Skype Discussion

Opinion from HIPAA consultant for CIBHS:

I can offer an opinion on the HIPAA compliance of using a service such as Skype and as such would characterize the following information as regulatory in nature, and not legal.

The simple answer is, that as long as no medical / protected health information (PHI) is shared and there are no clients present, the mechanism used to communicate the information does not have to encrypted in either transit or at rest because the information is not regulated under HIPAA - although there maybe other business considerations which would compel an organization to use secure communications. Our opinion is that Skype is not suitable for use under HIPAA because there are not sufficient supporting controls in the application, and Microsoft does not offer a BAA as a part of the Skype licensing agreement which means they share no responsibility with your organization in managing the security of the information transmitted.

What is worth mentioning is that PHI consists of 18 different markers and if those pieces of information are used in conjunction with a client’s health information, you would then need to ensure that the communications are secure. If those services are being billed, it may also be worth additional discussions with DHCS or the payor because there could be additional contractual requirements that were not disclosed that require / expect security measures.

So, If there is PHI shared, then the information does need to be encrypted i.e. secure in both transit and at rest and there are additional access control measures that are required which essentially mean mechanisms to authenticate and audit access to the system. And because video communications are transmissions, you would want to use a secure transmission mechanism and abide by additional PHI protection measures that Covered Entities and Business Associates are required to follow such as current Gap Analysis, encryption, secure transmission and storage, etc.

For the above reasons, we prefer using communication systems that are secure and encrypted and contain a BAA as a part of the agreement from the vendor regardless of what type of information is being shared (if its use is in a healthcare setting). Gotomeeting HD business class offers solutions that can be used in a HIPAA regulated setting with supportive / additional HIPAA measures and then the California Telehealth Network also has a video service that is secure and used for telehealth and which may be suitable for consults.

Presently we are working on a small county pilot to evaluate the use of lower cost / lower bandwidth HIPAA compliant video solutions to provide direct in home communications between clinics and clients and are evaluating several different video delivery mechanisms as well as the HIPAA compliance requirements that go along with that which will more thoroughly evaluate the costs and options associated to the question above.

Let me know if you have follow up questions related to the above.

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