

## HIPAA

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### **What is HIPAA?**

The Department of Health and Human Services published a Privacy Rule (*HIPAA Standards for Privacy of Individually Identifiable Health Information*) on December 28, 2000. The rule is intended to set national standards for enhancing the security and maintaining the privacy of an individual's protected health information (PHI) that is exchanged for administrative and financial transactions between covered entities (CE).

### **HIPAA Standards include:**

- Electronic exchange, security, and privacy of protected health information.

### **Who are covered entities?**

Covered entities includes:

- Health plans,
- Healthcare clearinghouses,
- A healthcare provider who electronically transmit any health information in electronic form.

### **What is Health Information?**

Any information, whether oral or recorded in any form or medium, that:

- Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
- Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

### **What is Protected Health Information (PHI)?**

Means individually identifiable health information:

- Transmitted by electronic media;
- Maintained in any medium described in the definition of *electronic media* (indicated in the Privacy Rule)
- Transmitted or maintained in any other form or medium.
- *PHI* excludes individually identifiable health information in:
  - Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g;
  - Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and
  - Employment records held by a CE in its role as employer.

### **What is Individually Identifiable Health Information (IIHI)?**

Information that is a subset of health information, including demographic information collected from an individual, and:

- Is created or received by a health care provider, health plan, employer, or health care clearinghouse,
- Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual,
  - That identifies the individual; or
  - With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

### **What individual information is protected by HIPAA?**

Protected information includes the following individual identifiers:

- Name
- Geographic subdivisions smaller than a state (includes street address, city, county, precinct, zip code and equivalent geo codes – except the first three digits of zip codes unless the population density is under 20,000)
- All date elements other than year related to an individual (includes birth date, admission date, discharge date, date of death)
- Telephone numbers
- Fax numbers
- E-mail addresses
- Social security numbers
- Medical record numbers
- Health plan beneficiary numbers
- Account numbers
- Certificate/license numbers
- Vehicle identifiers and serial numbers (includes license plate numbers)
- Device identifiers and serial numbers
- Web universal resource locators (i.e., URLs)
- Internet Protocol (IP) address numbers
- Biometric identifiers (includes finger and voice prints)
- Full face photographs
- Any other unique identifying number, characteristic or code and the covered entity does not have knowledge that information could be used alone or in combination to identify an individual

### **How HIPAA works:**

The rule permits certain use and disclosure of protected health information when the CE has put into place reasonable safeguards and developed policies and procedures to protect an individual's health information.

The rule allows for incidental use and disclosure of protected health information to occur as long as the CE has put into place *reasonable safeguards* and implemented the *minimum necessary standards*.

### **What are reasonable safeguards?**

The CE must have policies and procedures in place to assure appropriate administrative, technical, and physical safeguards protect against disclosure of PHI that is not permitted under the rule.

### **What are minimum necessary standards?**

Minimum necessary standards require the CE to insure that the policies and procedures in place limit who has access to PHI, which is based on job duties, disclosure between CE or BA, and regulation of patient requested disclosures.

### **What is De-Identified information?**

PHI is de-identified by removing, coding, encrypting, or eliminating any IHI so that it can be freely disclosed as long as there are no means of re-identifying the individual.

The rule does not protect PHI that has been de-identified.

## **HIPAA and Research**

Research is defined in the Privacy Rule as, “a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.”

CE's may use or disclose, for research purposes, PHI that has been de-identified. De-identified information is a data set, information about an individual, that has had all PHI removed, while at the same time, contains medical information necessary for researchers to conduct vital research. Research involving human subjects operates under the Common Rule, 45 CFR Part 46, Subpart A, and the FDA's human protection regulations, 21 CFR Parts 50 and 56. However, these provisions are similar to, but different from the Privacy Rule.

### **How does the Rule work when Research is concerned?**

Researchers may obtain, create, use, or disclose IIHI for the purpose of conducting research. CE's are permitted to use and disclose PHI for research purposes with the authorization of the individual, or without the authorization if the individual under limited circumstances outlined in the Privacy Rule.