

Allied Health Medical Law & Ethics



7/26/2016

Module D.2

Patient Confidentiality and HIPAA



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Confidentiality and Privacy

- **Privacy Act of 1974**
 - Citizens have right to gain access to records and to copy records if necessary
- **Health Insurance Portability and Accountability Act (HIPAA)**
 - Regulates the privacy of patient health information

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Confidentiality and Privacy (Continued)

- **Privacy Rule**
 - Applies to Protected Health Information (PHI)
- **HITECH Act**
 - Meant to promote the adoption and “meaningful use” of health information technology

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Release of Information and Consent

- Patients have the right to know how, when, and why their medical information is used
- Providers can refuse treatment without consent form

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Transactions Covered by Electronic Transactions

- Healthcare provider submitting an electronic claim
- Physician sending PHI to another physician
- Physician sending PHI to a billing service

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Patient Obligations Under HIPAA

- Obtain consent and authorization for any disclosure
- Permit patient access to medical information
- Provide only the *minimum necessary standard*

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Penalties for Noncompliance with HIPAA

- Civil penalties
- Federal criminal liability with *sanctions* (fines) and time in prison
- Risk of class action suit and public relations damage

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Patients' Rights Under the Privacy Standards

- Copy of privacy notice
- Access to medical records
- Limit how health care information is shared
- Accounting of to whom information is given

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Patients' Rights Under the Privacy Standards: Continued

- Ask to be contacted in special way (phone or mail)
- Ask to be contacted in a place other than home or work
- Examine health information provider's copy
- Complain to "covered entity" if violation of privacy is suspected

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Problems Relating to HIPAA'S Privacy Rules

- Healthcare providers may refuse to provide medical records to anyone except the patient
- Compliance with HIPAA slows police investigations and impedes prosecution of crimes

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Misconceptions About HIPAA

- Privacy laws do NOT:
 - prevent physicians or hospitals from sharing patient information to treat
 - prevent disclosure to clergy
 - apply to most police or fire departments

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Misconceptions About HIPAA (Continued)

- Privacy laws DO:
 - Allow hospitals and physicians to share information with spouse or anyone patient has identified as involved in their care

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Recommendations for Implementing HIPAA

- Appoint and train privacy officer
- Conduct internal assessment of existing policies
- Enter agreements with all non-employee service providers

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Recommendations for Implementing HIPAA (Continued)

- Adopt procedures for handling patient requests
- Implement Notice of Privacy practices
- Revise employee manuals regarding HIPAA standards

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More Recommendations for Implementing HIPAA

- Train all employees on policies and procedures
- Retain signed authorizations, copies, etc. (six years)
- Implement and enforce sanctions for violations
- Establish complaint process for noncompliance

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Suggested Reference

Fremgen, B.F., Medical Law and Ethics, 5th edition (2016). Pearson Education, Inc. ISBN 978-0-13-399898-6

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