

Medical Records—HIPAA Privacy Regulations

The Health Insurance Portability and Accountability Act, passed by Congress in 1996.

Where to find HIPAA answers

- Code of Federal Regulations
 - Privacy Rule: 45 C.F.R. § 160-164
 - Security Rule: 45 C.F.R. § 164
- Federal Register: 67 Fed. Reg. 53,182 (Aug. 14, 2002) (for example)
- Office for Civil Rights administers and enforces HIPAA: www.hhs.gov/ocr/hipaa

I. Privacy Rule

A. General

- April 14, 2003 compliance date
- Basic Requirement: “A covered entity may not use or disclose an individual’s protected health information, except as otherwise permitted or required.”
- *Covered Entities* include: health plan, health care clearinghouse, health care providers who transmit PHI in electronic form, Medicare Part D Rx Drug Plans
- *Protected Health Information* (PHI): Individually identifiable health information that has been transmitted or maintained in any form or medium.

B. Permitted Uses and Disclosures of PHI

- Notice of Privacy Practices
- Authorization (signed by patient)
- No Authorization if required for treatment, payment or health care operations
- No Authorization if required for public policy reasons
- No Authorization if PHI is de-identified or part of a limited data set

C. Patient Rights

- Right to restrict use/disclosure, request amendments, receive an accounting of disclosures, receive confidential communications
- Right to file a complaint with provider, health insurer or Office for Civil Rights

D. Enforceability and Liability

- Civil: \$100 per violation up to \$25,000 per person per year
- Criminal: DHHS may make a criminal referral to Department of Justice for a “wrongful disclosure” with fines up to \$250,000 and one to ten years imprisonment

II. Security Rule

A. General

- April 14, 2005 compliance date
- Applies only to Electronic Protected Health Information (EPHI)
- Administrative, physical and technical safeguards

Questions?

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