pressure on clinical and anatomic labs to ensure billing practices are fully compliant with federal "affiliations" regulations.

BCBS initiated a billing audit of an Alabama hospital when it noticed the average number of Urine Drug Tests spiked from 30 to 1100 monthly. The hospital asked for physician orders and other records needed by BCBS to verify medical necessity.

The provider failed to provide the information. BCBS then denied the hospital claims and the hospital withheld payment of \$245,000 still owed to the laboratory provider under the lab services contract. The lab sued the hospital for breach of contract and prevailed in the lawsuit.

When one side violates a contract, the other side can recover as long as it can show "substantial compliance" with the contract. The hospital's failure to pay was a clear violation of the contract. The lab also violated the contract by not providing the requested documents, but it was ruled a material breach justifying the hospital's refusing its obligation to pay.

Due to a 11-16 massive cyber-attack compromising almost 12M patients via a Quest internet app, Quest Diagnostics has a class action lawsuit from a group of 34,000 individuals.

This case shows that a class action suit by those whose PHI was compromised is a new kind of risk in addition to the normal breach risks.

Safety

ECRI has listed the Top 10 Patient Safety concerns for 2020 in addition to the Coronavirus:

- Missed or delayed diagnoses
- Maternal health
- Early recognition of behavioral health needs
- Responding to & learning from device problems
- Device cleaning, disinfection, & sterilization
- Standardizing safety across healthcare organizations
- Patient matching in the EHR
- Antimicrobial stewardship
- Overrides of automated dispensing cabinets
- Fragmentation across care settings

The CDC has added the fungus, *Candida auris* and carbapenem-resistant *Actinobacter* to its list of urgent threats to public health.

There is no guidance regarding paper flow in the lab during this pandemic. It is recommended, however, to reduce paper flow from the lab to clean areas. Move as much as possible to digital.

Extra PPE is not required when handling potential COVID-19 specimens if working in a BSC hood. The sash acts as a barrier protecting from splashes and the air flow protects from potential aerosols created. No need to waste PPE.

If potential COVID-19 specimens are handled outside a BSC, face shields, gloves, lab coats are required. Physical safety devices like centrifug safety buckets with sealed rotors and splash shields when there could be splashes.

To be sure of the de-identification required for specimens placed in biohazard bags, check with the waste vendor to find out how the waste is handled. This will let you know if the labels will be made i-legible. If anything is discarded in the regular waste, labels must be obliterated first.

Biological spill kits & formaldehyde neutralizers are required for specimen transport by car.

Miscellaneous

DHHS has suffered a cyberattack which some are saying is a campaign of disruption and misinformation to undermine the response to the Coronavirus. While a foreign state is expected, no one has been identified.

Cybercriminals and perhaps nation-state hackers attempting to take advantage of the COVID-19 pandemic are now turning their attention to mobile devices to spread malware. So far mostly android devices have

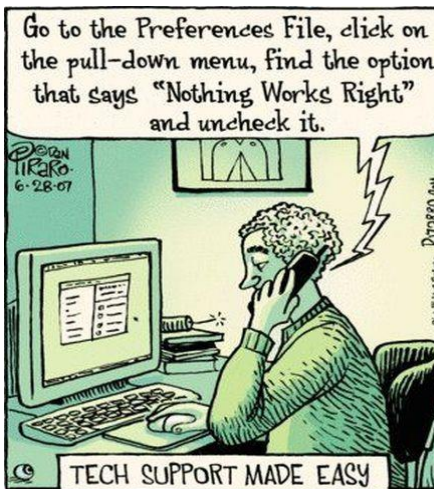
been targeted.

Researchers have determined the COVID-19 virus is a natural occurrence. Analysis of public genome sequences for SARS-CoV-2 and related viruses found no evidence the virus was made in a laboratory or otherwise engineered. The evidence on the natural evolution was supported by the virus' backbone. If a new coronavirus was engineered, it would have been constructed from the backbone of a virus

known to cause illness.

Taiwan's containment of Covid-19 shows the importance of rapid response, including fast access to clinical laboratory testing. They could provide a critical model for other countries to follow. Pathologists and laboratory professionals with the skills and ability to develop and validate new assays on an accelerated timeline were not used by the U.S. government as they decided how to respond to the virus emergence.

Fun Spot



TECH SUPPORT MADE EASY

February Puzzle Answer: 45 (1/5 of 45=9; 9 + 45 =54)

**March Puzzle:
Which travels faster? Hot or Cold?**

- March 20—the sun shines on the equinox giving us a near 50/50 split of night and day.
- 3-29-86—Coca Cola was developed & originally contained a small amount of cocaine to give the drinker a bit of a buzz.
- St. Patrick is credited with bringing Christianity to Ireland and for

driving all the snakes out of Ireland.

- March was originally the first month of the Roman calendar and named after Mars, the god of War.
- Tax preparers, insurance underwriters, and accountants are all fields dominated by women.
- The earliest recorded female physician was Merit Ptah, a doctor in ancient Egypt who lived around 270 B.C.
- Mary Anderson got a patent on the windshield wiper in 1903.