

4. Google Health

A number of companies offer to store personal health records on the Web. Companies in this business hope to capitalize on the huge market of interested consumers seeking online health information and controlled health spending. The newest entry is Google Health with its technical know-how, deep pockets, and familiarity to consumers. A trial of Google's program with Cleveland Clinic patients was quickly oversubscribed, quelling fears that patients would worry about the security of their records.

Google Health users will create their own electronic medical record online, with the capability to enter and manage health information and access it online from anywhere. This portable medical record will be accessible regardless of doctor, moves, insurance changes, etc. The record can be set to send reminders to refill prescriptions and schedule return medical visits. Permission from the patient is required to access the patient's record; however, there are important exceptions noted in the Google Health Terms of Service and Sharing Authorization to which users must agree when they sign on for the service. Google Health is free to users.

Experts have long touted electronic medical records as a way to overcome the lack of coordination among health care providers. In addition, electronic records provide patients and providers with search capability linking information in the patient's records with information about health care alternatives, thereby giving patients more control over their health care choices. Access is available to patients, and to providers with patient consent.

Google Health allows the patient to determine what information is shared with medical providers and pharmacies. Currently it does not sell advertisements. A variety of health care institutions, pharmacies, and organizations have non-exclusive partnerships with Google, integrating their technologies to allow information to flow back and forth.

The fear of a loss of privacy tempers excitement about a Google-mediated record. Google vows that patients have complete control over their records. Patients decide who may see their records, and they have the option to delete their records completely. The Google Health Privacy Policy (available at its website) promises "Google will not sell, rent, or share your information (identified or de-identified) without your explicit consent, except in the limited situations described in the Google Privacy Policy, such as when Google believes it is required to do so by law." Critics point out that if medical records are not protected, others might use the information to harm the patient: employers to deny jobs, insurers to deny health coverage, financial institutions to deny, universities to deny admission, and so forth.

Fear of commercial exploitation also raises concerns, especially since Google Health skirts the issue on its FAQ's page about how it will make money on this free-to-consumer product. A program patent has been filed on behalf of Google Health allowing pharmaceutical, medical device, and service advertisements related to the patient's record to pop up when either the patient or a provider (permitted by the patient) views the medical record, much as ads related to email content show up on pages of Gmail. Visibility is a key factor in the influence of information on decisions and behaviors. The positioning of information is not an accident, and it is likely that the assignment of premium web space will be determined not by the medical relevance of information, but by commercial interests. The patented program would allow this advertising feature to be disabled by the patient, but in the patent application, Google Health points out that insurance companies might raise premiums if people did this. The power of

industry-supplied information from drug representatives to physicians has long been criticized. The broader influence of such information targeted at both the provider and the patient is hard to overestimate.

Google Health's privacy policy (to which users must agree) includes the following statement:

When you provide your information through Google Health, you give Google a license to use and distribute it in connection with Google Health and other Google services. However, Google may only use health information you provide as permitted by the Google Health Privacy Policy, your Sharing Authorization, and applicable law. Google is not a "covered entity" under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder ("HIPAA"). As a result, HIPAA does not apply to the transmission of health information by Google to any third party.

When the user opts in to having information shared, Google says this:

We provide such information to our subsidiaries, affiliated companies or other trusted businesses or persons for the purpose of processing personal information on our behalf. We require that these parties agree to process such information based on our instructions and in compliance with this Policy and any other appropriate confidentiality and security measures.

Elsewhere in the Privacy Policy, Google specifies the following:

If Google becomes involved in a merger, acquisition, or any form of sale of some or all of its assets, we will provide notice before personal information is transferred and becomes subject to a different privacy policy.