

What's Your Compliance IQ?

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HIPAA News

An unencrypted laptop fell off the rear bumper of an ambulance and was never successfully recovered. It contained PHI on 500 patients.

The ambulance company was given a \$65,000 fine when the ensuing investigation revealed multiple HIPAA rule violations. Paying the fine did not absolve the company of addressing and fixing each issue found. It also put the company under further scrutiny of the OCR and likely resulting in further scrutiny on any outstanding or future issues.

The HHS Office of Civil Rights (OCR) is reminding entities that protections under the HIPAA Privacy Rule are not set aside during an emergency. Appropriate use of PHI during an emergency may be disclosed and used when necessary to treat a patient, to protect the

country's public health, and for other critical purposes. Entities should review when PHI can be shared in these instances.

Cybercriminals are using the coronavirus health crisis to send phishing emails using a variety of tactics to a broader range of targets. Some have fake domains looking like CMS and the WHO. The CDC link encourages users to click on the link containing details about new cases. A slightly different version of the same email asks victims to do-nate bitcoins to help the CDC find a cure.

A lawsuit seeking class action status has been filed against a NJ healthcare organization in the wake of a 12-19 ransomware attack in which a ransom was paid to unlock its systems. Systems were down 2

and patient treatment and care were disrupted.

In addition to the disruption of care, identities are at risk because of the organization's negligent conduct. That data is now in the hands of the cybercriminals exposing them to a heightened and imminent risk of fraud and identify theft. Paying the ransom could be troublesome for the organization since it shows lack of sufficient data backup and effective contingency plans for recovery and emergency mode operation required by HIPAA

Over 41M patient records were breached in 2019 with a single hacking incident affecting close to 21M records. Three major cybersecurity trends are hacking incidents, third party breaches, & staff members issues.

Compliance News

A judge has ruled an insurer providing "a business owner's insurance policy" to National Ink & Stitch which had a ransomware attack in 2016 and was forced to replace most of its IT infrastructure, must pay for the damages from the security attack.

The judge indicated the damage incurred constituted "physical loss or damage" covered by the policy. The costs to recover and rebuild the network will be paid.

Several law firms are racing to be among the first to class action lawsuits for CA-based PIH Health; a 2019 phishing breach there affected about 200,000 people. PIH learned of the 2-18-19 breach during a 10-2-19 investigation. The HITECH Act mandates notification

of affected individuals no later than 60 days after discovery of a breach unless there is a law enforcement delay. It took several months before the incident was reported to HHS.

The former administrator of Stone County Hospital in Gulfport, MS is defending the \$17.7 M he and his wife were paid over a decade to run the facility. A civil lawsuit claims they defrauded Medicare of \$13M.

If jurors find for the government, they must pay \$39M including Medicare reimbursements plus triple damages.

Cybercrime led to \$3.4B in losses in the U.S. last year with a sharp uptick in business email compromise scams which accounted for nearly half of those losses.

The FBI did not see an uptick in new types of fraud but rather saw criminals deploying new tactics and techniques to carry out existing scam., It is getting harder and harder for victims to spot red flags and tell real from fake.

The Laboratory Access for Beneficiaries (LAB) Act was signed 12-20-19. It calls for a delay in the private payor reporting required by PAMA by one year; that reporting deadline is now moved to March 31, 2021.

MedPAC has also been directed to study the methodology CMS implemented to collect private payer rates. Also, the statutory phase-in rates have been changed-2020 rates cannot be reduced more than 10% of the 2019 rates. (CLDTs)

Safety

CMS is urging hospitals and other providers to review their plans for handling emerging di-seases such as the Coronavirus while reminding surveyors labs must remain CLIA compliant.

A 2-6-20 CMS memo reminded of the need to follow basic infection control practices such as standard, contact, and airborne precautions recommended by CMS.

Third party waste manifests must be kept for 3 years, but can be kept electronically.

Slide on shields constitute adequate eye protection in the lab.

It is, however, always better to use full face protection when handling open specimens or chemicals as exposures inside the mouth often occur. Those working without full face protection should keep their mouths closed at the bench.

Never use vinyl gloves in the laboratory setting because they do not offer adequate protection from pathogens, even if they are labeled as "medical gloves."

Sharps containers must have lids on them when in use even if under the counter. They should always be supported to be sure they do not tip over.

Biohazard waste containers, if not used for sharps, require a biohazard label but no lid is required unless they are being moved to transport and dispose of the trash inside. If a sharps container is used as a biohazard container by placing a liner in it and not used for sharps, a tight fitting lid is not required unless it is being moved.

Individuals have actually died in the lab due to long hair. Long hair and different types of earrings are not regulated, but the facility should have policies in place for things that are safety hazards. OSHA expects employers to do whatever is required to keep associates safe at work.

Miscellaneous

A federal watchdog agency expanded an investigation nationwide on improper access and use of Medicare beneficiaries' sensitive information for potential fraud and other unscrupulous activities.

CMS requested an audit of how mail order pharmacies and other healthcare providers were misusing an electronic transaction (E1) meant to verify eligibility of certain coverage benefits. HHS' OIG evaluation of a mail order pharma-

cy and 29 other healthcare entities found 25 of the 30 used E1 transactions for other, unpermitted uses. On average, 98% of these providers' transactions were not associated with a prescription. These improper transactions also involved potential HIPAA violations.

CMS has dramatically expanded its Medicare/Medicaid exclusion powers to include authority to revoke the enrollment of providers or suppliers what are currently or have in the last

5 years been affiliated with targeted "bad actors." This would be to bar individuals or organizations who pose an "undue risk" of committing fraud, waste or abuse in their relationships with other previously sanctioned entities.

OP visits continue to fall primarily due to decreased ER visits. This translates to less clinical lab tests. More options are available to a patient such as walk-in clinics and urgent care centers.

Fun Spot



January Puzzle Answer:
ICE

February Puzzle:
Find a number <100 increased by 1/5 of its value when its digits are reversed.

- Trivia:**
- The name Valentine is derived from a Latin word meaning valor.
 - Groundhog Day was originally observed on February 14.
 - Maya Angelou was the first African-American woman to write a

nonfiction best seller.

- African-American C.J. Walker was the first self-made female millionaire.(born on a LA plantation)
- Ben Carson was the first surgeon to separate twins conjoined at the head.
- Hattie McDaniel, first African-American to win an Oscar was not permitted to attend the national premier of *Gone With the Wind* because she was black.
- At a time when black athletes were not offered scholarships, Ernie Davis got 50 offers.