

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Centers for Medicare & Medicaid Services



# Medical Privacy of Protected Health Information

## Intended Audience:

Please note: The information in this publication applies to all health care professionals and health care organizations. Also, any use of the pronoun "you" refers to the health care professional.

## Health Care Professionals' Privacy Guide

The **Health Insurance Portability and Accountability Act of 1996 (HIPAA)** is a Federal law that sets national standards for how health care plans, health care clearinghouses, and most health care providers protect the privacy of a patient's health information. Below find the latest provisions that strengthen the privacy and security protections for health information established under HIPAA.

Some of [HIPAA's privacy and security protections](http://www.gpo.gov/fdsys/pkg/FR-2013-01-25/pdf/2013-01073.pdf) (<http://www.gpo.gov/fdsys/pkg/FR-2013-01-25/pdf/2013-01073.pdf>) for health information includes the following:

- Allows patients to ask for a copy of their electronic medical record in an electronic form;
- Allows patients to instruct their provider not to share information about their treatment with their health plan when they pay by cash;
- Reduces burden by streamlining individuals' abilities to authorize the use of their health information for research purposes; and
- Clarifies that genetic information is protected under the HIPAA Privacy Rule and prohibits most health plans from using or disclosing genetic information for underwriting purposes.

The Department of Health and Human Services (HHS) Office of Civil Rights (OCR) provides guidance to professionals on the most common HIPAA issues and topics related to medical privacy. Visit the OCR website at <http://www.hhs.gov/hipaa/for-professionals/index.html>.

HIPAA does strike a balance permitting the disclosure of information needed for patient care and other important purposes while providing Federal protections for individually identifiable information. It does not interfere with the delivery or coordination of health care. Here's HIPAA at work:

## **HIPAA does not require patients to sign consent forms before doctors, hospitals, or ambulances may share information for treatment, payment, and health care operations.**

You may share patient treatment information with other health care professionals without obtaining a signed patient authorization.

For more information, review:

- Answers to Frequently Asked Questions (FAQs) about HIPAA at <http://www.hhs.gov/hipaa/for-professionals/faq> on the U.S. Department of Health and Human Services (HHS) website;
- The "[Uses and Disclosures for Treatment, Payment, and Health Care Operations](http://www.hhs.gov/hipaa/for-professionals/privacy/guidance/disclosures-treatment-payment-health-care-operations/index.html)" (<http://www.hhs.gov/hipaa/for-professionals/privacy/guidance/disclosures-treatment-payment-health-care-operations/index.html>) fact sheet on the HHS website; and
- The "[Summary of the HIPAA Privacy Rule](http://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html)" (<http://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>) on the HHS website.

### **HIPAA does not require you to eliminate all incidental disclosures.**

- The Privacy Rule recognizes that it is not practicable to eliminate all risk of incidental disclosures. Incidental disclosures do not violate the rule when you have policies that reasonably safeguard and appropriately limit how protected health information is used and disclosed.
- The Office for Civil Rights (OCR) provides guidance about how this applies to customary health care practices (for example, using patient sign-in sheets or nursing station whiteboards or placing patient charts outside exam rooms). Refer to the FAQs in the “Incidental Uses and Disclosures” subcategory or search for terms such as safeguards or disclosures on the [FAQs \(http://www.hhs.gov/hipaa/for-professionals/faq\)](http://www.hhs.gov/hipaa/for-professionals/faq) web page. Review the “Incidental Uses and Disclosures” (<http://www.hhs.gov/hipaa/for-professionals/privacy/guidance/incidental-uses-and-disclosures/index.html>) fact sheet on the HHS website.

### **HIPAA is not anti-electronic.**

- You may use email, the telephone, or fax machines to communicate with patients and other health care professionals using appropriate safeguards to protect patient privacy. Review additional information on this topic at <http://www.hhs.gov/hipaa/for-professionals/faq/482/does-hipaa-permit-a-doctor-to-share-patient-information-for-treatment-over-the-phone/index.html> on the HHS website.
- HIPAA Privacy Rule [guidance documents \(http://www.hhs.gov/hipaa/for-professionals/special-topics/health-information-technology/index.html\)](http://www.hhs.gov/hipaa/for-professionals/special-topics/health-information-technology/index.html) related to the electronic exchange of health information are included in the Privacy and Security Toolkit on the HHS website.
- HHS has gathered [tips and information \(https://www.healthit.gov/providers-professionals/how-can-you-protect-and-secure-health-information-when-using-mobile-device\)](https://www.healthit.gov/providers-professionals/how-can-you-protect-and-secure-health-information-when-using-mobile-device) to help you protect and secure health information patients entrust to you when using mobile devices.

### **HIPAA does not cut off all communication between health care professionals and the families and friends of patients.**

- As long as the patient does not object, health care professionals covered by HIPAA may provide information to a patient’s family, friends, or anyone else identified by a patient as involved in his or her care.
- The Privacy Rule also makes it clear that, unless a patient objects, hospitals and health care professionals may notify a family member or anyone responsible for the patient’s care about the patient’s location or general condition.
- If a patient is incapacitated, you may share appropriate information with the patient’s family or friends if you believe doing so is in your patient’s best interest.
- Review the “[Communicating with a Patient’s Family, Friends, or Others Involved in the Patient’s Care](http://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/coveredentities/provider_ffg.pdf)” ([http://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/coveredentities/provider\\_ffg.pdf](http://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/coveredentities/provider_ffg.pdf)) guide on the HHS website.
- For guidance on sharing information related to mental health, visit <http://www.hhs.gov/hipaa/for-professionals/special-topics/mental-health/index.html> on the HHS website.

### **HIPAA does not prevent calls or visits to hospitals by a patient’s family or friends, the clergy, or anyone else.**

- Unless a patient objects, basic information such as the patient’s phone and room number may appear in a hospital directory.
- Members of the clergy may access a patient’s religious affiliation (if provided) and do not have to ask for patients by name.
- Refer to the [Facility Directories FAQs \(http://www.hhs.gov/hipaa/for-professionals/faq/facility-directories\)](http://www.hhs.gov/hipaa/for-professionals/faq/facility-directories) web page on the HHS website.

### **HIPAA does not prevent child abuse reporting.**

You may report child abuse or neglect to appropriate government authorities. For more information, search using the term child abuse on the [FAQs \(http://www.hhs.gov/hipaa/for-professionals/faq\)](http://www.hhs.gov/hipaa/for-professionals/faq) web page or review the “Public Health” (<http://www.hhs.gov/hipaa/for-professionals/special-topics/public-health/index.html>) fact sheet on the HHS website.

### **Additional Information**

The HHS complete listing of all HIPAA medical privacy resources is available at <http://www.hhs.gov/hipaa/index.html> on the HHS website.

Refer to the Medicare Learning Network® (MLN) “[HIPAA Basics for Providers: Privacy, Security, and Breach Notification Rules](https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/HIPAAPrivacyandSecurity.pdf)” (<https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/HIPAAPrivacyandSecurity.pdf>) fact sheet for additional information about the HIPAA Privacy Rule.

For more information about HIPAA rules, visit the HIPAA – Frequently Asked Questions web page at <http://www.hhs.gov/hipaa/for-professionals/faq> on the HHS website.



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