What's Your Compliance IQ?

OMEGA DIAGNOSTICS LLC   DELTA PATHOLOGY   PATHOLOGY RESOURCE NETWORK LLC

HIPAA News

Researchers have analyzed all detected phishing URLs between Jan, '20 & Feb, '21 to determine how many had a COVID-19 theme. These campaigns were promptly adapted to the latest news & thoughts on the Coronavirus closely mirroring the latest pandemic trends.

URLs included PPE & testing kit sites offering access to stocks, lures related to the government stimulus programs, & genuine sites of vendors were targeted as well. Phishing content was finally added to vaccine sites & all of these were designed to steal credentials. Microsoft was the brand most targeted with 23% of the attacks.

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HIPAA enforcement is much less a government cash cow than False Claims Act penalties, kickbacks, & other healthcare fraud laws.

New OCR data give rare insight into HIPAA enforcement costs over the past 2 decades. Key data from 2003-2010:

- $129,722,482 in civil penalties & settlements for HIPAA infractions.
- $26M—highest one year total collected in past 5 years ('18)
- $12M—lowest 1 year total collected in past 5 years ('19)
- $16M—highest ever settlement for a HIPAA violation
- 250,367—total number of HIPAA complaints received by OCR
- 3992—number of HIPAA complaints still open

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OCR lists the top HIPAA complaints received:

- Impermissible use or disclosure of a person's PHI
- Lack of adequate safeguards for PHI
- Lack of patient access to PHI
- Lack of adequate administrative safeguards for electronic PHI
- Use or disclosure of more than the necessary amount of type of PHI (limited data set)

69% of complaints received have resulted in corrective action taken against the provider.

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The new blocking/interoperability regulations are now in effect. They define blocking & indicate penalties for interfering with access, exchange, or use of ePHI. Patients have new rights over their PHI allowing them to request it be sent to the application of their choosing. Blocking will be limited to a sub-set of ePHI for the first 18 months.

Compliance News

Medicare upcoding fraud is a growing problem for CMS. The HHS OIG office is reporting the practice is increasingly occurring for high severity inpatient hospital stays that account for the most expensive part of U.S. healthcare.

The average length of stay for these high severity inpatients decreased implying these beneficiaries were not sicker overall. The length of stay decrease is not consistent with sicker patients & undermines these high severity patients are sicker.

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All facilities must open their doors to CMS & other surveyors acting as deeming authorities to ensure patient safety & allow the facility to bill Medicare. All federal & state surveyors must be granted entry unless they are exhibiting COVID-19 symptoms. They must, however, adhere to whatever infection control screening & prevention measures are in place for the pandemic.

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Laboratory requisitions may be received that include diagnosis information (code or narrative) that appears to meet the requirements in the LCD or NCD, but doctor records may not support it, order may not be in the chart or not properly authenticated, medical record may not support code submitted, or record does not explain the reason for the order—all will result in denials.

Another key part of Medicare Medical Necessity is the part limiting liability for services provided but not found reasonable & necessary.

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Only Health Plans, Healthcare clearinghouses, & healthcare providers conducting electronic financial & administrative functions are required to comply with HIPAA. The law does not provide authority to regulate other types of private businesses or public agencies. Companies like FitBit have no obligation to comply with HIPAA & consumers should limit the amount of PHI they share with such companies.

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Under the new blocking/interoperability regulations, the deadline for data sharing has been changed from 30 days from the request being received to without unnecessary delay. It is expected the ePHI is to be available immediately via the CE's platform.

Safety

With cases declining & vaccinetions increasing, expect changes in the emergency waivers & measures approved during the health emergency.

A memo was sent to healthcare organizations 4-9-21 to start moving away from these measures taken to preserve & reuse medical devices & other supplies.

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As more individuals are vaccinated & state mask mandates are dropped, can an employer forbid associates to wear face masks at work? The bottom line is as long as the CDC recommends wearing masks & social distancing at work, an associate is on solid footing to wear them. However, as we enter future phases of the pandemic, there is some ambiguity about whether a person has a legal right to wear a mask at work.

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The CDC says it is not safe to transport respiratory specimens (including COVID-19 specimens) through a pneumatic system because of the risk of creating an aerosol.

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Laws regarding the disposal of items with a biohazard symbol vary from state to state. Contact your regulated waste vendor to see if it is acceptable to dispose of used bags in the regular trash. If this waste is taken out of state, ask your regular trash collector landfill about waste regulations.

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Spills do not happen daily so it is easy to overlook the need to conduct spill response drills. Skipping these drills can compromise safety, expose associated to unfamiliar hazards, & increase the likelyhood of injury during a spill response.

Spill response is a tactical skillset that needs to be practiced instead of showing a slide presentation or video. As these skills are practiced listen to associate frustrations. Encourage associate feedback on the response tools used.

Miscellaneous

The FDA has granted its first authorization through the traditional premarket review process for a COVID-19 test—the BioFire Respiratory Panel 2.1. It can now be marketed beyond the declared public health emergency. The expectation is many more will follow.

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In the first week of April, a new regulation was effective giving patients digital access to their health records through their smartphones. The app ecosystem will enable patients to also engage with healthcare through health apps. Fax machines could go away over time, but none of this will happen overnight.

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While most facilities are seeing greater availability of many types of PPE, the healthcare supply chain remains fragile & constrained. Massive increases in global demand have created an imbalance & driven up the cost of raw materials.

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The top 10 data breaches for 2021 so far have been recorded as hacking/IT incidents. Unauthorized access/disclosure breaches were the most common breach this year so far.

61 incidents so far have involved Business Associates affecting more than 8.2M people (36% of total breaches so far). Only one incident has involved a stolen or lost unencrypted computing device.

Fun Spot

Come closer... I've got a point to make.
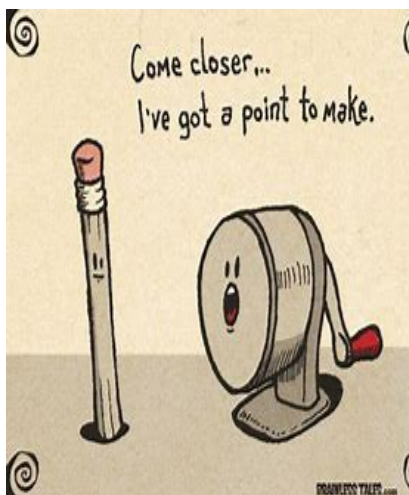
March Puzzle Answer: Running out of Gas

April Puzzle:
Where does today come before yesterday?

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- In 19th Century Florence, it was illegal for women to wear buttons.
- Dom Pierre Pérignon, a Benedictine Monk, invented champagne.
- On average, Americans open a refrigerator 22 times/day.
- The term "piano" actually means "to play softly."
- Biscuit is roughly translated to mean "twice cooked."
- Bananas are the number one seller at Walmart.
- "Strengths" is the longest English word with only one vowel.
- If all the blood vessels in your body were laid out end-to-end, they would reach about 60,000 miles.
- The average human dream lasts only 2-3 seconds.
- 85% of the population can curl their tongues into a tube.
- Hair grows on average ½ inch per month.
- A duck's quack has no echo.