Release of Information: the good, the bad, the ugly

Karen Reynolds, RHIA – HIM Clinical Informatics Manager

Our Vision “Leading the way to a healthy community”

TMC Hospital Hill
- 2 hospitals / 600 Beds (acute, LTC, psych)
- 51 clinics (primary care and specialty)
- Academic medical center supporting UMKC School of Nursing, Medicine, Dentistry and Pharmacy
- Level one trauma center
- 577 medical staff / 235 residents
- 4,000 employees

TMC Lakewood
- 19,908 acute care admissions
- 2,722 behavioral health admissions
- 3,708 births
- 338,190 outpatient visits
- 278,913 behavioral health outpatient visits
- 97,729 ED visits

$120,000,000
uncompensated care

Fiscal Year June 2015
Mission
TMC is an academic health center providing accessible, state-of-the-art quality health care to our community regardless of the ability to pay.

Recognition

- Dual HIMSS Stage 7 accreditation for both inpatient and outpatient settings across both TMC facilities
- AHIMA 2013 Grace Award
- CHIME-AHA Transformational Leadership Award
- 2014 HIMSS Enterprise Davies Award Recipient
- Level III Patient-Centered Medical Home
- National Committee for Quality Assurance (NCQA)

TMC – Release of Information

- 6 FTEs
  - 5 ROI Specialists
  - 1 Team Lead

- Operation Hours
  - Monday – Friday 8:00 – 4:30

- After Hours
  - Second shift CPDI staff handles STAT faxes

- Corporate Department
  - Hospital Hill (centralized ROI)
  - Lakewood
TMC – Release of Information

Specified requests & radiology

Behavioral Health requests

Mail entry & radiology requests

Abstract Requests

ROI workflow; each FTE performs 1 function

Subpoenas, RAC requests, quality audits

Walk in requests, phone calls & STAT faxes

ROI HIPAA Requirements

A meaningful description of the information to be used or disclosed

Name of the person authorized to use or disclose information

Identify whom the information may be disclosed to

An expiration date

Purpose of disclosure (personal, continuation of care, legal, insurance, etc.)

Signature of individual and date

Statement regarding the right to revoke authorization
What Would You Do?

• A patient signs an authorization for a law firm on July 23rd. He’s involved in a car accident and the law firm is helping him receive justice. The law firms sends us the authorization and asks for records for the period of June through August.

• What records do you send?

HIPAA Compliance Requests

• Send records up to the date of service requested

• June 1 – August 31

• Impacts patient care to delay sending records past the signed date on the authorization
What Would You Do?

• A woman and her son come in and request a copy of her husbands records. They state that he is sick and in a hospital in Mexico and they are going to visit him but need to bring his medical records to further aide in his care. When we check his record, we see that he has no DPoA and is competent to make his decisions. We ask that the hospital he is at, faxes us something asking for his records for continued care, however, the woman claims the hospital has no fax line as it is in a rural location.

• Would you give the wife the records?

Continued Care and eFaxing

• Yes, request is for continuation of care

• Faxing records is acceptable for continuation of care

• We require a fax cover sheet identifying the patient and what record types are needed

• ROI utilizes a combination of both hand-faxing and eFaxing through Cerner
eFaxing; Utilizing Technology to Reduce Error Rate

- Programmed Numbers
- No copy machine
- No paper
- Custom built templates: Abstract & Master chart
- Ability to track fax history electronically
Do you Charge Patients for Records?

- It is legal to charge patients for records but is it right?
- Inability to pay
- Continuation of Care issues

$ Charging for Records $

<table>
<thead>
<tr>
<th>ROI Request Charges</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuation of Care</td>
<td>Complimentary</td>
</tr>
<tr>
<td></td>
<td>(must supply Dr’s address)</td>
</tr>
<tr>
<td>Employee Request</td>
<td>Complimentary</td>
</tr>
<tr>
<td>Patient Request</td>
<td>Complimentary first 10 pages</td>
</tr>
<tr>
<td>Processing Fee</td>
<td>$23.94 plus $0.55 per page</td>
</tr>
<tr>
<td>Offsite Retrieval Fee</td>
<td>$22.41</td>
</tr>
<tr>
<td>Postage</td>
<td>At cost</td>
</tr>
<tr>
<td>Viewing (patient, DPoA or guardian)</td>
<td>$25 per half hour</td>
</tr>
<tr>
<td></td>
<td>(only available to patients)</td>
</tr>
<tr>
<td>Radiology CD</td>
<td>$30</td>
</tr>
</tbody>
</table>

**Staff who currently have EMR access are allowed to look at their own record, but not make any changes or edits, print it, or look at their dependents**
Radiology Requests

**Release of Information:**

- Produce continuation of care CDs
- Uploading and downloading images into PACS
- CDs for third party requesters; lawyers, insurance, disability, etc.

