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Third-Party Web Analytic Tools Installed on Provider Websites May Expose Patient Data [ECRI Exclusive User Experience Network]

Problem

1. Third-party web analytic tools software installed on provider websites, including patient portals, may expose patient data.
2. Exposed patient information may be inappropriately used to target consumers with advertisements related to exposed medical conditions. Such advertisements could promote unproven alternative remedies, redirecting patients from appropriate care.
3. Protected health information (PHI) exposed without business associate agreements (BAAs) in place could result in fines or legal actions.
4. Disclosure of sensitive data may lead to patient (consumer) distrust of providers.

ECRI Recommendations

Note: ECRI's recommendations are based upon ECRI's experience and our scientific team's opinions specific to this Alert, at the time that the recommendations are issued. These recommendations may differ from the manufacturer's recommendations, and your organization should consult with internal experts before implementing ECRI's recommendations.
Information Technology, Legal, and Marketing Departments:

1. Develop policies governing the use of third-party web analytic tools.
    1. Review usage agreements of any web analytic tools to determine how any collected data may be used.
    2. Do not install third-party web analytic tools on websites containing patient information, such as patient portals, without a BAA in place.
    3. Consider indirect indications of a medical treatment or conditions that may be inferred from browsing websites, such as searching for a doctor or viewing an online medical library.
4. Audit customer-facing web applications for third-party web analytic tools. Consider disabling any that may expose patient data. Online tools are available to identify third party web analytic tools, such as one available here: https://themarkup.org/blacklight.
5. If prior data has been shared, notify your legal team to comply with breach notification requirements (click here for more information).

Background:

- Third-party web analytics tools may provide valuable statistics and insights on customer use of a healthcare provider's websites at little to no cost; however, the companies providing the software may also use the data to track and profile individuals as they browse the Internet. In many cases, the purpose is to tailor advertisements to the individual. Examples of these tools include Adobe Analytics, Google Analytics, and Meta Pixel.
- In June 2022, a report disclosed that patient portals were exposing patient data to Meta (Facebook) tracking.
    - Specifically, appointment scheduling information was exposed to Meta when some healthcare organizations installed Meta Pixel within MyChart patient portals.
    - Meta may be using this information to target medical-related advertisement.
    - Those advertisements may be marketing unproven alternative or natural remedies, redirecting patients from appropriate care. See the following links for more details:
        - https://themarkup.org/pixel-hunt/2022/06/16/facebook-is-receiving-sensitive-medical-information-from-hospital-websites
        - https://www.cell.com/patterns/fulltext/S2666-3899(22)00172-6
- Healthcare providers that exposed Protected Health Information (PHI) to Meta without a Business Associate Agreement may be in violation of the HIPAA Privacy Rule.
    - Information exposed such as IP addresses are defined as patient identifiers per HIPAA (https://www.hhs.gov/hipaa/for-professionals/privacy/special-topics/de-identification/index.html).

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    - HHS is investigating the potential for HIPAA violations.
    - Facilities may be subject to fines or civil lawsuits.
- Furthermore, the disclosure may lead to patient (consumer) distrust of providers).

Manufacturer's Perspectives or Comments (from Epic):

- Epic does not include any custom third-party analytics services (such as Adobe Analytics, Google Analytics, or Meta Pixel) in their released software. Healthcare organizations should only install third-party-hosted web analytics software if their organization has carefully reviewed the data collected by these services and has appropriate agreements in place to preserve the privacy and security of patient information. Healthcare organizations should disable any third party-hosted web analytics software that collects data in excess of their agreement. Epic-using organizations can work with their technical services representatives if they have any questions about their customizations to Epic software.
- Users of websites developed by the healthcare organization or from other vendors should work internally and with the other vendors regarding their questions on the use of hosted web analytics such as Meta Pixel.

References & Source Documents:

1. https://themarkup.org/pixel-hunt/2022/06/16/facebook-is-receiving-sensitive-medical-information-from-hospital-websites
2. https://themarkup.org/blacklight
3. https://www.cell.com/patterns/fulltext/S2666-3899(22)00172-6
4. https://www.hhs.gov/hipaa/for-professionals/privacy/special-topics/de-identification/index.html
5. https://www.hhs.gov/hipaa/for-professionals/breach-notification/index.html

Geographic Region(s)

Worldwide

Suggested Distribution

Clinical/Biomedical Engineering, Risk Management/Continuous Quality Improvement, Information Technology

Comment

- This alert is a living document and may be updated when ECRI receives additional information.

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