

Is this a HIPAA Privacy Breach?

Quandary:

Jane Smith, a medical assistant in the Internal Medicine clinic, receives a call from a current patient who claims she received lab results in the mail that are not hers but belong to another patient. She states the lab results are regarding the other patient's "infectious disease". How should Jane handle this call?

Answer:

The HIPAA/HITECH law requires that this kind of a situation be treated as a potential breach of protected health information that must be assessed and acted upon within a specific timeframe. Because of this requirement, Jane must act quickly. It is crucial to obtain as much detail about the potential breach as quickly as possible. The ideal response would look something like this. Jane (or her supervisor) should *immediately*:

- Explain to the patient that UCHC takes patient confidentiality seriously, apologize for this error and note that the situation will be reported to the proper administrative personnel for follow up.
- Obtain from the caller as much detail as possible about the information on the lab results document belonging to the other patient. It is advised that the caller be asked to read information directly from the paper.
- Request that the original document and mailing envelope it came in, be returned to UCHC, either by postal mail or in person. Offer to send a self addressed stamped envelope to assist.
  - If the caller refuses, ask if the document can be faxed directly to UCHC. Once faxed, the caller should be asked to verify that the original has been destroyed.
  - If the caller refuses to cooperate using the above options, Jane should attempt to obtain verbal assurance that the document has been destroyed.
- Report all pertinent information to the HIPAA Privacy Officer once exact information is obtained about the lab results and return and/or destruction of the document is known.

UCHC has an incident breach team that meets routinely or urgently as is needed to address these kinds of incidents. This situation would be considered a high risk breach due to the nature of the breached information as infectious disease lab results. This breach would likely require UCHC to notify the patient by letter that his/her lab results were shared in error with another patient. UCHC would also be required to report this breach to the Office for Civil Rights under the HIPAA/HITECH law. The manager of the department where the breach occurred will be required by the breach team to complete follow up actions designed to ensure such an error would not occur again. This would likely include disciplinary action for the individual responsible for the breach and education to the department on processes to avoid similar breaches.