**Radiology**

- Transmit and request images through *SeeMyRadiology*
- Request & receive radiology films

Patient Portal Benefits

- myTruHealth
- No charges to patient with 24/7/365 access to records
- Mobile viewing
- Reduces ROI workflow
- Lessens patient burden to arrive in ROI during normal business hours, M-F 8:00 – 4:30
ROI Issues

Electronic signatures
Psychotherapy Notes
Phone call volumes
Requests processed per facility
Continuation of care processing

What Would You Do?

• An agent for the secret service shows up and requests that we give him the record on a patient that he claims has been making threats against the president. The agent doesn’t want a copy of the record, he wants the original. He has no subpoena, no court order.

• Do you give him the actual record?
HIPAA Exceptions

- The following do not require authorizations for the request to be granted

<table>
<thead>
<tr>
<th>Exception</th>
<th>Request Made By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Abuse or Neglect</td>
<td>Dept. of Social Services. Only allows access to the child’s records.</td>
</tr>
<tr>
<td>Elder Abuse</td>
<td>Health and Senior Services.</td>
</tr>
<tr>
<td>Health Care License Investigations</td>
<td>Board of Healing Arts or any other entity that licenses health care facilities.</td>
</tr>
<tr>
<td>Immigration and Nationality</td>
<td>Any officer of the U.S. Immigration and Customs Enforcement or Homeland Security.</td>
</tr>
<tr>
<td>Secret Service</td>
<td>Secret Service Office or Agent.</td>
</tr>
<tr>
<td>Sexually Violent Predators</td>
<td>Attorney General, Department of Corrections or Department of Mental Health.</td>
</tr>
<tr>
<td>Welfare Fraud</td>
<td>Department of Social Services or Attorney General.</td>
</tr>
<tr>
<td>Worker’s Compensation</td>
<td>Administrative law judge for the Division of Labor and Industrial Relations.</td>
</tr>
</tbody>
</table>

- Yes, give the original record
- Make a copy for TMC

What Would You Do?

- We receive a subpoena from a court in Topeka, KS asking for records and for us to show up at court to give a deposition. There is no patient authorization and no court order. Court is also the next morning and the patient has visits going back to the 90’s offsite.

- Do we process the request?
- Do we show up to court?
Subpoena Flowchart

- Does not include a patient authorization or a court order for the release of records:
  - Does an exception apply? (Most common exceptions are below.)
    - Yes: Comply with subpoena, but only to the extent of the information covered by the exception.
    - No: Is the subpoena for a court appearance?
      - Yes: Must appear in court with records. Assert the patient/physician privilege in court. Do not release records until ordered by court.
      - No: Send letter stating that an authorization or court order is needed in order to release the records or appear at a deposition with the records. See attached letter.

- Includes a patient authorization or a court order signed by a judge:
  - Comply with subpoena.

Subpoena Requirements

- No, do not comply with Topeka subpoena
- Requirements for Compliance:
  - 10 days notice
  - In-state
  - Contains a patient authorization or court order signed by a judge
    - Do not accept court orders signed by a clerk
  - Do not comply with out of state subpoenas
  - Do not bring records to in-state subpoenas unless patient authorization or court order produced
Certification Requirements

- All releases are reviewed for quality purposes prior to providing affidavit
- Do not re-certify affidavit after leaving facility
- Does not say full & complete record
- Certify ___ pages of ____ pages are kept in regular course of business

EMR Release Challenges

- EMR is not designed for printing
- Multiple systems in use
- Legal Record
- Designated Record Set
What Would You Do?

• A patient comes in upset that their provider isn’t listening to them and is writing “nonsense” about the patient in their record. They want their record amended to reflect what they want it to say. We process it and ask the clinicians to review the patient’s comments. They deny his suggestions. The patient then wants to have something put in their record that states their concerns and how wrong all of the medical staff is.

• Does it go into the EMR?

Amendment Requests

• Yes, place request in Medical Record

• Amendments
  – Date of Service
  – Location of Service
  – Specific Amendment Request
  – 60 days to review
  – May contact OIG
  – “Written disagreement” placed under ‘Legal’
Amendment Requests

- Completely up to the provider who performed the note to grant or deny the request
- Record states white male when patient is actually Hispanic female
- Tylenol vs. acetaminophen
- Trauma resuscitation patients = Male DOB 01/01/1900
Restriction Requests

- Prohibit release to non-HIPAA exempt entities
- Up to the provider to grant/deny
- TMC typically partially grants these to the best of our abilities
- Restrictions are denied for requests for continued treatment, payment and operations
Release of Information Partner

- Selecting the right vendor for your facility makes all the difference. Always consider the following:
  - Collection Times
  - Quality Audit/Review
  - Breech Protection
  - Customer Service
  - Data Integrity
What Do You Think?