HIPAA and Social Media

Holly Schlenvogt
Privacy & Security Consultant / Owner
HRT Consulting, LLC
(262) 468-4291
hschlenv@hrt.consulting.com  |  http://hrt-consulting.com
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Assist HIPAA Covered Entities, Business Associates, and other interested parties in implementing HIPAA's Privacy, Security and EDI Standard Transaction provisions, as amended over time.

Foster public education about HIPAA.

Facilitate and streamline HIPAA implementation through identification of best practices.

Reduce duplicate efforts among entities obligated to comply with HIPAA.

Offer opportunities for partnering and collaborating between entities implementing HIPAA.

Identify and evaluate new or difficult HIPAA interpretation issues.
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Today’s Host

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Today’s Discussion Points

- Define Social Media
- Benefits of Using Social Media
- When Use of Social Media Becomes a HIPAA “Problem”
- How to Prevent “Social Media – HIPAA Heartburn”
  - Proactive tips to help prevent a breach
“Computer-mediated tools that allow people or companies to create, share, or exchange information, career interests, ideas, and pictures/videos in virtual communities and networks”

It “is becoming an integral part of life”

“The means of interactions among people in which they create, share, and exchange information and ideas in virtual communities and networks”

Sources: Definition: https://en.wikipedia.org/wiki/Social_media
Other: http://whatis.techtarget.com/definition/social-media
THE CONVERSATION PRISM
Brought to you by
Brian Solis & JESS3

For more information
check out conversationprism.com

Source: http://itknowledgeexchange.techtarget.com/writing-for-business/files/2015/05/JESS3_BrianSolis_ConversationPrism4_WEB_1280x1024.jpg
Let’s Talk About Social Media: What Do You Think About it?

Quotes from family, friends, and colleagues:

- “I think it’s awesome. I love twitter”
- “Why do you want to talk about that?”
- “I use Facebook all the time, not twitter, except once”
- “I don’t. I don’t use it”
- “A lot of people my age don’t care about the security side of things”
Patients Using Social Media

- To research & select a provider, facility, or organization
- Journal of General Internal Medicine study:
  - Almost 20% of patients reported trying to contact doctors through Facebook
  - Almost 40% through email
- 1/3 of consumers use social media for matters regarding their health

Sources: MalvernGroup, “HIPAA Checkup – Social Media”, June 4, 2014
Study: NPR, “Why Your Doctor Won't Friend You On Facebook”, August 26, 2015
Consumers: Medical Practice Insider, “Infographic: A tweet a day keeps the doctor away”, January 18, 2013
13 year old diagnosed with a relapse of leukemia
Used social media to cope with challenges of this life-threatening illness
Kept friends and family updated on a “CarePages” site during 2.5 years of treatment
- Garnered support for her
- Gained two friends who went thru similar relapse
Used Facebook and Twitter to search for groups
Created a blog to post resources for others going through cancer treatment

“Digital Natives”

- People under 30
  - Blogging
  - Sharing photos and videos

- Share digital information with:
  - Friends
  - Family
  - The government
  - Corporations
  - Other institutions

Source: Gallagher Healthcare, Social Media and Healthcare – Best Friends or Worst Enemies, 2021
Organizations Using Social Media

- Marketing: helps companies increase brand exposure and broaden customer reach
  - Goal: create content compelling enough that users will share it with their social networks
  - Easy for customers to share their experience and allows organizations to quickly respond
  - Provides quick and easy access to information and help engage customers directly in real time
  - And it is often free!
- Follow conversations about your brand = real-time market data and feedback
- Educate audiences

Source: http://whatis.techtarget.com/definition/social-media
Organizations Using Social Media

- Post jobs and find candidates to fill open positions
- Tips to effectively manage social media sites
  - Consistent messages
  - Link sites to each other
  - Post on a regular basis
  - Monitor and follow up in a timely manner
  - Some organizations hire experts

Source: HITECH Answers, “Using Social Media to Market Your Hospital”, October 10, 2013
2012 study of doctors:
- 24% use social media at least once a day to look for medical information
- Almost 2/3 think social media enhances their ability to care for their patients

Source: Medical Practice Insider, “Infographic: A tweet a day keeps the doctor away”, January 18, 2013
As of 2015:
- 19,000 Facebook followers
- 13,000 Twitter followers
- 1 million YouTube views

Post announcements
Promotes HHS activities

Positives of Using Social Media

- Helps protect reputation
- Helps organizations control things being said by and about them
- Breaks the barriers of distance and time
- Reminder: must apply HIPAA rules in order to have a positive experience
Facebook Demographics

