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My Space vs. The Office Space

Let's share private health information with 3.5 million of our closest friends"

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!!!WARNING!!!

- The views expressed in this presentation are mine and mine alone. They do not necessarily represent the views or opinions of Empire Health Services or its subsidiaries…so there!

The Constitution of the United States of America

- *"The people made the Constitution and the people can unmake it. It is the creation of their own will and lives only by their will"*

  » -John Marshall-

An idea where we were when the bill of rights were ratified

- Revolution 1776 - 1783
- Constitution Ratified Sept 17, 1787
- LE – M. 35.5
- LE – W 38.5
- Vermont 14th State
- Mozart dies
- Robert Gray discovers the Columbia River
- Slaves owned, while William Wilberforce puts forth his first bill against slavery in England
- Just out of the Witch Trials

What the heck is MySpace??

- **MySpace** is a popular social networking website offering an interactive, user-submitted network of friends, personal profiles, **blogs**, groups, photos, music and videos internationally.

- MySpace is currently the world's sixth most popular English-language website and the sixth most popular website in any language, and the third most popular website in the U.S.

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Example One

- Guess the job
- Name of Hospital Listed
- Picture of the Person
- Open to reply to blog
- 9 people from the United States replied
- Out of the 9 – 4 gave examples of PHI/IIHI

Example one – Cont

- "In the first ten minutes of getting here I ram a patient into the wall. When I say ram, I mean full throuttle push."
- "Poor girl, she was in for a foot injury and guess what part cushioned the wall so there wouldn't be a hole….you guess it…her foot."
- "It gets better…as I was apologizing to her, I slam her stretcher into the doorway and leave a nice BIG dent. ****, this girl thought I was drunk – LOL".

Example one – cont

- Lets discuss…is this a HIPAA Violation?

Example Two

- Guess the job
- Name of Hospital and department named
- Picture of person
- Open reply to blog
- 11 people U.S. – 8 replied – 6 with PHI/IIHI

Example two – Cont

- "Humm…Don't you have a couple inches too much for a female."
- "I always seem to get the grumpy old woman, or the horny old man...oh happy days here at ***"
- "I walked into the room with a this character."
- "Yep a guy, and his real name is ********
- "Not going to say the name again due Hippa (sic) and hell if they read this, they know where I work!!!

Example two – cont

- Lets discuss…is this a HIPAA Violation?

Example Three

- Guess the job
- Name of Hospital and department named
- Picture of person
- Open reply to blog
- 44 people U.S. – 8 in the WORLD – 14 with PHI/IIHI

Example Three – Cont

- "…I could not believe what this 43 year old male came in for…."
- "……which is revascularization of the *****."
- "What do you expect from a guy living in ******."
- "I hope his wife……Mabel is happy.!"

Yep, you guessed it

- The job of the last person was a Senior Coder in a hospital system.
- More than 20 years experience.
- The vast majority of people who responded were also coders.

Example Three – cont

- Lets discuss…is this a HIPAA Violation?

What the 1st Amendment says

- Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Court Cases

- Patterson v. Colorado, 205 U.S. 454, 462 (1907) (emphasis original). Justice Frankfurter had similar views in 1951: "The historic antecedents of the First Amendment preclude the notion that its purpose was to give unqualified immunity to every expression that touched on matters within the range of interest

Court Cases

- *FEC v. Wisconsin Right to Life.*
- "Where the First Amendment is implicated, the tie goes to the speaker, not the censor."

  Chief Justice John Roberts
- The ruling vindicated the Wisconsin group's right to run issue advertising in advance of the 2006 elections, contrary to the ban on such ads contained in the McCain-Feingold campaign-finance law.
- However, only case in the term where the clear winner was over a government adversary.

Court Cases

- Morse v. Fredrick
- The Court said that an Alaska high school principal did not violate the First Amendment when she confiscated a student's "Bong Hits 4 Jesus" banner.
- Roberts said "…allowing such official action to restrict possible student advocacy of illegal drugs, hardly justifies sounding the First Amendment bugle."

Let us sum up

- Most First Amendment claimants lose
- Technology is moving faster than we can keep up with it. It was not that way even 20 years ago. The far reaching capabilities of technology have made HIPAA and our own lives more accessible and intrusive.
- Can't walk into a theatre and yell "fire".

Still Summing up

- You must be aware and help stop it.
- Employees feel the cloak of the internet anonymity protects them and release of information is not a "big deal".
- They believe the constitutional right of the first amendment trumps what the policies, procedures or restriction at work might be.
- Ensure patient privacy in a "bloger-sharing" world..protection of you and your hospital.
- Instant communications posing a threat to patient privacy – i.e., text and pic phones.
- Balance employees 1st amendment rights.

My point of Contact Information

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