Balancing Privacy and Data Access During a Crisis

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DCH OIT – Health Information Technology

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Mission:
The mission of the Department of Community Health is to provide access to affordable, quality health care to Georgians through effective planning, purchasing, and oversight.
Partnering for Success

The Department of Community Health and the Georgia Health Information Network (GaHIN) work closely to ensure that providers and caregivers can access patient health information at the point of care to optimize outcomes and reduce costs.
We have developed training on the simple steps needed to sign up to access GaHIN as well as how to navigate within the electronic record.

- Part 1 – accepting the Terms and Conditions required prior to access
- Part 2 – primary functions and navigation within the GAMMIS Clinical Viewer

https://ibmwh.adobeconnect.com/gammis-training

You must have an active, authorized GAMMIS login and accept the terms and conditions (one time) prior to gaining access to GaHIN data.

Note: Your facility may block streaming content on the internet, including content streaming from the truvenhealth.com domain. In this case, you will need to contact your IT Team for information on how to access streaming content.
GaHIN – Georgia’s Statewide Health Information Exchange
Georgia Health Information Network (GaHIN)

GaHIN is Georgia’s state-designated Health Information Exchange (HIE) Dedicated to creating a healthier Georgia through the use and exchange of electronic health information

• Advance patient-centered healthcare
• Increase efficiency
• Improve the health of the state’s entire population
Creating a Statewide Electronic Network
GaHIN Products and Services

DirectTrust

GEO A D I R E C T
Simple, Secure Patient Information Exchange

GEO CONNECTED C A R E
Connecting Healthcare & Building a Healthy Georgia
Connecting Georgia

Basic Data Exchange
Free email messaging service to securely send patient health information to other authorized healthcare professionals

2019 Totals

- 1,108,303 send & receive transactions
  - 2018 – 747,960 Direct transactions
- 6,445 registered providers
- 356 member organizations
Connecting Georgia

Robust Integrated Patient Search (Query)
Providers can use their EHR to quickly access patient health data from hospitals, physician practices, state health systems and much more

2019 Totals
- ~14,641 connected providers
- 3,885,730 queries
  - 2018 – 2,388,290 queries
  - 36,513,390 MPI records
Connected Organizations

State Agencies
- GA Medicaid/Department of Community Health (DCH)
- GA Department of Public Health (DPH)
- GA Division of Families and Children Services (DFCS)
- GA Department of Juvenile Justice (DJJ)
- GA Department of Behavioral Health and Developmental Disabilities (DBHDD)

Health Systems/Hospitals
- Children’s Healthcare of Atlanta (Epic)
- Emory Healthcare (Cerner)
- Grady Health System (Epic)
- Gwinnett Health System (RelayHealth)
- WellStar Health System (Epic)

Regional HIEs
- GRACHIE/Chatham HealthLink (Cerner)
- HealtheConnection (Cerner)
- HealthIE Georgia (Azalea)
- HI-BRIDGE HIE (formerly Georgia Health Connect)

Care Management Organizations
- Amerigroup (with IHE)
- CareSource
- Peach State
- WellCare

Specialty Connections
- Atlanta Gastroenterology Associates (Greenway)
- Georgia Partnership for Telehealth (Azalea)

National Exchange
- Veterans Health Administration
- Department of Defense
- DaVita Healthcare Partners
- Alabama (AOHR)
- East Tennessee HIE (etHIN)
- South Carolina HIE (SCHIEx)
- North Carolina HIE (NCHIEA)
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Michele Madison, Partner, Morris, Manning & Martin LLP

Michele Person Madison is a Partner in the Healthcare Practice, where she provides general legal advice to health systems in various regulatory and business matters.

Ms. Madison is highly experienced in managing legal issues arising in hospitals, physician offices or integrated health systems including employment, investigations, risk management assessment and corporation management, and she provides legal education for health systems’ medical staff, management team and employees in these areas.

She often facilitates and manages implementation of compliance plans for HIPAA privacy and security regulations, drafts and completes Certificate of Need applications and facilitates regulatory compliance, and provides oversight and guidance regarding medical staff governance and credentialing issues.

She is a member of the firm’s COVID-19 task force.
Balancing Privacy and Data Access During a Crisis

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March 25, 2020
General Rule on Disclosures and Obligations

**Privacy Rule**: Covered Entities must continue to implement reasonable safeguards to protect patient information against intentional or unintentional impermissible uses and disclosures.

**Security Rule**: Covered Entities (and their business associates) must apply the administrative, physical, and technical safeguards of the HIPAA Security Rule to electronic protected health information.
Covered Entities (Healthcare Provider, Clearinghouse and Health Plans) cannot disclose protected health information (other than for TPO) without the patient’s consent or in limited circumstances when there is a crisis.

