

WHAT IS HIPAA?

What is HIPAA, anyway?

HIPAA is a federal law.

The law's full title is Health Insurance Portability and Accountability Act of 1996. The primary goal of the law is to help employees take their health benefits with them upon a move from one employer to another. The law also included a provision with the goal of improving:

- efficiency of the health care system, by encouraging the use of electronic information systems
- privacy and security protections for individually identifiable health information

What is "Protected Health Information?"

HIPAA's Privacy regulations require protection of individually identifiable health information.

The regulations define "protected health information" (PHI) as information that relates to the:

- past, present or future physical or mental health or condition of an individual
- provision of health care to an individual
- past, present or future payment for the provision of health care to an individual

Protection applies to information collected from the individual, received or created by a health care provider, health plan, health care clearinghouse or employer, and is maintained or transmitted in any form or medium.

What information must be protected?

A wide range of information is considered personal, and therefore protected, health information:

- the fact that someone received treatment
- claims information
- clinical information
- demographic information in the context of health care

There is no distinction between clinical and other types of information. All are protected under the law.

Why all this concern about privacy?

In the age of electronic databases, privacy is an increasing concern for many people. The protections provided in the Privacy Rule have three goals:

- to give individuals greater control of their personal health information
- to limit what others can do with protected health information
- to safeguard individually identifiable health information

Knowing that personal health information is protected should increase trust between individuals and those who provide and pay for their care.

Individual control of health information

HIPAA gives individuals rights that increase their ability to control access to their protected health information. All individuals have a right to:

- obtain a Notice of Privacy Practices
- inspect or copy information that health plans and providers use for making decisions about them
- know who has seen their health information for non-routine purposes
- request confidential communication of their protected health information

- give explicit permission for use of their information for purposes other than treatment, payment and health care operations

The Notice of Privacy Practices

A Notice of Privacy Practices must be provided to tell individuals what information is collected about them and how that information is used.

This Notice must be:

- provided to new families upon enrollment
- made available to families for review every three years following initial enrollment, and annually in some states

The Designated Record Set

Individuals have the right to inspect or copy the information used to make decisions about them. This information, called the **Designated Record Set**, includes:

- enrollment
- payment
- claims adjudication
- case or medical management records
- any other records used for making decisions about the individual Records held by business associates of DCBHS entities are considered part of the Designated Record Set. The individual has the right to inspect the entire Designated Record Set or any PHI within the Designated Record Set.

Making Amendments

Families may believe that there are errors in the information in their Designated Record Set. If so, the family has the right to request a correction or that additional information be included in the record. If a change is made based upon such a request, everyone who might need to know about it will be notified. This may include insurance companies or providers that treat the child.

Routine Use of Information

Although system partners have individual information about the children in the DCBHS, they are not free to use it for any purposes they choose. That information may only be used to conduct the routine activities of payment and health care operations, such as:

- coordinating care between providers or between a provider and a health plan
- submitting or paying claims
- reviewing utilization patterns
- improving clinical services

Non-routine disclosure of information

If the protected health information of a child is shared for any other reason than conducting routine activities the agency sharing the information must:

- obtain an individual Release of Information Authorization (unless required by law or regulation)
- record the disclosure
- be prepared to provide an accounting of such disclosures, if asked

Examples of non-routine disclosure include:

- collecting data for marketing, fundraising or research purposes

- releasing information to employers for employment-related decisions
- reporting suspected child or elder abuse or neglect
- reporting the use of clozapine to a national registry
- responding to a subpoena or other legal request

If a disclosure is required by law or regulation, a release is not needed, but the disclosure must still be recorded.

The Release of Information Authorization

Except when information is used for routine purposes, a Release of Information Authorization must be obtained from the family.

This release must include:

- a description of the information that will be used or shared
- with whom the information will be shared
- for what purpose
- when or why the release will expire
- a statement that the release may be revoked at any time and that care will not be denied upon refusal to provide a Release of Information Authorization