



STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
KAMALA D. HARRIS
ATTORNEY GENERAL

December 21, 2015

RE: Patient Privacy and Online Security Standards

Dear California Healthcare Professionals:

The right to privacy is embedded in the California Constitution.¹ In 2012, I created a Privacy Enforcement and Protection Unit within the California Department of Justice to ensure that our state and federal privacy laws are adequately enforced. Since then, my office has released a number of publications aiming to educate businesses, organizations and consumers about ways to mitigate and protect themselves from the devastating effects of data breaches.

My office and our state legislature have long recognized the importance of maintaining the confidentiality of individuals' medical information. The exceedingly sensitive nature of health records and treatment histories demand a high level of privacy and security that must be maintained throughout the course of patient care and beyond.^{2,3} While the advent of new technologies has dramatically improved the quality and efficiency of modern healthcare, California's providers must take extra care to safeguard their patients' information as they continue to lead the way in medical innovation.

Today, many digital health practice tools are available simply through access to the Internet. When taking advantage of online resources and web-based databases, healthcare professionals must vigilantly protect against hackers by adhering closely to the latest security standards. One of the most basic best practices for medical professionals when using technology is to ensure that web browsers used to engage with sensitive information are updated regularly.⁴ Older versions of software frequently contain vulnerabilities to cyber intrusion that must be regularly patched by developers to prevent the exposure of personal information. Most browser developers provide these patches automatically; however, when healthcare practitioners and pharmacists interact with patient records using older versions of Internet Explorer, such browsers must be manually upgraded to newer versions.

¹ Cal. Const., art. I, § 1

² Department of Health and Human Services, 45 CFR parts 160, 162, and 164 of the Health Insurance Reform Security Standards, Final Rule

³ 45 C.F.R. § 164.308

⁴ *Protect Your Computer from Viruses, Hackers, & Spies*, Consumer Information Sheet 12, CA Dept. of Justice

As of January 12, 2016, Microsoft will no longer be providing technical support and security updates for older versions of Internet Explorer (IE).⁵ This means that in addition to lacking many of the security features and functionalities of the newer software, these outdated browsers will be left susceptible to data breaches targeting unpatched software liabilities. Since announcing this timeline in August 2014, Microsoft has been actively working with current users of older IE products to migrate over to their latest supported version of IE, which has enhanced backwards compatibility to accommodate business users. More information and resources are available on Microsoft's website.⁶

It has come to my office's attention that as Microsoft's support lifecycle end date draws near, many medical professionals and healthcare networks have yet to make necessary upgrades to their web browsers. In doing so, they may be jeopardizing the privacy of their patients' sensitive personal data. As the state's chief law enforcement officer, this is deeply concerning to me, and I urge the medical community to take the issue of privacy seriously. In light of this, earlier this year I directed my CJIS Division to impose minimum browser security standards as a condition of access to the state's new CURES 2.0 prescription drug database to make sure the system's personally identifying patient records remain accessible only to authorized users and are not left exposed by unaddressed browser vulnerabilities.

Thank you for the critical services you provide to Californians and for taking the necessary steps to ensure that your patients' privacy remains protected. If you need any assistance or guidance in this regard, please do not hesitate to reach out to my office. Please feel free to contact Deputy Attorney General Robert Sumner at Robert.Sumner@doj.ca.gov if you have any questions or need further information.

Sincerely,


KAMALA D. HARRIS
Attorney General

⁵ <https://support.microsoft.com/en-us/lifecycle#gp/Microsoft-Internet-Explorer>

⁶ <https://www.microsoft.com/en-us/WindowsForBusiness/End-of-IE-support>