

## REGULATORY MANDATES SMALL GROUP CASE ANSWERS

### **Case #1:**

You are evaluating a patient for a STEMI. The cardiologist is off-site and requests a picture of the EKG be sent to him via text message.

*What do you do?*

*Does this violate any regulatory mandates?*

Potential Answers:

- Text messages are not HIPAA compliant from the standpoint of the “security” part of the law.
- Taking the patient’s name/MRN and other identifying information out of the picture may make this more HIPAA compliant, however, this is a grey area.
- If your hospital has secure text messaging services, such as CoreText, sending it via this software is legal.
- EMRs have become more advanced, request that the cardiologist access the EHR remotely to view an uploaded (scanned, transfers, or added as media) EKG, if possible.

### **Case #2:**

Your medical student goes to see patient and inquires about her current HIV status in front of her daughter. The daughter wasn’t aware of the patient’s HIV positive status.

*What do you do?*

*What are you required to do?*

Potential Answers:

- HIPAA Violation – the daughter should not have been included in this sensitive conversation unless expressly allowed by the patient.
- Ask the daughter to leave the room and discuss the situation with the patient. Consider apologizing.
- Attending physician must be made aware of this breach as soon as possible. Risk Management should be called to discuss next steps.
- Know that anyone can report a HIPAA Violation or complaint through an anonymous online portal or written form.

### **Case #3:**

You have a patient with an open tib/fib fracture from an MVC. Your local orthopedic surgeon refuses to come in and see the patient despite your pleas.

*Is this legal?*

*What do you do?*

Potential Answers:

- An open fracture should be considered an emergency medical condition, therefore, the condition must be stabilized prior to transfer to any other hospital.
- As an on-call physician, the orthopedic surgeon should be required to report for any consultation from the emergency department if requested. To not report, not only violates EMTALA, but also likely violates hospital bylaws.
- If the orthopedic surgeon will still not come in despite a discussion of EMTALA, consider transfer to another hospital after providing as much stabilizing care as you can manage (ex. Antibiotics, reduction of fracture, dressing wound, splinting).
  - o The name of the orthopedic surgeon that refused to come in would need to be documented on the transfer paperwork and his or her refusal to report for a consult, as part of the reason for transfer.

**Case #4:**

You are scrolling on your Facebook timeline and you see a post from a colleague about a patient they had seen that evening in the ED. It specifically discusses the patient's chief complaint of rectal foreign body and what was done for the complaint. It does not mention the patient's name, age, or other identifying information.

*Is this legal?*

*Should it be reported?*

*What would you do?*

Potential Answers:

- This is a grey area – the patient's name and image are not mentioned in the post. However, it is likely that the poster's friends, family, and many others know where he or she works. It could be easily deduced what department, what date, and the time of day that the patient presented. Others working in the facility, who have nothing to do with the patient's care may be able to figure out which patient this was due to the uncommon presentation.
- Questions to think about:
  - o What would risk management think if they saw the post?
  - o What would the patient think if they were aware of it?
  - o Do you ask the colleague to take down the post?
  - o Do you report it to their supervisor? Risk management?

**Case #5:**

You are called for a transfer of a medically stable patient from an outside hospital that requires repair of a multi-layered complex facial laceration. Plastic surgery is not available at their current hospital. Your hospital does have this subspecialty service available on call, however your hospital is currently on diversion due to capacity issues.

*Do you accept the transfer?*

*What do you say?*

Potential answers:

- The patient is currently medically stable, so EMTALA may not apply. However, they arguably have an Emergency Medical Condition, which would need to be handled.
- EMTALA allows for accepting hospitals to decline transfers if there is an issue with capacity. The ED itself would need to be on diversion in order to decline transfer.
  - o Ask if the ED is on diversion officially, if not, perhaps the patient could come ED to ED and plastic surgery could see them there.
  - o Involve the plastic surgeon in the transfer discussion to see if they can potentially repair it at bedside in the ED, as opposed to in the OR.
- If hospital is fully at capacity and is on diversion, consider requesting that the patient be sent to another facility.

**Case #6:**

A homicidal patient presents to your ED endorsing to you that he wants to kill his brother.

*Are you obligated to tell the brother? The police?*

*Is this legal?*

*What do you do?*

Potential Answers:

- Physicians do have a duty to warn other individuals not under their care of a risk of danger posed by the patient
  - o *Tarasoff v. the Regents of the University of California*
- A step further – what do you say to the brother during the notification? Do you involve psychiatry prior to notification?