Health Insurance Portability Accountability Act (HIPAA)

Frequently Asked Questions

January 22, 2010
1. Does the HIPAA Privacy Rule limit an individual’s ability to gather and share family medical history information? See slide 14

**Answer:**
No. Individuals are free to provide their doctors or family members with complete family medical history or communicate about conditions that run in the family.

2. Does the HIPAA Privacy Rule create a government database with all individual’s personal health information? See slide 19

**Answer:**
No.

3. Under the HIPAA Privacy Rule, may a health care provider disclose protected health information about an individual to another provider, when such information is requested for treatment of a family member of the individual? See slide 18

**Answer:**
Yes. The HIPAA Privacy Rule permits a covered health care provider to use or disclose PHI for treatment purposes. Thus, the HIPAA Privacy Rule does allow the information to be used or disclosed for the treatment of others.

4. If the patient is present and has the capacity to make health care decisions, when does HIPAA allow a health care provider to discuss the patient’s health information with the patient’s family, friends, or others involved in the patient’s care or payment for care? See slide 17

**Answer:**
If the patient is present and has the capacity to make health care decisions, a health care provider may discuss the patient’s health information with a family member, friend, or other person if the patient agrees or, when given the opportunity, does not object. The health care provider may share or discuss only the information that the person involved needs to know about the patient’s care or payment for care.
5. If a patient’s family member, friend, or other person involved in the patient’s care or payment for care calls a health care provider to ask about the patient’s condition, does HIPAA require the health care provider to obtain proof of who the person is before speaking with them? See slide 16

Answer:
No. HIPAA doesn’t require proof of identity. However, a health care provider may establish his or her own rules for verifying who is on the phone.

6. Can telemarketers obtain my health information and use it to call me to sell goods and services? See slide 25

Answer:
Under the HIPAA Privacy Rule, a covered entity can share protected health information with a telemarketer only if the covered entity has either obtained the individual’s prior written authorization to do so, or has entered into a business associate relationship with the telemarketer for the purpose of making a communication that is not marketing.

7. May physician's offices or pharmacists leave messages for patients at their homes, either on an answering machine or with a family member, to remind them of appointments or to inform them that a prescription is ready? May providers continue to mail appointment or prescription refill reminders to patients' homes? See slide 20

Answer:
Yes. The HIPAA Privacy Rule permits health care providers to communicate with patients regarding their health care, including communicating with patients at their homes. A covered entity also may leave a message with a family member or other person who answers the phone when the patient is not home, however the Privacy Rule permits covered entities to disclose limited information.

8. Does the HIPAA Privacy Rule require that covered entities document all oral communications? See slide 17

Answer:
No, if the oral communications includes information used for treatment, payment or healthcare operations.
9. To provide individuals with an accounting for disclosures, does a covered entity have to document each medical record that may be accessed by a public health authority in the course of surveillance activities that involve all patient records? See slide 20

Answer:
The Privacy Rule does not require a notation in each medical record that has been accessed by public health authorities, as long as the information required under the Privacy Rule is included in the accounting for disclosures. For example, when a public health authority requests access to an entire universe of records (all cancer patients treated at your facility for the last 2 years), then tracking the disclosure can be by the entire universe of records where the individual record is found.

10. Does the HIPAA Privacy Rule permit a doctor to discuss a patient’s health status, treatment, or payment arrangements with the patient’s family and friends? See slide 17

Answer:
Yes. The HIPAA Privacy Rule at 45 CFR 164.510(b) specifically permits covered entities to share information that is directly relevant to the involvement of a spouse, family members, friends, or other persons identified by a patient if the patient agrees or, when given the opportunity, does not object.

11. Does HIPAA require that a health care provider document a patient’s decision to allow the provider to share his or her health information with a family member, friend, or other person involved in the patient’s care or payment for care? See slide 17

Answer:
No.

12. When does the Privacy Rule allow covered entities to disclose protected health information to law enforcement officials? See slide 19

Answer:
The Privacy Rule permits covered entities to disclose protected health information (PHI) to law enforcement officials, without the individual’s written authorization, under specific circumstances summarized below:
- To comply with a court order or court-ordered warrant, a subpoena or summons issued by a judicial officer, or a grand jury subpoena.
- To respond to an administrative request.
• To respond to a request for PHI for purposes of identifying or locating a suspect, fugitive, material witness or missing person; but the covered entity must limit disclosures.

This same limited information may be reported to law enforcement:
  o About a suspected perpetrator of a crime when the report is made by the victim who is a member of the covered entity’s workforce.
  o To identify or apprehend an individual who has admitted participation in a violent crime.

• To respond to a request for PHI about a victim of a crime, and the victim agrees.

• Where child abuse victims or adult victims of abuse, neglect or domestic violence are concerned, other provisions of the Rule apply:
  o Child abuse or neglect may be reported.
  o Adult abuse, neglect, or domestic violence may be reported.

• To report PHI to law enforcement when required by law.

• To alert law enforcement to the death of the individual.
  o Information about a decedent may also be shared with medical examiners or coroners.

• To report PHI that the covered entity in good faith believes to be evidence of a crime that occurred on the covered entity’s premises.

• When responding to an off-site medical emergency, as necessary to alert law enforcement about criminal activity.

• When consistent with applicable law and ethical standards:
  o To a law enforcement official reasonably able to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public.
  o To identify or apprehend an individual who appears to have escaped from lawful custody.

• For certain other specialized governmental law enforcement purposes, such as:
  o To federal officials authorized.
  o To respond to a request for PHI by a correctional institution or a law enforcement official having lawful custody.

For further information concerning FAQ, please follow the provided link for more detailed answers:
http://phil/comply/HIPAA%20remedial%20questions.pdf

Also, do not hesitate to contact Emily Cribb by phone, email or MOX for any further questions.

Emily M. Cribb
Compliance Officer/Director, Internal Audit
979.776.2974 office
ecribb@st-joseph.org