The Office of the National Coordinator for
Health Information Technology

ONC Update

HIPAA Summit
Washington DC, September 16, 2016

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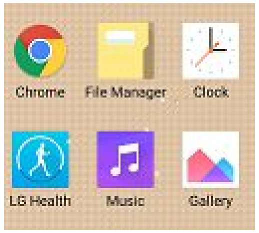
Agenda

1. APIs, Apps, and Access
2. mHealth and Health Social Media
3. HIPAA Basics, Phase II
4. Its Cybersecurity Month
   - Neighborliness in the Cyberhood
   - Other Current Work
5. Advancing computable privacy through
   - Identity Proofing
   - Electronic Consent Management
   - State Privacy Law Discussions

APIS, Apps, and Access

EHR APP



American patients are embracing digital health information

- 80% say it is “very” or “somewhat” important that their doctors use online medical records.
- More than 70% say it is “very” or “somewhat” important that they be able to access their
  - Labs
  - Medication histories
  - General health history
  - Physician’s notes.
- Yet, same polling shows that only 40% said the data they wanted (see above) was available to them.

Source: http://kff.org/health-costs/poll-finding/kaiser-health-tracking-poll-august-2016/

How ONCs 2015 Edition Rule on certified EHR Technology Automates Patient Access and Information Exchange

Under HIPAA

- Advances Congress' requirements in HITECH sec. 13405(e) that Patients **right to send a copy (transmit) elsewhere; see also** 45 CFR 164.524
- have the **right to an electronic copy** of their PHI, if the records are stored electronically, and
- *and* PHI can be **shared for permitted uses (TPO); APIs can facilitate**

MU Stage 3 Requirements

Patient must be given electronic access to portal within 24 hours in order to

- **view online, download and transmit** their health information
- **AND access to an API** that can be used by 3rd party apps

Related CEHRT Requirements

- **API functionality** including
  - lookup and retrieve whole or partial patient record
- **API security** measures
- A **"transmit" option that includes unencrypted email**

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Summary of Key Recommendations from Collaborative Federal Advisory Committee Task Force on Privacy & Security of APIs

- Continue outreach on the fact that HIPAA does not limit what types of apps a patient can use. The only relevant concerns should be:
  - technical compatibility (i.e. app works with the API technical specifications);
  - patient choice.
- Advance the idea of self-registration of apps
  - Registration should not become a barrier to patient choice.
- Encourage a voluntary market in app endorsement.
- Encourage Transparent Disclosure Privacy Practices of apps through Model Privacy Notice and other efforts.
- Work to improve the "privacy literacy" of consumers
- Help providers have confidence that an app is authorized to act on behalf of a particular patient.
- Ensure that providers understand how to protect the security of their systems from malicious technology, and have confidence to discuss security with their patients, without the patient's security choices being a barrier patients choosing apps that work for them.
- Take advantage of an API's ability t provide auditable data on access to create transparent information for consumers.

API, Apps and Access: Educating Stakeholders

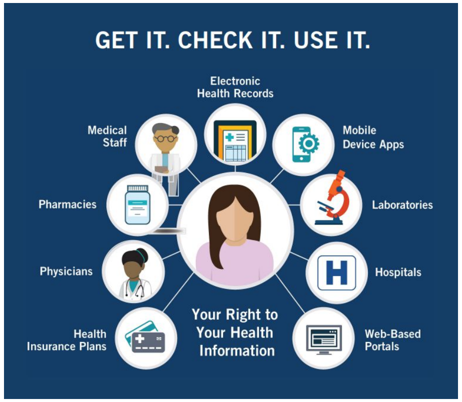
- Implementation Guides available on healthit.gov
  - See section 170(g)(7), (8), and (9) at https://www.healthit.gov/policy-researchers-implementers/2015-edition-test-method
- API Privacy & Security Task Force Recommendations to ONC
- Videos for consumers and providers on individual's right to access their data: https://www.healthit.gov/access

mHealth and Health Social Media

- New ONC Report Exploring Privacy & Security of mobile health technology compared to HIPAA: https://www.healthit.gov/sites/default/files/non-covered_entities_report_june_17_2016.pdf
- Key Findings
  - Differences in individuals' right to access or transmit data collected about them.
  - HIPAA has a security floor; outside of HIPAA, there is no particular security regulation, although security must be fair and not misleading.
  - HIPAA regulates whether data can be sold or used for marketing; outside of HIPAA, this is governed by terms of use, fairness and being not misleading.
  - Consumers are generally familiar with HIPAA, and think it applies where it does not.
  - Developers are confused as well, and confusion may be impeding innovation.
  - New study of which mobile health apps, like fitness trackers, have transparent privacy polices (not evaluating the caliber of the policy itself).

