

Health Information Compliance Alert

Industry News: Can Doctor's Notes Open a Pandora's Box? The Slippery Side of HIPAA

Giving patients free access to medical records is fraught with concerns, say doctors.

Should medical records be shared as interactive documents between patients and physicians? Can transparency work, or will it end up worrying patients, muddling the patient-doctor relationship and adding more work to an already overburdened primary care work force?

In a July 27 New York Times article, Pauline W. Chen tells of her experience with her patient and his wife -- both in their 70s -- who wanted a copy of what she'd written during the visit for their medical files. Dr. Chen said she'd assumed that they wanted the notes for their extensive notes which she'd always seen the two of them carry, she says in the article.

When Chen mentioned her request to the nurse outside the examining room, she was in for a surprise. The nurse's eyes grew wide and she said, "Oh no, you can't do that," she said, shaking her head. "I don't think it's legal."

The other doctors and nurses, attention piqued, moved closer to listen. "Send them to medical records," the nurse urged. "He can sign the release papers there." Maybe your patients are thinking of suing you the gathered crowd warned Chen.

Chen says giving patients access to notes can lead to them misconstruing physician notations. Even routine abbreviations and jargon like "S.O.B." (shortness of breath) and "anorexic" (a general lack of appetite, not the disease anorexia nervosa) could be confusing at best and inadvertently demeaning at worst, she says in the article.

Another factor doctors worry about when it comes to sharing notes is that patients' calls, letters and emails would be a drain on their time, offers **Sandra Yin** on www.fiercepracticemanagement.com. Other doctors said they felt they would have to censor themselves, omitting important diagnostic and therapeutic comments so that speculations about cancer don't trigger panic. Still others worried that their patients would feel scared, mad, depressed, confused or hopeless after reading the notes, Yin says in her article.

As **Dr. Tom Delbanco**, who treats patients at **Beth Israel Deaconess**, says in the www.wsj.com article, "If I'm worrying about cancer, the patient is probably worrying about it more than I am."

And Then Came HIPAA

HIPAA hasn't exactly provided new transparency where access to medical records is concerned.

Few patients have ever laid eyes on their own records. And those who try often come back from their missions with tales of bureaucratic obstacles, ranging from exorbitant copying costs to diffident administrators.

The Open Notes Study

It says in Dr. Chen's article that according to the latest issue of the **Annals of Internal Medicine**, answers to the issues raised here may finally be answered.

Chen points readers to a study that appears in **Annals of Internal Medicine**, **v153n2**. The study, named Open Notes, was launched this summer and is the largest study to date of open access. This study involves over 100 primary care physicians and approximately 25,000 patients from three health care centers -- the **Beth Israel Deaconess Medical Center** in Boston, the **Geisinger Health System** in Danville, Pa., and the **Harborview Medical Center** in Seattle. In the study, patients who have just seen their doctors will receive an e-mail message directing them to a secure Web site

where they can view the signed physician notes. Patients will receive a second e-mail message two weeks prior to any return visit, reminding them that the notes from their previous visit are available for review.

Open Notes investigators hope to analyze the expectations and experiences of patients and physicians, as well as examine the number of additional phone calls, e-mail messages and visits that may arise as a result of more patients viewing their doctors' notes. In addition, a public survey on the journal's Web site will assess the opinions of any patient or doctor not enrolled in the study.

"We have one simple research question," said Delbanco. "After a year, will the patients and doctors still want to continue sharing notes?"

The researchers are hopeful that their study will help to settle many of the longstanding issues regarding open access, but one thing has already become apparent. For at least a few of those involved, the once sharply demarcated lines of the decades old tension have begun to fade. It is no longer so clear who exactly stands on what side of the medical records wall.

(Editor's note: Chen's article can be read at: http://www.nytimes.com/2010/07/27/health/27chen.html?_r=2&hpw; And Yin's article can be read at: <http://www.fiercepracticemanagement.com/story/pros-and-cons-sharing-doctors-notes-patients/2010-07-20>.)