



Taking Protected Health Information Precaution with Third Parties

By TDIC Risk Management Staff

Keep your elbows off the table. Send thank-you notes promptly. Most important, if you don't have something nice, true and necessary to say, don't say anything at all. The manners instilled in us as children are still valuable in our professional, grown-up lives. But, while it should not be taken for granted that your practice's efforts are always nice and true, understanding what is necessary to say or share can be more complex.

Compliance with HIPAA and Protected Health Information (PHI) rules is more than just good manners. It's a habit essential to protecting your practice, your patients and your integrity as a trusted health care provider.

PHI is not limited to the clinical information contained in a patient's file. It encompasses any note, document or record related to treatment, including lab and insurance reports, billing and coding information, appointment times, phone messages or anything else that reveals the patient-practitioner relationship. PHI should never be shared with unauthorized parties.

The office team is often on the frontline of information requests from third parties such as debt collection services, credit card companies and marketing firms. So, what protocols should your office have in place?

First, make sure you have business associate agreements on file with every entity that could use your patients' information for nonclinical matters. HIPAA requires that you have business associate agreements with any entities, individuals or organizations that create, receive, maintain or transmit patient health information to perform nonclinical functions, such as claims processing or information systems management, on behalf of your practice. Second, create a practice policy to disclose only the minimum necessary information, and engage the entire team to follow it.

Unfortunately for one practice, policies and oversight weren't in place, and the pursuit of a missed appointment fee resulted in a serious PHI issue and costs in excess of \$2,000.

It began when the practice charged missed appointment fees of \$25 each for two minor patients in the same family. The charges were not paid and were escalated to collections. When the debt collection agency contacted the dental practice, the front office staffer shared more than the financial information needed to collect the debt; she also sent over the minor patients' health questionnaires. This errant

disclosure was revealed in the debt collector's conversation with the patients' mother, who was understandably concerned. The case was settled at a cost to the practice of \$1,000 per patient — not counting time, fees and stress incurred by the practice.

In this case, there were many opportunities to improve processes and patient trust. Sending \$50 in non-procedure charges to collections was likely not prudent. Not having or following solid protocol on sharing information with third parties was even less so. PHI compliance and penalties or settlements aside, any action that compromises patient trust puts the practice's reputation at risk.

How Can Your Practice Mitigate Risk?

Step one: Limit access of patient information to businesses outside of your practice and obtain business associate agreements for third parties, including your claims clearinghouse, practice management software vendor, file-sharing service, management consultant, attorney and/or accountant.

Step two: Establish a written office policy that defines PHI and educate staff on how the information will be collected, shared, stored and securely destroyed in accordance with HIPAA. Train current and new staff members on your office's privacy rules.

Step three: Within the office policy, clearly delineate between "covered entities" such as health care providers or health plans, which may need records containing PHI, and "business associates," which do not.

Step four: Perform periodic review of your policies to ensure staff members are following proper protocols.

Not sure if your practice's protocols are sufficient? The Dentists Insurance Company (TDIC) offers policyholders both a self-serve Risk Management Resource Guide, which covers patient record and documentation issues, and a free, confidential Risk Management Advice Line. After all, sharing information in a nice, true and necessary way is not just HIPAA compliant, it's also simply polite.

TDIC's Risk Management Advice Line can be reached at 800.733.0634.

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