

The Health Insurance Portability and Accountability Act (HIPAA)

The Health Insurance Portability and Accountability Act (HIPAA) – signed into law in August of 1996 – was the result of a bill sponsored by Senators Nancy Kesselbaum (R-KS) and Ted Kennedy (D-MA).

Portability – HIPAA was designed to protect patients who had previously been ill from losing their health insurance when they changed either their job or their residence.

Accountability – It was also hoped that HIPAA would streamline the American health care system by mandating the adoption of national standards for the transmission of electronic health care claims and, more generally, the adoption of national standards for securing the storage of confidential medical information about patients.

.....

NOTICE OF PRIVACY PRACTICES

To All My Patients:

This notice describes how psychological and medical information about you may be used and disclosed and how you can get access to this information. Please review it carefully.

Under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, I have a legal duty to safeguard your protected health information (PHI), which includes information in your health record that can be used to identify you – information about (1) your past, present, or future health; (2) health care provided to you; and (3) payment for this health care.

USES AND DISCLOSURES FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS

I may “use” or “disclose” your PHI for treatment, payment, and health care operations purposes with your consent. “Use” of your PHI occurs when I utilize this information within my own practice, “Disclosure” of your PHI occurs when I divulge parts or all of its contents to persons outside my practice.

1. **For Treatment** – I may disclose your PHI to other licensed health care providers who are providing you with health care services or are involved in your care. For example, if you are being treated by a psychopharmacologist, I might need to disclose your PHI to that person in order to coordinate your care.
2. **To Obtain Payment for Treatment** – I may use and disclose your PHI in order to bill and collect payment for the treatment and service I have provided you. For example, I might need to send your PHI to your insurance company or health plan in order to help you get reimbursement for health care services that I was providing you.

3. **For Health Care Operations** – I may disclose your PHI in order to operate my practice. For example, I may need to disclose your PHI to conduct quality assessment, business related matters, or administrative services.

OTHER USES AND DISCLOSURES THAT DO NOT REQUIRE YOUR AUTHORIZATION

I may use or disclose your PHI without your consent in the following circumstances:

1. **Child Abuse** – If I, in my professional capacity, have reasonable cause to believe that a minor child with whom you are associated is suffering physical, sexual, or emotional injury resulting (1) from abuse inflicted upon him or her (abuse that causes harm – or substantial risk of harm – to the child's health or welfare) or from neglect, I must immediately report this to the Massachusetts Department of Social Services.
2. **Adult Abuse** – If I have reasonable cause to believe that an adult with whom you are associated is endangered, I must immediately report my concerns to either a law enforcement agency (the police) or an adult protective services unit.
3. **Elder Abuse** – If I have reasonable cause to believe that an elderly person (age 60 or older) with whom you are associated is suffering from (or has died as a result of) abuse, I must immediately report this to the Massachusetts Department of Elder Affairs.
4. **Health Oversight** – The Board of Registration of Psychologists has the power, when necessary, to subpoena relevant patient records should I become the focus of an inquiry.
5. **Judicial or Administrative Proceedings** – If you are involved in a court proceeding and a request is made for information about your diagnosis and treatment, such information is privileged under state law and I will not release this information without written authorization from you or your legally-appointed representative. The privilege does not apply, however, if the information is court ordered.
6. **Serious Threat to Health or Safety** – If you communicate to me an explicit threat to kill or inflict serious bodily injury upon an identified person and you have apparent intent and ability to carry out the threat, I must take reasonable precautions. Reasonable precautions may include warning the potential victim, notifying law enforcement, or arranging for your hospitalization. I must also do so if I know you have a history of physical violence and I believe there is a clear and present danger that you will attempt to kill or inflict bodily injury upon an identified person.

Furthermore, if you present a clear and present danger to yourself and refuse to accept further appropriate treatment, and if I have a reasonable basis to believe that you can be committed to a hospital, I must seek said commitment and may contact members of your family or other individuals. My actions will ultimately be dictated by my clinical judgment and desire to do what I deem to be in your best interest.

7. **Workers' Compensation** – If you file a workers' compensation claim, your records relevant to that claim will not be confidential to entities such as your employer, the insurer, and the Division of Worker's Compensation.

When the use and disclosure without your consent or authorization is allowed under other sections of Section 164.512 of the Privacy Rule and the state's confidentiality law, this includes certain narrowly-defined disclosures to law enforcement agencies, to a health oversight agency (such as HHS or a state department of health), to a coroner or medical examiner, for public health purposes relating to disease or FDA-regulated products, or for specialized government functions such as fitness for military duties, eligibility for VA benefits, and national security and intelligence.