HIPAA Basics, Phase II

- Phase I: HPAA Supports Exchange for
  - Treatment
  - Health Care Operations
  - OCR Guidance on Individuals’ Right to Access their Own PHI
  - ONC/OCR videos and infographic
- Phase II:
  - HIPAA Supports Exchange for Public Health Activities
  - HIPAA Supports Exchange for Health Oversight



October is Cybersecurity Month

- Improving security in the Cyberhood
  - Why:
    - In an ***interoperable, interconnected health system***, an intrusion in one system could allow intrusions in multiple other systems.
  - How: Grants to expand threat sharing
  - Security Risk Assessment Tool update
  - HHS Healthcare Cyber Information Sharing Task Force
    - Blogs available
    - We need your input
  - HHS Health & Public Health Sector Coordinating Council:
    - Contact Steve.curren@hhs.gov
  - DHS guidance on information sharing by private sector:
    - https://www.us-cert.gov/sites/default/files/ais_files/Non-Federal_Entity_Sharing_Guidance_%28Sec%20105%28a%29%29.pdf
    - OCR Guidance on sharing cyber threats

CyberhoodWatch

We immediately report all suspicious activities to our Healthcare Neighbors

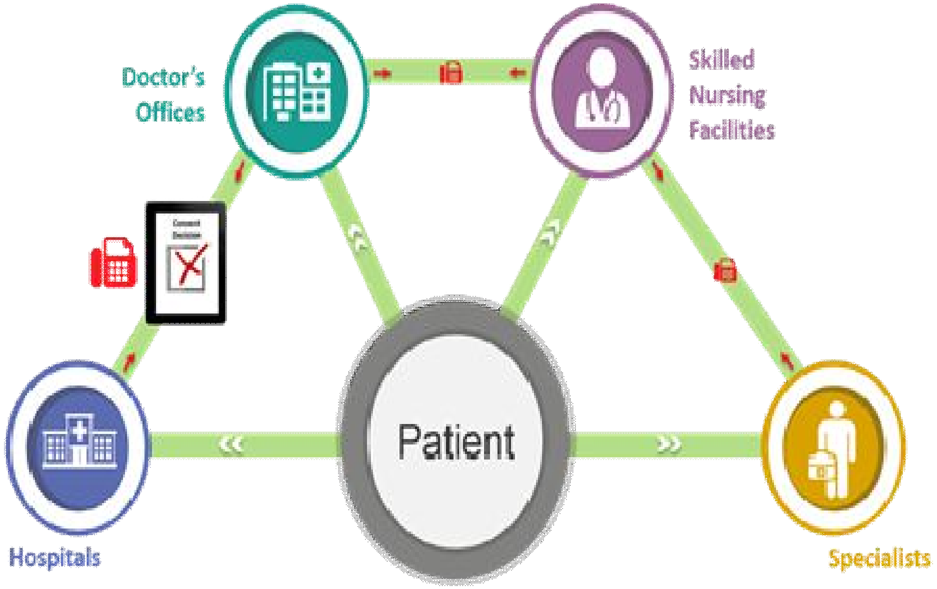
Hot off the presses

Improving Security Hygiene in Healthcare

- Some other stuff we’re working on
  - Updates to our Security Risk Assessment Tool
  - Ethical Hacking
  - Security Engineering and APIs
    - API Task Force concluded that security issues for read-only, open-specification API in healthcare are *the same* as security issues for existing read-only, open-specification APIs, such as made available in other sectors: Internet commerce, banking, energy

Computable Privacy

- What is it: Making Privacy less reliant on paper



- More information at Computable Privacy In Action

Advancing Computable Privacy

- Identity Proofing
  - » Individuals Accessing their own PHI
  - » National Standard for Trusted Identities in Cyberspace, (NSTIC) pilots in healthcare and social services
    - – http://nstic.blogs.govdelivery.com/2016/08/25/citius-altius-fortius-announcing-6-new-pilot-projects-across-10-states-and-d-c/
- Capturing and electronically documenting Individual’s privacy choices
  - » http://confluence.siframework.org/display/PATCH/The+Patient+Choice+Technical+Project+Homepage
- State Privacy Law

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Questions?

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