



Social Media and Patient Privacy

## HCCA Chicago Regional Compliance Conference

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1

HCCA CHICAGO REGIONAL COMPLIANCE CONFERENCE

### Your Hosts



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**FORMER CORPORATE PRIVACY OFFICER; HIPAA PRIVACY;  
BREACH NOTIFICATION**

- MJ, Health Law, Loyola University School of Law
- BS, Health Care Services, University of Phoenix
- Certifications: CHC, CHPC
- More than 20 years of experience in healthcare compliance investigations, policy development and review, interim management, and privacy program developments, specializing in areas of HIPAA Privacy, HITECH, Breach Notification regulations, and the Red Flags Rule.
- HCCA faculty member for the Privacy Academies.



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**HEALTHCARE AND REGULATORY COMPLIANCE;  
HIPAA PRIVACY; BREACH NOTIFICATION**

- JD, Loyola University School of Law
- Experience with a variety of healthcare institutions providing privacy breach consultation, audit development, privacy training module creation, and policy review.
- Serves as an adjunct professor at Loyola University Chicago School of Law where he teaches compliance studies.



2

## Who We Are

Ankura Healthcare Compliance team helps design, implement, assess, and staff compliance programs. Ankura team members include health care operations consultants, certified coders, clinical analysts, and financial experts.

## What We Do

- Interim staffing – Compliance, Privacy, Audit, Research
- Program Development
- Risk Assessments and Effectiveness Reviews
- Research Program Reviews
- Coding Audits – Inpatient, Outpatient, Specialty
- Clinical Audits
- Education & Training



SOCIAL MEDIA BENEFITS

SOCIAL MEDIA DANGERS

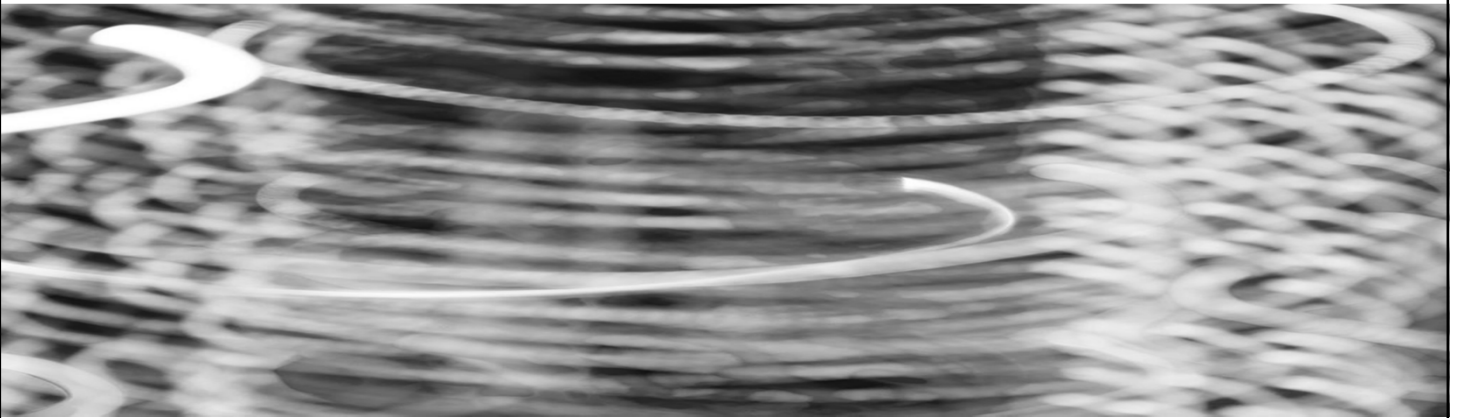
SOCIAL MEDIA AND REGULATORY IMPACT

HOW COMPLIANCE CAN HELP

THE PROPER ROLE OF SOCIAL MEDIA IN HEALTHCARE



## Social Media Defined



Websites and applications that enable users to create and share content or to participate in social networking

## Laws/Regulations Affecting Social Media

- HIPAA Privacy Rule
- HIPAA Security Rule
- HITECH
- State Law

## Social Media Benefits

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### SOCIAL MEDIA BENEFITS

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## Social Media Benefits

### Advertising

- Low cost
- Real time
- Easy process

### Large Audience

- Depends on strength of following
- Use of hashtags to expand beyond followers

### Self-publication

- Freedom to customize message

### Convenience

- Can be conducted from a personal computer, tablet, or cell phone

## Social Media Dangers

## Social Media Dangers

### Double-edged sword

- Social media has many unintended consequences
- Advantages, when mishandled, become liabilities
- Fast...no time to think back on training

### Large audience

- PHI can spread fast
- Loss of control, inability to mitigate or recover
- Screenshot feature

### Self-publication

- Anyone with access to an account can now post inappropriate content to a large audience
- No vetting process
- One employee can single-handedly create a PR nightmare

### Convenience

- The usual suspect when it comes to privacy violations

## Social Media and Regulatory Impact

### SOCIAL MEDIA AND REGULATORY IMPACT

## Social Media and Privacy

### HIPPA (Passed in 1996)

#### Social Media

- First social media site, Six Degrees, was launched in 1997
  - Create profile and connect with others
- Blogging takes off in 1999
  - Craze begin
- Myspace, LinkedIn (Early 2000s)
- YouTube (2005)
- Facebook/Twitter (Popular by 2006)

#### Technology

- Camera Phone (1997)
- iPhone (2007)



