

What's Your Compliance IQ?

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HIPAA News

Paper patient records may be stored in public storage units if they are secured. The storage unit should be locked & reasonably safe from fire & floods. A Business Associate Agreement (BAA) will also be required with the storage company.

Ransomware attacks on the healthcare industry involved at least 91 organizations up from 50 the previous year. The cost of these attacks is estimated to be \$21B. The average ransom demand in 2020 was \$169,446. \$2,112,744 is known to have been paid to ransomware gangs in 2020; that number is higher because as many ransoms were paid but not made public.

In addition to the money paid is the cost of downtime which can be weeks to months with the average

estimated at 15-21 days. Using a 2017 cost estimate of \$8662/minute, cost was determined to be at least \$20.8B in 2020, more than double the 2019 cost.

The OCR announced 3-9-21 there is a 45 day comment period extension for the proposed modifications to the HIPAA Privacy Rule. The proposed changes focus heavily on individuals' right to access PHI.

Proposed is a shorter period for response for requested copies of PHI to 15 days (now 30) & to reduce the verification of identity burden when accessing PHI. An aim is to also create a pathway for individuals to direct PHI sharing in an EHR among providers & health plans by requiring them to submit an individual's access request to

another provider & receive back PHI requested.

Another proposed change is to eliminate the requirement for written acknowledgment of receipt of a Notice of Privacy Practices. Finally it proposes to amend the definition of healthcare operations to clarify the scope of permitted uses & disclosures.

Cybersecurity budgets in healthcare are expected to continue to fall short of actual needs in the next year according to a new survey. Respondents indicate 24% more budget will be needed over the next 2-3 years. New IT challenges due to the pandemic have driven greater adoption of two-factor authentication. Two common technologies, email & telehealth are perceived to be high security risks per the survey.

Compliance News

Medicare Part B lab services audits were added to the Work Plan in 2-21. In the item, OIG indicated it had "program integrity concerns" related to add-on tests in conjunction with COVID-19, particularly the potential of fraudulent billing for associated respiratory pathogen panel tests, allergy tests, or genetic tests. Adding to the concern was the CMS decision to temporarily relax ordering rules for COVID-19 tests during the pandemic.

With the new item, OIG is wondering why *more tests* are not being performed for conditions other than COVID-19. As a result, OIG will audit utilization of Medicare Part B lab services during the pandemic focusing initially on non-COVID-19 testing. It will also look at aberrants of COVID-19 testing during the pandemic. OIG seems to be

motivated by a genuine concern for & eagerness to assist labs in their efforts to survive pandemic struggles.

A Cordant subsidiary (MA) case shows a lab may can get into trouble not just for action, but inaction. Labs are expected to raise a red flag when ordered tests raise clear issues of medical necessity. Other violations from labs burying their heads in the sand when confronted with suspicious ordering behavior may include failing to report & return overpayments.

The government has issued new guidance on Ransomware response. The Treasury Dept. has been saying if a company feels it has to pay the ransom to remain operational, it is being done under duress. If not, the company is giv-

ing aid & comfort to the enemy. Organizations should take a more proactive approach—recommend keeping at least 3 backups of data in at least 2 separate formats with one format being off site. Multi-factor authentication should be required to enter any account; passwords alone are not sufficient at this point. Cybersecurity also must be monitored constantly. There now could be sanctions levied for any company paying a ransom to sanctioned players for facilitating these transactions.

Providers routinely using electronic prior authorization finds it largely speeds up patient access & reduces administrative work like faxing. AHIP hopes this information will offer key lessons for future projects for these authorizations.

Safety

Employers are required to implement special cleaning/disinfection procedures as part of their workplace COVID-19 exposure control plan. Failure to comply puts the facility at risk of OSHA penalties, loss of CLIA accreditation & even partial or full shut down in addition to associate risk.

An individual should be designated to perform an assessment of all the areas in the workplace that may be COVID transmission points. Facility policies should include:

- Cleaning/disinfection assessment.
- Use assessment data to cre-

ate a cleaning/disinfection schedule

- Develop general cleaning procedure guidelines
- Have general ground rules for the materials used
- Have separate guidelines for soft, porous surfaces
- Require PPE to do the cleaning/disinfection

OSHA has launched a national emphasis program focusing COVID-19 enforcement on companies putting the largest number of associates at risk to be infected seeking to reduce or eliminate exposure.

Under an Executive Order, the

President required OSHA to establish an Emergency Temporary Standard for COVID-19 to be published 3-15-21; it is not yet published. The standard would require employers to create an exposure mitigation plan.

Hazard Communication citations were the second most cited standard for FY 2020.

The type of hood needed to process Cytology specimens depends on the types of specimens processed. Most Cytology labs use a Class II A1 biological safety cabinet but the reason for this is potentially having AFB specimens to process.

Miscellaneous

The Administration is being urged to take immediate actions to address SARS CoV-2 inhalation hazards including issuing an emergency OSHA standard. The concern is the current CDC & OSHA guidance does not adequately inhalation risk of small airborne particles.

The Joint Commission is moving to more traditional survey activities, onsite & unannounced on March 15. It is working with CMS

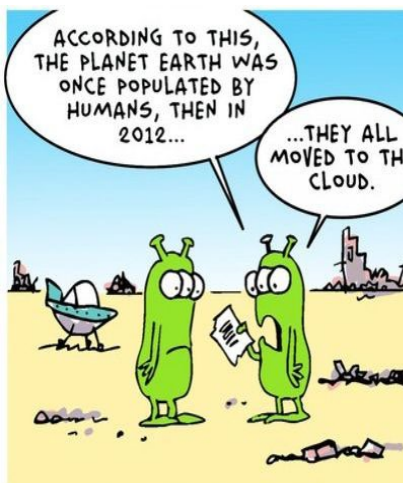
to prioritize healthcare organizations past due for inspection. Inspectors will continue to use social distancing, wearing PPE, & utilizing enhanced technology such as screen sharing to review electronic medical records & interview care recipients & staff & incorporating audio/video conference calls to safely expand the number of people when necessary.

Effective March 23, CMS has resumed hospital survey activities. A visit may be imminent if a site has had a com-

plaint in the past 2 months that did not involve an immediate jeopardy to patients, staff or visitors. Up first will be uninvestigated complaints with a target survey within 45 days.

The CDC Director is concerned over the recent rise in COVID-19 cases. This is likely due to the variants, spring break, and pulling back on mitigation methods. Increased air travel could also be a factor. For now, cruise ships will continue to be banned in the U.S.

Fun Spot



February Puzzle Answer: Pencil Lead

March Puzzle:

What kind of running means walking?

- Eleanor Roosevelt held women only reporter press conferences.
- Twice as many women are older than 85 compared to men.
- The first 2 Black employees at Boeing were women.
- Susan LaFlesche as a child saw a white doctor refused to treat Native Americans & it inspired her to become the first Native

ican doctor in 1889.

- Until 1974 women were not allowed to hold credit cards in their own names.
- Mary Anderson invented windshield wipers in 1903.
- In 1869, Wyoming refused to join the United States without a guarantee women would be allowed to vote.
- Florence Smith Price was the first Black woman symphonic composer to have a symphony performed by a major orchestra (1933).
- Maya Lin designed the Vietnam Veterans Memorial at 22.