- Primary used social media site
- 72% of Internet users have a Facebook account

<table>
<thead>
<tr>
<th>Demographic</th>
<th>Facebook Users</th>
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<tbody>
<tr>
<td>Total</td>
<td>72%</td>
</tr>
<tr>
<td>Men</td>
<td>66</td>
</tr>
<tr>
<td>Women</td>
<td>77</td>
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<tr>
<td>White, Non-Hispanic</td>
<td>70</td>
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<tr>
<td>Black, Non-Hispanic (n=85)</td>
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<tr>
<td>Hispanic</td>
<td>75</td>
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<td>18-29</td>
<td>82</td>
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<td>30-49</td>
<td>79</td>
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<td>50-64</td>
<td>64</td>
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<tr>
<td>65+</td>
<td>48</td>
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<tr>
<td>High school grad or less</td>
<td>71</td>
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<tr>
<td>Some college</td>
<td>72</td>
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<tr>
<td>College+</td>
<td>72</td>
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<tr>
<td>Less than $30,000/yr</td>
<td>73</td>
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<tr>
<td>$30,000-$49,999</td>
<td>72</td>
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<td>$50,000-$74,999</td>
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<td>$75,000+</td>
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<td>72</td>
</tr>
<tr>
<td>Rural</td>
<td>67</td>
</tr>
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Source: Pew Research Center, Mobile Messaging and Social Media, 2015
Twitter

- While Facebook is primary, Twitter gives opportunities to branch out to new patients
- New demographics
  - Urban areas
  - Younger adults
- Tips for Twitter tweets:
  - Don’t sound overly promotional
  - Tweet shared and original content
  - Create a professional profile
  - Be active on the site and interact

Source: P3 Best Practices for Physicians on Twitter
Social Media Use Leads to a Breach

- Tweets are digitally archived by the Library of Congress
- Study of 271 medical blogs
  - 42% had patient descriptions
  - 17% had sufficient information to identify patients
  - 3 blogs even posted recognizable photos of patients (presumably without noting informed consent)

Photo messaging app that disappears in ten seconds or less
- Appeals to the younger generation
- Send photos
- Videos
- Add captions
- Draw on photos/videos

A 2012 review revealed 35 cases where photos or videos were shared on social media by nursing home & assisted living workers (16 were on Snapchat)

Source: WI DHS “Guidance Reminder Regarding Handheld Devices and the Potential Misuse of Such Devices”, 2/23/16
A student nurse moved by her three-year-old chemotherapy patient’s bravery took a photo of him and posted it on her Facebook page.

She had privacy settings in place, but another nurse found the post (this nurse was not Facebook friends with the student nurse).

- Nurse informed the hospital
- Student nurse expelled from the nursing program
- Nursing program removed from the hospital’s list of accepted schools from which to draw student nurses

Source: Law 360: “A Checklist for Avoiding HIPAA Violations on Social Media”, 1/7/16
In 2011, the Board of Nursing delivered a warning to a nurse who commented on a small town newspaper blog.

The nurse discussed a patient in positive terms using a nickname:
- Did not mention the patient’s real name or medical issue
- Mentioned patient age and mobility aids which made it clear which member of this small town the nurse was treating

Source: Law 360: “A Checklist for Avoiding HIPAA Violations on Social Media”, 1/7/16
A physician posted information about a trauma patient on her personal Facebook page.

Did not use patient name and did not have any intention of revealing any confidential patient information.

Because of the nature of the injury, an unauthorized third party was able to identify the patient.

Consequences:
- Lost medical privileges
- Reprimanded by the Rhode Island Board of Medical Licensure.

Source: The Hospitalist: “How to Avoid data Breaches, HIPAA Violations When Posting Patient’s Protected Health Information Online”, 6/1/14
Testimonials Posted to Website: Leads to HHS Investigation

- Compete P.T., Pool & Land Physical Therapy, Inc.
  - Posted patient testimonials on website
  - Included photographs and full patient names
  - Had not obtained signed authorizations

- $25,000 settlement and a corrective action plan

Source: http://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/agreements/index.html
Financial Service Employee HIPAA Violation

- Financial services employee posted a screenshot of a patient’s medical records on personal Facebook account
- Also emailed to individuals
- Labeled “Team No Hoes”
- Hospital investigated and terminated employment
- Hospital sued
  - Judge found no grounds to support the claim against the hospital

Social Media: Preventing a Breach

- Avoid even posting online about a general event, such as a birth, a rough day
- Never use specifics that could characterize certain individuals/patients

Social Media: Preventing a Breach

- Do not post:
  - Pictures
  - Images
  - Scans

- Obtain signed authorizations that specifically allow a particular post
Most sites are not encrypted
  - Increases odds of being hacked or shared with third parties

May need a signed business associate agreement

Viruses and Copyright Issues

- Clicking on the wrong link may lead to a virus
- Copyright issues may arise if information is downloaded from or to social media sites
Who Should You “Friend”? 

