



The Compliance Store

Because Getting It **Right** Matters



HIPAA Privacy

Safeguarding Protected Health Information

What is meant by HIPAA?

- ❖ **“HIPAA”** stands for **“Health Insurance Portability and Accountability Act”**.
- ❖ It was signed into law on August 21, 1996 to improve the effectiveness of the health care system, standardizing national provisions for electronic health care transactions.
- ❖ It mandated privacy protections (confidentiality), integrity, and availability of individually identifiable health information.
- ❖ It is organized according to various rules (Privacy, Security, Notification, and Enforcement). The Privacy Rule protects all individually identifiable health information in any form or media, whether electronic, paper, or oral.

Protected Health Information (PHI) is information that:

❖ **Relates to:**

- ❖ The individual's past, present, or future physical or mental health condition
- ❖ The provision of health care to an individual
- ❖ Past, present, or future payment for the provision of health care to the individual

❖ **And:**

- ❖ Identifies the individual, or
- ❖ There is a reasonable basis to believe it can be used to identify the individual

Examples of Individual Identifiers:

- ❖ Name
- ❖ Addresses: mailing, home, and email
- ❖ Birth Date
- ❖ Social Security Number
- ❖ Phone/Fax Numbers
- ❖ Medical Record Numbers/Account Numbers
- ❖ Health Insurance Beneficiary Numbers
- ❖ Certificate/License Numbers
- ❖ Vehicle Identifiers and Serial Numbers
- ❖ Device Identifiers and Serial Numbers
- ❖ URLs and IP Address Numbers
- ❖ Biometric Identifiers, including finger, retinal and voice prints
- ❖ Full face photographic images and any comparable images
- ❖ Any other unique identifying number, characteristic, or code

What Information is Protected

Examples of Health Information:

- ❖ Medical record notes and assessments
- ❖ Diagnoses
- ❖ Treatment records
- ❖ Lab or x-ray results
- ❖ Dental records
- ❖ Eye exams/records
- ❖ Billing information for medical care
- ❖ Prescriptions
- ❖ Appointment scheduling note from doctor's office
- ❖ Blood tests
- ❖ Medication lists

General Principles for Use

- ❖ **Protected health information may not be used or disclosed except:**
 - ❖ As the Privacy Rule permits or requires; or
 - ❖ As the individual (or individual's personal representative) authorizes in writing.

- ❖ **Protected health information may be used for:**
 - ❖ **Treatment** – provision of care, coordination of care, or management of health care and related services
 - ❖ **Payment** – activities to obtain premiums and/or reimbursement for the provision of health care (billing)
 - ❖ **Health Care Operations** – QAPI activities, care coordination, compliance program activities, business planning/facility assessment

Appropriate access is key!

- ❖ **Confidentiality means that health information is accessible only by authorized people and processes.**
- ❖ **Authorization:**
 - ❖ Based on your job role
 - ❖ Access information only on the residents assigned to you
 - ❖ Access information only as part of your job responsibilities
 - ❖ Limit documentation to the medical record and in accordance with policies and procedures
- ❖ **Documentation:**
 - ❖ Limit documentation to the medical record in accordance with policies and procedures
 - ❖ Filming, recording, and photographing residents is not allowed
- ❖ **Verbal Communications:**
 - ❖ Discuss information only as needed for performing your job
 - ❖ Discuss information in private
 - ❖ Obtain verbal consent from the resident to hold discussions when others are present

Authorization

- ❖ Residents have the right to decide how their information is used or shared. They do this by signing an authorization.
- ❖ Residents have the right to decide whether their information can be shared, such as with friends and family, employers, or other entities.
- ❖ Residents may direct how they wish to be contacted, such as through a particular phone number or address, and whether messages may be left. This is of particular importance once they are discharged.
- ❖ Residents may object to be included in facility directories.

Scope of Information/Request Procedures

- ❖ **The right to access applies to all information in a “designated record set,” which broadly includes medical, payment, and other records used to make decisions about individuals.**
 - ❖ Everything in the paper and electronic record
 - ❖ Patient notes
 - ❖ Medications
 - ❖ Lab results
 - ❖ X-rays
 - ❖ Procedure and discharge notes
- ❖ **It does not matter how old the information is, where it is kept, or where it originated.**
- ❖ **Limited exclusions from the right of access.**
 - ❖ Psychotherapy notes kept separate from the other records
 - ❖ Information compiled for litigation
 - ❖ Records not used to make decisions about individuals

Scope of Information/Request Procedures

- ❖ **You cannot deny access for:**
 - ❖ Failure to pay for healthcare services
 - ❖ Concerns that individual may not understand the information or may be upset by it
- ❖ **It does not matter how old the information is, where it is kept, or where it originated.**
- ❖ **An individual or their personal representative can request their health information at any time, for any reason**
 - ❖ You may require a written request, and it can be electronic
 - ❖ You must verify identify of the requesting individual
- ❖ **Procedures cannot create a barrier to, or unreasonably delay, the individual's access**