

What Is HIPAA?

HIPAA is an acronym for the Health Insurance Portability and Accountability Act, legislation enacted by Congress in 1996. Basically, the act protects the privacy of healthcare information and sets up rules about how it can be used and/or disseminated. Since April 14, 2003, healthcare entities such as hospitals, physicians, insurance companies, laboratories, dentists, ambulatory surgery centers, business offices, health plans and healthcare clearinghouses must comply with the HIPAA Privacy Rule, which ensures that sensitive personal health information is controlled in order to limit its inappropriate use.

The following information is intended to help simplify the language in the act. Readers who need more specific information about HIPAA are encouraged to consult with an attorney.

Sharing Health Information

HIPAA prohibits healthcare providers and health plans from disclosing personal health information to anyone without a patient's explicit written authorization. A valid authorization must include a description of the information to be shared, the name of the person permitted to have the information, an expiration date for the time period of the agreement, and the signature of the patient giving release permission.

Consent is not required for one physician's office to transfer a patient's medical records to another physician's office for continuation of a patient's treatment. Treatment includes "consultation between healthcare providers regarding a patient and referral of a patient by one provider to another provider."

A healthcare provider may disclose to a family member, or a close personal friend of the individual, or any other person identified by the patient, the medical information directly relevant to such person's involvement with the patient's care or payment related to the patient's care.

A family member or other individual may act on the patient's behalf "to pick up filled prescriptions, medical supplies, X-rays,

or other similar forms of protected health information." The act permits the healthcare provider to reasonably infer that doing so is in the patient's best interest.

HIPAA permits hospitals to continue the practice of providing directory information to the public (including to the press), unless the patient has elected to not participate in this disclosure. The regulation states that a healthcare provider, such as a hospital, may maintain a directory that includes the patient's name, location in the facility, and condition in general terms, and disclose such information to people who ask for the patient by name. However, the patient must be informed in advance and have the opportunity to not participate.

Patient Rights

HIPAA provides the patient with the "right to notice" of privacy practices for protected health information and requires that providers make a "good faith effort" to get patients to acknowledge that they received the notice. The law does not, however, provide the healthcare providers the right to refuse treatment to people who do not sign the acknowledgement.

If healthcare providers do not comply with HIPAA, the act does not specifically give patients the right to sue. However, some circumstances may permit a lawsuit (seek legal counsel if you have questions). Even if a person is the victim of a violation of the act, he must file a written complaint with the Secretary of Health and Human Services via the Office for Civil Rights. Penalties may range from \$100 to \$25,000 and criminal sanctions from \$50,000 to \$250,000, with corresponding prison terms.

HIPAA is a complicated act that was intended to provide healthcare reform. While it has been embraced by some, it has been cursed by many. However, HIPAA is now part of our healthcare system.

REFERENCES

1. U.S. Department of Health and Human Services, Office for Civil Rights, HIPAA, accessed online at www.hhs.gov/ocr/hipaa
2. Health Privacy Project, accessed online at www.healthprivacy.org/info-url_nocat2303/info-url_nocat_show.htm?doc_id=173435
3. HIPAA: Facts, fiction, and how to do it, accessed online at www.laneykay.com/html/hipaa_art.htm



PRIVACY PLEASE: HIPAA is a complicated but necessary law.

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