

ILLINOIS STATE MEDICAL SOCIETY

**Resolution 03.2022-01
(A-23)**

Introduced by: Howard Axe, MD, ISMS Member

Subject: Cybersecurity as a Patient Safety Issue

Referred to: Council on Communications and Membership Advocacy

1 Whereas, cybersecurity is a patient safety issue, since any efforts to interfere or
2 alter physicians’ access to vital medical records can have a serious and even fatal effect
3 on the care provided to patients; and
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5 Whereas, there is already a national Patient Safety Awareness Week; and
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7 Whereas, the American Medical Association and the Department of Health and
8 Homeland Security (HHS) have curated resources and have tips for physicians and
9 health care staff available to help protect patient health records and other data from
10 cyberattacks; therefore, be it
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12 RESOLVED, that the Illinois State Medical Society support and promote the
13 national Patient Safety Awareness Week to its physician members and the public, to
14 help foster greater awareness of the potential health risk and the scope of this problem;
15 and be it further
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17 RESOLVED, that the ISMS help promote the resources of the American Medical
18 Association and HHS to physician members, including technology considerations, how
19 to improve cybersecurity practices, a cybersecurity checklist for office computers,
20 working from home considerations, and more.

Fiscal Note:

None

Existing ISMS policy related to this issue:

Board of Trustees approved ISMS continuing to work with the Illinois Health Information Security and Privacy Collaboration (HISPC) project, to promote the health information security and privacy toolkit to ISMS members. (BOT 2009-JUN)

House of Delegates adopted Resolution 46 (A-04), as amended, which directed that the ISMS investigate the availability of systems of electronic medical record (EMR) keeping or data storage that could provide access to medical information via encrypted secure internet connections; that ISMS work with a qualified vendor to refine such a system for use by ISMS members at a reduced cost as a member benefit to their practice; that ISMS promote such an EMR, if it exists, to its members at a reduced cost and to non-members at market price so that members and non-members alike participate in the financial support of the ISMS activities that are a benefit to members and non-members alike; and that the ISMS study focus on determining the efficacy, security, cost-effectiveness, and privacy of electronic medical records. (HOD 2004)

Board of Trustees adopted a formal identity theft prevention policy; authorized implementation of programs and procedures to protect identifying data and information of members and others with whom we do business; and designated operational responsibility for identity theft prevention within ISMS to the office of vice president and general counsel. (BOT 2009-APR)

Board of Trustees approved continuing involvement of ISMS in the Illinois Patient Safety Organization, and that the Board of Trustees explore strategies to secure necessary funding to help support the Illinois Patient Safety Organization. (BOT 2006-OCT)

House of Delegates adopted Substitute Resolution C306 (A-16) which calls for ISMS to: Support or cause to be introduced legislation to require that electronic health records include a mechanism to forward prescription discontinuation orders to the pharmacy, require patient verification features for pharmacy automated prescription refills, and require that automated prescription refill notices clearly communicate to patients the medication name, dosage strength, and other information; Request the Illinois Department of Financial and Professional Regulation (IDFPR) to investigate those autofill refill programs encouraged by large pharmacy chains in order to identify the incidence of distribution to patients of prescriptions that have been previously discontinued; Urge IDFPR to investigate those pharmacies faxing 90-day medication requests to physicians and other prescribers who state that patients requested the 90-day supply when patients have not made such requests; and Urge the IDFPR to take corrective action on the autofill programs in order to protect patients from taking incorrect doses. (HOD 2016)

