

Introduction – This course is on the federal HIPAA rule. HIPAA is the Health Insurance Portability and Accountability Act. It is the federal rule that sets standards for the protection of health information. Make sure you read all slides in this program carefully.

There are three sections to HIPAA – the Privacy Rule, the Security Rule, and the Transaction Rule.

Privacy Rule - The Privacy Rule addresses the use and disclosure of an individual's (patient) health information (known as protected health information).

Transaction Rule - This section affects billing departments both at the agency and other businesses such as an insurance company.

Security Rule - This section protects health information from loss or destruction and restricts unauthorized access.

What Does the Rule Mean to You? - The bottom line to remember is that you cannot share any information whatsoever about your patients, nothing, not their names, where they live, or anything about their care, with anyone who is not authorized to get this information.

What is the main purpose of HIPAA?

The main purpose of HIPAA is to protect the patient.

Who is covered by HIPAA?

Health Plans – All individual and group plans that provide or pay the cost of medical care.

Health Providers – Every health care provider, including home care and hospice staff (this means you and everyone you work with) are considered “covered entities”.

Business Associates – Certain business associates of the health care providers are also covered under the privacy rules.

What Information are Protected? The Privacy Rule protects all “*individually identifiable health information*” in any form whether electronic, paper (written) or oral (verbal).

What Information is protected?

- Information the doctors, nurses and other health care provides put in the medical record.
- Conversations the doctor or other health care professional has about the patient's care or treatment with nurses, home health aides and others.
- Information about the patients that is held by the insurance company.

What is Individually Identifiable Information? Protected information basically is any information that identifies the individual or her family.

Can I talk about my patients if I don't use their names? No. It is simply too easy to identify a patient with or without a name.

What can happen if you don't comply with the privacy rules? You could lose your job and face criminal penalties.

What Rights Does the Privacy Rule give the patient over her health information?

The patient has the right to:

- Ask to see and get a copy of her health records
- Have corrections added to her health information
- Receive notice that tells her how her health information may be used and shared
- Decide if she wants to give permission before her health information can be used or shared

The patient also has the right to an accounting of disclosures of her personal health information. According to the privacy rule, patients can ask to see what disclosures have been made during the past six years only.

General Principal for Uses and Disclosures – A covered entity (you and everyone you work with and most of the companies that work with your agency) may not use or disclose protected health information except: (1) as the Privacy Rule permits or requires; or (2) as the individual who is subject of the information (or the individual's personal representative) authorizes in writing. A covered entity must disclose protected health information in only two situations: (1) to individuals (or their personal representatives) specifically when they request access to, or an accounting or disclosures of, their protected health information; and (2) to state and federal agencies when the agency is undertaking a compliance investigation or review or enforcement action.

A covered entity (including you and the home care staff) can disclose protected health information, without an individual's authorization, only: (1) To the individual; (2) for Treatment, Payment and Health Care Operations; (3) Opportunity for the patient to Agree or Object; (4) Incidental to an otherwise permitted use and disclosure; (5) for Public Interest and Benefits Activities; and (6) Limited data Set for the purpose of research, public health or health care operations.

Authorized Uses and Disclosures

Authorization – A covered entity must obtain the individual's written authorization for any use or disclosure of protected health information that is not for treatment, payment or health care operations or otherwise permitted or required by the Privacy Rule. A covered entity may not condition treatment, payment, enrollment or benefits eligibility on an individual granting an authorization, except in limited circumstances.

Authorization must be written in specific terms. It may allow use and disclosure of protected health information by the covered entity seeking the authorization, or by a third party. All authorizations must be in plain language, and contain specific information regarding the information to be disclosed or used, the person(s) disclosing and receiving the information, expiration, right to revoke in writing, and other data.

Limiting Uses and Disclosures to the Minimum Necessary

A covered entity must make reasonable efforts to use, disclose, and request only the minimum amount of protected health information needed to accomplish the intended purpose of the use, disclosure, or request.

Notice and Other Individual Rights

Each covered entity, with certain exceptions, must provide a notice of its privacy practices. The notice must describe the ways in which the covered entity may use and disclose protected health information. The privacy notice must be given to the patient: not later than the first service encounter; by posting the notice at each service delivery site in a clean and prominent place. In an emergency treatment situation, the provider must furnish its notice as soon as practical after the emergency abates. (For home care notice is usually given by the nurse at the initial visit.)

A covered health care provider must make a good faith effort to obtain written acknowledgment from patients of receipt of the privacy notice. The provider must document the reason for any failure to obtain the patient's written acknowledgement. The provider is relieved of the need to request acknowledgment in an emergency treatment situation.

Except in certain circumstances, the individuals have the right to review and obtain a copy of their protected health information.

The individual has the right to have the covered entity amend their protected health information in a designated record set when the information is inaccurate or complete. If the request by the individual is denied, the covered entity must provide the individual with a written denial and allow the individual to submit a statement of disagreement for inclusion in

the record. A covered entity must disclose protected health information to the individual within 30 days upon request.

Individuals have a right to an accounting of the disclosures of their protected health information. The maximum disclosure accounting period is the six years immediately preceding the accounting request.

Individuals have the right to request that a covered entity restrict use or disclosure of protected health information. A covered entity is under no obligation to agree to request for restrictions. A covered entity that does agree must comply with the agreed restrictions, except for purposes of treating the individual in a medical emergency.

Health plans and covered health care providers must permit individuals to request an alternative means or location for receiving communications or protected health information by means other than those that the covered entity typically employs.

The covered entity must have the following: Privacy Policies and Procedures, Privacy Policies, Workforce Training and Management Policies; Mitigation policy (must mitigate, to the extent possible, any harmful effects it learns were caused by the use or disclosure of protected health information), data safeguards, complaint procedure, retaliation and waiver (covered entity must not retaliate against a person for exercising his/her privacy rights, documentation and record retention and fully insured group health plan exception.)

The Privacy Rule requires a covered entity to treat a “personal representative” the same as the individual. A personal representative is a person legally authorized to make health care decisions on an individual’s behalf or act for a deceased individual or the estate. The Privacy Rule permits an exception when a covered entity has a reasonable belief that the personal representative may be abusing or neglecting the individual or that treating the person as the personal representative advises, could otherwise endanger the individual.

In most cases, parents are the personal representatives for their minor children. In certain circumstances the parent is not considered the personal representative. In these situations, the Privacy Rule defers to the State or other law to determine the rights of parents to access control.

For more information go to the CMS website at: www.hhs.gov/ocr/privacy.