ALL OTHER USES AND DISCLOSURES DO REQUIRE YOUR AUTHORIZATION

1. In all other situations, I may use or disclose your PHI only after I have received your authorization (in the form of written permission) to do so.
2. I will need to obtain a specific authorization from you before sharing your psychotherapy notes (notes about conversations between us that I have recorded for my personal use and have maintained under separate cover from the rest of your clinical record). These notes are given a greater degree of protection than your PHI.
3. I will also obtain an authorization from you before using or disclosing PHI in a way that is not described in this Notice.
4. At any time you may revoke, in writing, an authorization (with respect to either your PHI or psychotherapy notes), except to the extent that I have taken action in reliance upon a prior authorization.

BREACH NOTIFICATION

The HITECH Act added a requirement to HIPAA that psychologists and other covered entities must give notice to patients and to the Department of Health and Human Services (HHS) if they discover that "unsecured" PHI has been breached. A "breach" is defined as the acquisition, access, use or disclosure of PHI in violation of the HIPAA Privacy Rule. Examples of a breach include stolen or improperly accessed PHI; PHI inadvertently sent to the wrong provider; and unauthorized viewing of PHI by an employee in my practice. PHI is "unsecured" if it is not encrypted to government standards.

1. When I become aware of or suspect a breach, as defined above, I will conduct a Risk Assessment based on the nature and extent of PHI involved, to whom the PHI may have been disclosed, whether the PHI was actually acquired or viewed, and the extent to which the risk to the PHI has been mitigated. I will keep a written record of the Risk Assessment.
2. Unless I determine that there is a low probability that PHI has been compromised, I will give notice of the breach within 60 days after discovery. The notice will provide a brief description of the breach (including dates); a description of the types of unsecured PHI involved; the steps you should take to protect against the potential harm; a brief description of the steps I have taken to investigate the incident, mitigate harm, and protect against further breaches; and my contact information.

3. The risk assessment can be done by a business associate if it was involved in the breach. While the business associate will conduct a risk assessment of a breach of PHI in its control, I will provide any required notice to patients and HHS.
4. After any breach, particularly one that requires notice, I will re-assess my privacy and security practices to determine what changes should be made to prevent the re-occurrence of such breaches.

YOUR RIGHTS REGARDING YOUR PERSONAL HEALTH INFORMATION

1. **Your Right to Request Restrictions** – You have the right to ask that I limit how I use and disclose your PHI. Although I am not legally required to agree to such restrictions, I will seriously consider your request and will attempt to honor it.
2. **Your Right to Receive Confidential Communications by Alternative Means and at Alternative Locations** – You have the right to request and receive confidential communications of your PHI by alternative means and at alternative locations (for example, upon your request I will send your bill to another address).
3. **Your Right to Inspect and Copy** – In most situations, you have the right to inspect and/or copy your PHI and psychotherapy notes for as long as the PHI is maintained in the record. I may deny your access to PHI under certain circumstances, but in some cases, you may have this decision reviewed. On your request, I will discuss with you the details of the request and denial process.
4. **Your Right to Amend** – You have the right to request an amendment of your PHI for as long as the PHI is maintained in the record. I may deny your request. On your request, I will discuss with you the details of the amendment process.
5. **Your Right to an Accounting** – You generally have the right to receive an accounting of disclosures of PHI for which you have neither provided consent nor authorization. On your request, I will discuss with you the details of the accounting process.
6. **Your Right to a Paper Copy** – You have the right to obtain a paper copy of the notice from me upon request, even if you have agreed to receive the notice electronically.
7. **Your Right to Restrict Disclosures When You Have Paid for Your Care Out-of-Pocket** – You have the right to restrict certain disclosures of PHI to a health plan when you pay out-of-pocket in full for my services.
8. **Your Right to Be Notified if There is a Breach of Your Unsecured PHI** – You have a right to be notified if: (a) there is a breach (a use or disclosure of your PHI in violation of the HIPAA Privacy Rule) involving your PHI; (b) that PHI has not been encrypted to government standards; and (c) my risk assessment fails to determine that there is a low probability that your PHI has been compromised.

MY RESPONSIBILITIES

I am required by law to maintain the privacy of PHI and to provide you with a notice of my legal duties and privacy practices with respect to PHI.

I reserve the right to change the privacy policies and practices described in this notice. Unless I notify you of such changes, however, I am required to abide by the terms currently in effect.

If I revise my policies and procedures, I will notify you in person or by mail.

QUESTIONS AND COMPLAINTS

If you have questions about this notice, disagree with a decision I make about access to your records, or have other concerns about your privacy rights, you should communicate this to me directly.

If you believe that I have violated your privacy rights and you wish to file a complaint with me, you may send your written complaint to me at my office address noted below.

You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services (I can provide you with the appropriate address upon request).

You have specific rights under the Privacy Rule. If you exercise your right to file a complaint, I will respect your right to do so.

EFFECTIVE DATE

This notification will be in effect as of September 23, 2013.

Erika L. Francis-Raniere, Ph.D.