Included in this newsletter is guidance on various HIPAA-related topics that impact your everyday work life. Hopefully, it will help answer some of your questions about how HIPAA relates to your work.

Where can I find the latest forms and other information about HIPAA?

The HIPAA Privacy Compliance Office has developed a website for Purdue staff to access forms and other HIPAA-related information. To access the site, please visit: http://www.purdue.edu/hipaa or contact: Joan Vaughan, Director, HIPAA Privacy Compliance

telephone: (765) 496-1927
e-mail: jvaughan@purdue.edu

HIPAA Privacy - Verbal Communications

Provided by the Office of Civil Rights http://www.hhs.gov/ocr/hipaa/

Questions continue to be raised regarding what types of verbal communications are allowed by HIPAA and what manner of safeguards should be applied. The following guidance provided by the Office of Civil Rights explains the common sense approach that should be used in communicating with patients, employees and providers.

Do the HIPAA Privacy Rule’s provisions permitting certain incidental uses and disclosures apply only to treatment situations or discussions among health care providers?

No. The provisions apply universally to incidental uses and disclosures that result from any use or disclosure permitted under the Privacy Rule, and not just to incidental uses and disclosures resulting from treatment communications, or only to communications among health care providers or other medical staff. For example:

- A provider may instruct an administrative staff member to bill a patient for a particular procedure, and may be overheard by one or more persons in the waiting room.
- A health plan employee discussing a patient’s health care claim on the phone may be overheard by another employee who is not authorized to handle patient information.

If the provider and the health plan employee made reasonable efforts to avoid being overheard and reasonably limited the information shared, an incidental use or disclosure

Can health care providers engage in confidential conversations with other providers or with patients, even if there is a possibility that they could be overheard?

Yes. The HIPAA Privacy Rule is not intended to prohibit providers from talking to each other and to their patients. Provisions of this Rule requiring covered entities to implement reasonable safeguards that reflect their particular circumstances and exempting treatment disclosures from certain requirements are intended to ensure that providers’ primary consideration is the appropriate treatment of their patients. The Privacy Rule recognizes that oral communications often must occur freely and quickly in treatment settings. Thus, covered entities are free to engage in communications as required for quick, effective, and high quality health care. The Privacy Rule also recognizes that overheard communications in these settings may be unavoidable and allows for these incidental disclosures.

For example, the following practices are permissible under the Privacy Rule, if reasonable precautions are taken to minimize the chance of incidental disclosures to others who may be nearby:

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- Health care staff may orally coordinate services at hospital nursing stations.

- Nurses or other health care professionals may discuss a patient’s condition over the phone with the patient, a provider, or a family member.

- A health care professional may discuss lab test results with a patient or other provider in a joint treatment area.

- A physician may discuss a patient’s condition or treatment regimen in the patient’s semi-private room.

- Health care professionals may discuss a patient’s condition during training rounds in an academic or training institution.

- A pharmacist may discuss a prescription with a patient over the pharmacy counter, or with a physician or the patient over the phone.

In these circumstances, reasonable precautions could include using lowered voices or talking apart from others when sharing protected health information. However, in an emergency situation, in a loud emergency room, or where a patient is hearing impaired, such precautions may not be practicable. Covered entities are free to engage in communications as required for quick, effective, and high quality health care.

**FAQ of the Month**

Provided by the Office of Civil Rights

http://www.hhs.gov/ocr/hipaa/

**Question:**

Does the Privacy Rule permit health plans to disclose protected health information to pharmaceutical manufacturers for the adjudication of drug rebate contracts?

**Answer:**

Yes. The Privacy Rule permits a health plan to disclose protected health information, such as prescription numbers, to a pharmaceutical manufacturer for purposes of adjudicating claims submitted under a drug rebate contract. Because the amount of the rebate is based on drug utilization by individual enrollees, such disclosures are permitted as part of a covered entity’s payment activities. See 45 CFR 164.502(a)(1)(ii) and the definition of “payment” at 45 CFR 164.501. A business associate agreement is not required to make these disclosures. However, a health plan must make reasonable efforts to limit the information disclosed to that which is the minimum necessary to adjudicate claims under the contract. See 45 CFR 164.502(b) and 164.514(d) for more information on the minimum necessary standard.

**Did you know...**

**Disclosures to Public Health Authorities**

Provided by the Office of Civil Rights

http://www.hhs.gov/ocr/hipaa/

It is permitted to disclose protected health information (PHI) without an authorization to a public health authority:

The definition of a public health authority requires that an agency’s official mandate include the responsibility for public health matters. The mandate can be responsibility for public health matters, generally, or it can be for specific public health programs. Furthermore, an agency’s official mandate, does not have to be exclusively or primarily for public health. Therefore, to the extent a government agency has public health matters as part of its official mandate, it qualifies as a public health authority.

For instance, various Department of Health and Human Service agencies, such as NIH and the Health Resources and Services Administration (HRSA), are authorized by law to assist the Secretary of Health and Human Services in carrying out the purposes of section 301 of the Public Health Service Act. Those agencies are public health authorities under the Rule, even if they have other non-public health mandates.

To the extent a public health authority is authorized by law to collect or receive information for the public health purposes specified in the public health provision, covered entities may disclose PHI to such public health authorities without authorization. These disclosures, however, do need to be tracked by the covered component.

If you are unsure whether a written authorization is required for a disclosure, call or email the HIPAA Privacy Compliance Office at Purdue.

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