ISMS supports the following Telemedicine Principles: 1. Telemedicine is considered the medical evaluation, diagnosis or interpretation of electronically transmitted patient-specific data between a remote location and a physician licensed to practice medicine in all its branches, that generates interaction and/or treatment recommendations; and as part of any telemedicine network, the transmission of electronic patient-specific data must be of sufficient quality to allow the receiving physician to render a valid and appropriate medical opinion. This definition applies to existing and emerging telemedicine arrangements, including: • Physician-to-physician communication for consultative purposes; • Direct communication between a physician and a patient, with the patient located at a clinical site; • Direct communication between a physician and a patient, with the patient located at other than a clinical site (e.g., home via the internet, kiosk or similar portal located in a retail store); and • Interactions using either real-time or “store-and-forward” communication, where information is transmitted to be reviewed and responded to at a later time. 2. The appropriate use of telemedicine has the potential to serve as an important alternative to in-person care, particularly in cases where access to care is limited. Telemedicine in general may also generate cost savings in certain situations, particularly in instances where a patient requires long-term monitoring for a chronic condition that is being managed by a regular, treating physician. To the extent possible, patients receiving care via telemedicine, including initial visits, follow-up care, and ongoing remote monitoring, should have in-person access to clinical or care management personnel who work directly in a team-based approach with the physician engaged in the telemedicine practice. 3. ISMS supports mandating physician remuneration for telemedicine services. In general, ISMS endorses the concept of telemedicine and seeks to assure that physicians may bill and be reimbursed for telemedicine services. As long as service provided by telemedicine meets the criteria of safe and effective treatment consistent with practice guidelines, physicians should be reimbursed for such services. 4. Physicians are encouraged to use their best clinical judgment when treating patients via telemedicine, either as part of stand-alone telemedicine services or as part of an ongoing course of care. Physicians should be free to choose whether they want to treat patients via telemedicine. It is important to keep in mind that telemedicine may not be an appropriate substitute for in-person care in all cases, and individual physicians are in the best position to judge when telemedicine is an effective and appropriate tool for treating a patient. 5. If a physician/patient relationship based on an in-person, face-to-face exam has not been established prior to a telemedicine encounter, the physician or other practitioner providing care shall take appropriate steps to establish a physician-patient relationship by use of two-way audio-visual interaction or store-and-forward technology, provided that the applicable community standard of care and state medical practice laws are satisfied. 6. State licensure standards must be maintained in any telemedicine practice and, be consistent with in-person care, allowing a physician to provide care to existing patients while the physician or patient is traveling out of state. 7. Professional standards guiding the practice of telemedicine should be the same as for in-person care delivery, with specific

professional standards developed to accommodate circumstances unique to the use of telemedicine. Standards related to charting, documentation of verifiable physical findings and vital signs, and patient follow-up instructions should be generally consistent with in-person care delivery standards. Special consideration should also be given to standards regarding transparency of care provided via a telemedicine service and to safeguards regarding privacy. Providers delivering care via telemedicine must comply with laws and regulations related to patient privacy and access to medical records. Patients should be advised of the importance of using secure communication methods to initiate or participate in a telemedicine visit.

8. Scope of practice laws and regulations with respect to requiring non-physicians to have a written collaborative or supervisory agreement with a physician in order to diagnose and treat patients and prescribe medications in Illinois should be maintained in a telemedicine arrangement. The unique circumstances of a telemedicine visit (e.g., the inability of a physician or other health care provider to assess the patient in person with physical interaction as necessary, possible absence of past medical records) indicate that there are situations in which, ideally, initial telemedicine visits should be with a physician. Thereafter, depending on the patient's condition, telemedicine visits conducted by a mid-level practitioner may be appropriate. In particular, patients seeking initial care for an acute condition should be able to access a physician via the telemedicine service. Ongoing treatment of chronic conditions could be appropriately managed by a non-physician practitioner.

9. Telemedicine encounters should ensure transparency with respect to the specific training, credentials and licensure of the individual providing care via telemedicine. Telemedicine services should provide sufficient access to physicians and practitioners trained in a range of specialties, so that patients can be routed to the most appropriate physician to address their specific concerns or manage their specific conditions.

10. Third-party entities providing telemedicine services should be required to:

- Ask the patient to identify his/her existing medical home and/or treating physician, and seek consent from the patient to provide the physician with a record of the patient encounter.
- Within 24 hours of an encounter, make available to the patient and to his/her designated physician, if applicable, a complete copy of the medical record associated with the encounter.
- At the end of the encounter, provide the patient with a summary of the telemedicine encounter, including instructions for any follow-up care the patient should seek from his/her primary physician. In the absence of an ongoing patient-physician relationship, such as when a patient seeks acute care directly from a commercial or other third-party entity that provides telemedicine services (e.g., through a telemedicine "kiosk" or an online, on-demand service where patient-physician relationships are established outside the patient's regular source of care), safeguards must be in place to ensure continuity of care is preserved for the patient. (HOD 2017)

ISMS encourages physicians to be careful that business associate agreements with foreign business associates adequately safeguard the privacy and security protections for patients set forth in the Health Insurance Portability and Accountability Act and rules, and encourages physicians to perform adequate and appropriate due diligence prior to entering into relationships with overseas business associates. (HOD 2005; Revised 2006; Last BOT Review 2011)