Risk in a Crisis.....

- Press Releases
- Employee Disclosures in the Public
- Unauthorized access to clinical records by employees
- Press Inquiries
Disclosures to the Media or Others Not Involved in the Care of the Patient/Notification

Unless an exception applies, affirmative reporting to the media or the public at large about an identifiable patient, or the disclosure to the public or media of specific information about treatment of an identifiable patient, such as specific tests, test results or details of a patient’s illness, may not be done without the patient’s written authorization.

No patient objection and you get a request BY NAME, the Covered Entity may release facility directory information and may provide basic information about the patient’s condition in general terms (i.e. stable, critical).
Permitted Uses and Disclosures

Treatment: Healthcare providers may release the information for treatment purposes without an authorization.

Public Health Purposes: Disclosure is permitted for the legitimate need for public health authorities and others responsible for ensuring public health and safety to have access to protected health information that is necessary to carry out their public health mission.
To a Public Health Authority:

A “public health authority” is an agency or authority of the United States government, a State, a territory, a political subdivision of a State or territory, or Indian tribe that is responsible for public health matters as part of its official mandate, as well as a person or entity acting under a grant of authority from, or under a contract with, a public health agency. See 45 CFR §§ 164.501 and 164.512(b)(1)(i).

Mandatory reporting to the CDC and Department of Public Health

OCGA Section 31-12-2(b).

To a foreign government agency at direction of public health authority.
To persons at risk of contracting or spreading a disease or condition if other law, such as state law, authorizes the covered entity to notify such persons as necessary to prevent or control the spread of the disease or otherwise to carry out public health interventions or investigations. See 45 CFR 164.512(b)(1)(iv).

Georgia laws permit DPH to notify a person who may have been exposed to a disease or may be at risk of contracting or spreading a disease or condition.
Disclosures to Family, Friends, and Others Involved in an Individual’s Care and for Notification

Covered Entity may share information with a patient’s family members, relatives, friends, or other persons identified by the patient as involved in the patient’s care.

Covered Entity also may share information about a patient as necessary to identify, locate, and notify family members, guardians, or anyone else responsible for the patient’s care, of the patient’s location, general condition, or death. This may include, where necessary to notify family members and others, the police, the press, or the public at large. See 45 CFR 164.510(b).
Disclosures to Prevent or Lessen a Serious and Imminent Threat

Providers may disclose a patient’s health information to anyone who is in a position to prevent or lessen the serious and imminent threat, including family, friends, caregivers, and law enforcement without a patient’s permission.

This disclosure is expressly subject to the professional judgment of health professionals in making determinations about the nature and severity of the threat to health and safety. See 45 CFR 164.512(j).
ALL disclosures to third parties, including the public health authorities should be the *minimum necessary* information to serve the purpose of the disclosure.
HIPAA Privacy Waiver

For 72 hours after a Hospital implements its Disaster Protocol; there is a Waiver of the following obligations:

• the requirements to obtain a patient's agreement to speak with family members or friends involved in the patient’s care. See 45 CFR 164.510(b).
• the requirement to honor a request to opt out of the facility directory. See 45 CFR 164.510(a).
• the requirement to distribute a notice of privacy practices. See 45 CFR 164.520.
• the patient's right to request privacy restrictions. See 45 CFR 164.522(a).
• the patient's right to request confidential communications. See 45 CFR 164.522(b).
Teleworking—
1. Secure Portal Entry
2. Training
3. No Downloading of information
4. Confidentiality Requirements

Workstation Use (Policy from Physical Safeguards)
- Encrypted Laptops
- Additional Training on HIPAA Privacy and Security Restrictions
## Administrative Safeguards

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<td>Transmission Security</td>
<td>§ 164.312(e)(1)</td>
<td>Security Policy</td>
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Office of Civil Rights ("OCR") will waive penalties for HIPAA violations against healthcare providers who serve patients in good faith through the use of audio or video communication technology during the COVID-19 nationwide public health emergency.

1. **Non-public facing** remote communication product that is available to communicate with patients.
2. It can be used for any reason, not just for the diagnosis and treatment of COVID-19.

Examples of non-public facing technology:
- Apple FaceTime,
- Facebook Messenger
- video chat,
- Google Hangouts video, or
- Skype.
Secure Telemedicine Transmissions

Covered health care providers that seek additional privacy protections for telehealth while using video communication products should provide such services through technology vendors that are HIPAA compliant and will enter into HIPAA business associate agreements (BAAs) in connection with the provision of their video communication products.

OCR is not enforcing the penalties if the healthcare provider does not have a business associate agreement.
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QUESTIONS??
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Thank you!