

Health Insurance Portability and Accountability Act (HIPAA) Education

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Learning Objectives

- ❖ Discuss patient rights in regard to privacy of protected health information (PHI)
- ❖ Identify methods of upholding patient's rights to privacy and confidentiality
- ❖ List the potential academic, professional, and legal consequences of violating HIPAA guidelines
- ❖ Apply HIPAA guidelines to clinical situations

What is HIPAA?



Created in 1996 to protect the privacy of personal health information & ensure the security of electronic **protected health information (PHI)** and **personally identifiable information (PII)**.

What does HIPAA do?

- ❖ Establishes national standards that govern use & disclosure of protected health information (PHI) for healthcare providers & organizations.
- ❖ Establishes significant penalties for violators (e.g., monetary fines, imprisonment, employment termination, and possible license revocation).

HIPAA Definitions

- ❖ **Protected Health Information (PHI):**
Information created or received by a healthcare provider, health plan, public health authority, employer, life insurer, or school/university that relates to an individual's past, present, or future physical or mental health.

HIPAA Definitions

- ❖ Personally Identifiably Information (PII):
Any uniquely identifying individual
information

Examples: name, social security number, driver's license or ID card number, date of birth, e-mail address, financial account information, photograph, medical record number, etc.

HIPAA Definitions

Confidential Information: Any information (e.g., personally identifiable information (PII), protected health information (PHI), electronic-PHI, or financial) involving patients, employees, students or residents that requires specific authorization to access.

Patient Rights to Privacy

All organizations must provide patients with the following:

- Notice of agency's privacy policy
- Control over the use and disclosure of their protected health information (PHI)
- Confirmation that PHI will be used only for treatment, payment, operations & other lawful uses
- Access to their PHI
- Ability to request amendment or addendum to PHI
- Access to records of PHI disclosures
- Means to file privacy complaints to an agency compliance officer

Permitted Uses of PHI

Healthcare treatment, payment, or healthcare operations (TPO): Protected health information (PHI) & personally identifiable information (PII) can be disclosed for:

- Coordination of health care services
- Payment, billing, or claims
- Quality assessment, legal cases, training in areas of healthcare, compliance audits, medical review, accreditation and business management.

Other Permitted Uses of PHI (Without Consent)

Victims of neglect/abuse/violence

Organ/tissue donations

Research

Worker's compensation

Threat to self/others

Public health activities

Patient Privacy & Authorization Policy

Patient authorization/consent

- Required for all non-permitted disclosures of protected health information

Opportunity to object

- Patients can object to certain disclosures of protected health information

Statutes & Policies

- ❖ **5 U.S.C. 552a: The Privacy Act (PA)**
 - ❖ Prohibits disclosure of patient information unless patient consent is obtained or it falls under a permitted use

- ❖ **38. U.S.C. 5701: Patient's Claims Confidentiality Statute**
 - ❖ Prohibits disclosure of Healthcare Agency patients' (and their dependents) names and home addresses unless specifically authorized by statute.

- ❖ **38. U.S.C. 7332**
 - ❖ Prohibits disclosure of patient information related to drug & alcohol abuse, HIV infection, and sickle cell anemia unless specifically authorized by the statute.

Unauthorized Access & Disclosure

- ❖ **Unnecessary browsing or medical record entry:** employees are prohibited from accessing family, friends, celebrity, VIP, or own medical records.
- ❖ **Unnecessary sharing:** confidential information may not be communicated to anyone without a need to know.
- ❖ **Inappropriate use of social or electronic media:** sharing PHI, PII, or confidential information, including photographs & videos on personal or social media sites is prohibited.

Security & Privacy Principles

Discuss PHI only as it applies to education & patient care

Disclose only the PHI/PII allowed/required by law

Follow minimum necessary rule

Do not assume

Do the right thing

Student Requirements

- ❖ Do not discuss PHI/PII in public places or via social networks
- ❖ Utilize initials only when identifying patients
- ❖ Remove all individually identifiable elements from PHI
- ❖ Only dispose of PHI in appropriate shredder bins
- ❖ Secure computer passwords & log-off when finished
- ❖ Do not photocopy/fax/un-securely e-mail PHI
- ❖ Only access information needed to complete educational assignments or fulfill the student role

Breach of Privacy/Security

❖ **Breach:**

- ❖ Compromise in security or privacy of confidential info via unauthorized acquisition, access, use, or disclosure of use

❖ **HITECH Act (2009):**

Requires organizations to report breaches that affect >500 individuals to gov't & patients



Breach of Privacy/Security

❖ **Reported HIPAA violations (2012):**

- ❖ 571 breaches involving
 - ❖ 39.1% theft
 - ❖ 36.3% loss
 - ❖ 9.4% unknown
 - ❖ 8.6% hacking/IT incident
 - ❖ 0.8% improper disposal

Social Networking

- ❖ Comply with **American Nurses Association & National Council of State Boards of Nursing recommendations:**
 - ❖ Do not take pictures or videos of patients
 - ❖ Do not post information or photos that can lead to patient identification
 - ❖ Do not establish personal or social media relationships with patients or former patients
 - ❖ Avoid making offensive comments about coworkers or employers
 - ❖ Immediately report privacy violations to appropriate authorities

Social Networking Resources

ANA social networking tip sheet:

<http://www.nursingworld.org/FunctionalMenuCategories/AboutANA/Social-Media/Social-Networking-Principles-Toolkit/Fact-Sheet-Navigating-the-World-of-Social-Media.pdf>

ANA tip card for nurses using social media:

<http://www.nursingworld.org/FunctionalMenuCategories/AboutANA/Social-Media/Social-Networking-Principles-Toolkit/Tip-Card-for-Nurses-Using-Social-Media.pdf>

NCSBN social media guidelines:

https://www.ncsbn.org/Social_media_guidelines.pdf

NSCBN social media video:

<https://www.ncsbn.org/2930.htm>

Fraud, Abuse, & Retaliation

- ❖ All individuals (patients, family, staff, etc.) have the right to report suspected illegal, unethical, or otherwise inappropriate acts and verbalize concerns without fear of retaliation.
- ❖ Non-retaliation policies: those who retaliate against anyone reporting or refusing to participate in violations will be subject to strict disciplinary action.

Violation Consequences

❖ **Civil Penalties:**

- ❖ Minimum \$100-\$10,000 per violation
- ❖ Maximum \$50,000 per violation with annual maximum of \$1.5 million

❖ **Criminal Penalties:**

- ❖ \$50,000-\$250,000 per offense
- ❖ Imprisonment for one to ten years

❖ **Academic Penalties:**

- ❖ Academic suspension, course failure, dismissal from school of nursing, disciplinary action by Board of Nursing

Case Examples

(U.S. Department of Health & Human Services, 2013; NCSBN, 2011)

Scenario: nursing student posted a photo of a patient to social media without identifying his name.

Consequence: Photo was reported to hospital officials by another nurse & the nursing student was expelled.

Scenario: Nursing students created a blog where a clinical error that occurred at a hospital was discussed.

Consequence: The blog was discovered & reported by a community member; the students face discipline for violating employee/university policies.

Scenario: A nurse practitioner accessed the medical records of her ex-husband at work

Consequence: An internal audit discovered her electronic fingerprint on the chart; her access to the electronic record system was terminated & it was reported to Board of Nursing

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