2013 Paper: American College of Physicians (ACP) and the Federation of State Medical Boards (FSMB)

- Encourage:
  - Maintaining professionalism when using social media
  - Providing patients with quality resources
- Discourage physicians from:
  - Extending or accepting friend requests with patients
  - Interacting with current or past patients on personal social networking sites

Develop a Social Media Strategy

- Check out your current online presence
- Define expectations and purpose for the social media
- Create roles and responsibilities
- Conduct a risk analysis
- Train employees on social media policies and practices
Preventing “HIPAA – Social Media Heartburn”

- Have someone in your organization become a Social Media expert
  - Develop a social media strategy
  - Review content before it is posted
  - Monitor content

Sources: MalvernGroup, “HIPAA Checkup – Social Media”, June 4, 2014
Preventing “HIPAA – Social Media Heartburn”

- Review social media platforms during your security risk analysis
- If you use social media to communicate with patients:
  - Ensure it is secure (at rest & in transit) and have an agreement in place with the patient/guardian
  - Determine what will be included in designated record sets
  - Have a business associate agreement in place with the vendor
- Consider monitoring social media sites for a potential breach of confidentiality
- If you do not have an incident response plan, develop one

Sources: MalvernGroup, “HIPAA Checkup – Social Media”, June 4, 2014
Policies Help Prevent “HIPAA – Social Media Heartburn”

- Have social media policies; include in them:
  - Acceptable strategies to use social media
  - Who may use them and how may be used (e.g. for marketing/sales purposes)
  - Explain PHI may not be communicated through social media – may not even remotely identify an individual(s)
  - Downloading and uploading of information
  - Reporting of incidents
  - Sanctions for not following policies

Source: MalvernGroup, “HIPAA Checkup – Social Media”, June 4, 2014
Also include in social media policies:

- Do not use personal devices to record images or videos of residents
- Photos and images cannot be distributed
- Clearly define where personal cell phone use and other devices are allowed to be used
- Inform the residents/patients/clients and their visitors about privacy considerations
Policies Help Prevent “HIPAA – Social Media Heartburn”

- Include in social media policies:
  - Definition of Protected Health Information (PHI)
    - Individually identifiable health information that is created by or received by the organization, including demographic information, that identifies an individual, or provides a reasonable basis to believe the information can be used to identify an individual, and relates to:
      - Past, present or future physical or mental health or condition of an individual.
      - The provision of health care to an individual.
      - The past, present, or future payment for the provision of health care to an individual.
1. Names
2. Medical Record Numbers
3. Social Security Numbers
4. Account Numbers
5. License/Certificate numbers
6. Vehicle Identifiers/Serial numbers/License plate numbers
7. Internet protocol addresses
8. Device identifiers and serial numbers
9. Health plan numbers
10. Full face photographic images and any comparable images
11. Geographic subdivision, smaller than a State
12. Web universal resource locaters (URLs)
13. Any dates related to any individual (date of birth)
14. Telephone numbers
15. Fax numbers
16. Email addresses
17. Biometric identifiers including finger and voice prints
18. Any other unique identifying number, characteristic or code
Policies Help Prevent “HIPAA – Social Media Heartburn”

- Have a privacy and security incident response policy, procedure, and plan in place
Training Helps Prevent “HIPAA – Social Media Heartburn”

- Train your workforce... all of them...often

Source: MalvernGroup, “HIPAA Checkup – Social Media”, June 4, 2014
Training tips:

◦ Posting a comment on a patient’s page is seen by all of your friends and their friends and may lead to a breach
◦ May not transmit any image or video of a patient
◦ May not take photos of patient on their phones or any unauthorized phones, cameras, etc.
◦ Report any known or suspected breach by any workforce member
◦ Do not text patient

Source: Law 360, A Checklist For Avoiding HIPAA Violations On Social Media, January 7th, 2016
Checklist for Avoiding HIPAA Violations

- Keep personal social media accounts separate from organization accounts
- Avoid “friending” patients, subscribers, and clients
- Remember things are never fully deleted on the Internet
- Private personal page posts can still be accessed and distributed
- Never repost, retweet or “regram” patient information on personal pages
- Understand the list of 18 personal identifiers – very little information can lead to a breach
Other Helpful Tips

- Post signs in facilities describing photos and videos may not be taken
- Post a commenting policy on your social media sites
- Collaborate with human resources, legal counsel, risk management, privacy officer, security officer, compliance officer, marketing, and sales
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