## How Compliance can Help



13

### HOW COMPLIANCE CAN HELP

#### Compliance to fill the gap

Compliance programs help bridge the privacy rules with the modern technology

- Training
- Policies and Procedures
  - Both with marketing and the individual employee
- Risk assessment
  - What's your risk appetite?
- Compliance and Marketing
  - Need for collaboration
  - Include Privacy Office/Officer



14

## Posting Do's and Dont's

### Do:

- Begin by asking patient for permission to post their PHI
  - If they agree, no further steps needed
- De-identify each post
  - Check for labels and computer screens in the background
  - Remove all 17 identifiers as required by the Privacy Rule
- Watch out for product logos in a picture



## Posting Do's and Dont's (2)

### Don't:

- Publish posts that contain PHI without prior patient approval
- Don't publish posts that contain any of the 17 identifiers
- Don't post without consulting your organization's social media policy and procedure
- Ignore the feelings of your patients





## The Proper Role of Social Media in Healthcare

### The Proper Role of Social Media in your Organization

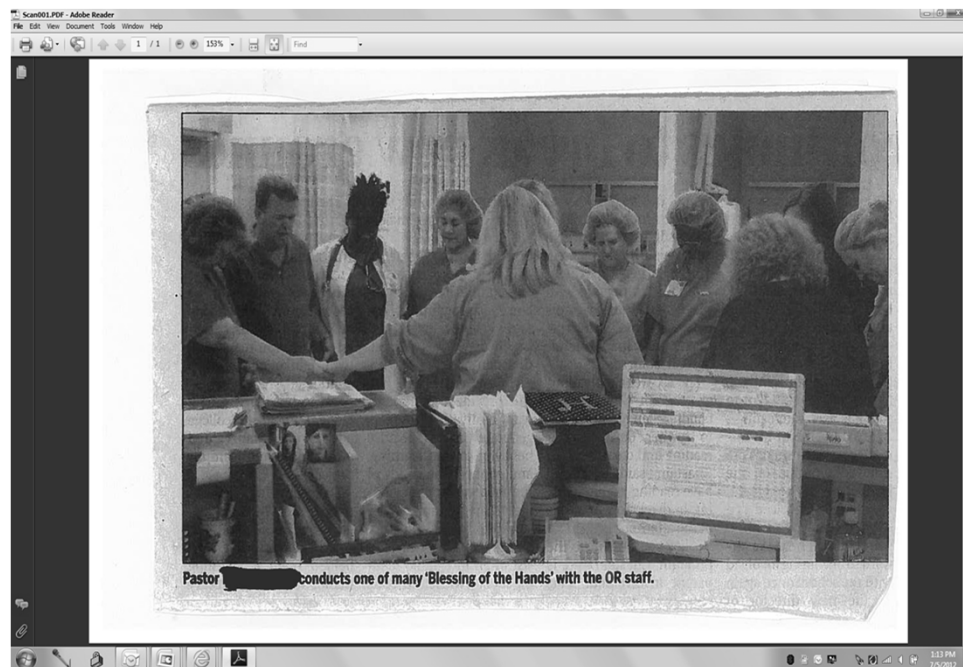
- Marketing tool
- Privacy/Compliance oversight
- Heavily emphasized in annual training
- Permitted by all staff members?
  - A question for your organization
- Feelings of your patients
  - De-identifying a photo only absolves you legally, not morally (think ethics)

## What is considered a HIPAA violation on Social Networks

A breach of protected health information ("PHI") is defined as the acquisition, access, use, or disclosure of unsecured PHI, in a manner not permitted by HIPAA, which poses a significant risk of financial, reputational, or other harm to the affected individual.

### Examples of social media HIPAA violations include:

- Posting verbal "gossip" about a patient to unauthorized individuals, even if the name is not disclosed.
- Sharing of photographs, or any form of PHI without written consent from a patient.
- A mistaken belief that posts are private or have been deleted when they are still visible to the public.
- Sharing of seemingly innocent comments or pictures, such as a workplace lunch which happens to have visible patient files underneath.



## 10 Tips for Social Media Compliance

1. **Don't Mention Patient Names:** Revealing a patient's name in a Facebook post is considered as identifying protected health information.
2. **Be Careful With Your Photos:** Make sure your photos are free of PHI, including patient names or files. If you plan on featuring a patient in a photo you will need written consent from the patient.
3. **Create an Organization-wide Social Media Policy:** Having a written policy that clearly explains the expectations and regulations can help prevent violations.
4. **Select Someone Familiar with HIPAA to Be in Charge:** Select a team member who knows and understands how HIPAA can impact social media. Allow them to review content before posting it.
5. **Monitor Your Channels:** To help monitor social activity, find a program to help monitor the comments and interaction so they can be reviewed before going live. You can also flag certain words to prevent their comments from becoming public to your followers.

## 10 Tips for Social Media Compliance

6. **Develop a Strategy:** Establish a strategy that determines what content will look like for your organization. This can help deter from posting content that may be called into question.
7. **Create Canned Responses to Comments:** Having the approved and expertly crafted responses not only saves you time, but ensures anything you say is compliant.
8. **Apply Policies and HIPAA Regulation to Private Accounts:** Your Social Media Policy should state that HIPAA should extend to personal accounts and PHI should never be disclosed on any profiles.
9. **Never Friend Patients:** Along with not posting about patients on social platforms, it's important to not friend them on Facebook or other platforms.
10. **Take a Look at what Health and Human Services (HHS) Has to Say:** To learn more and gather a better understanding of HIPAA and how it applies to social media, visit the [HHS website](#).

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## Questions?

