

What is PHI?

Protected Health Information

- Name
- Geographic subdivisions smaller than a state
- Date of Birth
- Admission Date
- Discharge Date
- Phone Number
- Fax number
- Medical Record number
- E-mail address or Web address
- Social Security number
- Health Plan beneficiary number
- Account number
- Certificate/license number
- Vehicle identifiers and serial #
- Biometric identifiers (fingerprint, iris ID)
- Photo
- Any unique identifying number, characteristic or code

Be sure before you disclose PHI that you have the authority under HIPAA Law to do so.



When can PHI be shared without an authorization?

✓FOR TREATMENT

✓FOR PAYMENT

✓FOR HEALTH CARE OPERATIONS

✓MADE TO THE INDIVIDUAL

✓TO PERSONS **INVOLVED IN THE INDIVIDUAL'S CARE** OR PAYMENT FOR CARE (*exceptions may apply – e.g. Minor's consenting to own STD treatment*)

✓FOR **NOTIFICATION** OF FAMILY MEMBERS (OR OTHERS INVOLVED IN THE INDIVIDUAL'S CARE) OF THE INDIVIDUAL'S **LOCATION, GENERAL CONDITION OR DEATH**

✓TO ENTITY INVOLVED IN **DISASTER RELIEF** (FEMA, RED CROSS, ETC.) FOR DISASTER RELIEF PURPOSES

*✓REQUIRED BY **LAW**

*✓FOR **WORKER'S COMPENSATION** PURPOSES (REQUIRED BY STATE WORKERS' COMPENSATION LAWS)

*✓VALID **SUBPOENA AND COURT ORDER** SIGNED BY A JUDGE (*see Valid Subpoena Checklist*)

*✓TO **CORONERS/MEDICAL EXAMINERS** ABOUT A DECEDENT

✓ABOUT AN **INMATE OR DETAINEE** IN A CORRECTIONAL INSTITUTION

*✓TO **LAW ENFORCEMENT** OFFICIALS, (*with limitations and exceptions*)

✓FOR **NATIONAL SECURITY** PURPOSES

✓IN THE FORM OF A **LIMITED DATA SET**

* Require tracking on Accounting of Disclosures

HIPAA CHECKLIST FOR AUTHORIZATIONS

The HIPAA Privacy Rule lists specific elements that are required for a valid authorization to disclose an individual's protected health information (PHI). Use the checklist below as you review any authorization for release of medical information to determine whether the HIPAA requirements are met. On the checklist, check off each element that is contained in the authorization. (It is acceptable that the elements may not be in the same order as they are listed here.) **ALL** elements **must** be marked before requested PHI can be released.

The authorization:

Is written in plain language (easy to read and understand)

Describes in detail the PHI that is being requested (example: lab reports)

States who is permitted to make the requested disclosure or use of PHI requested (the name of the practice or physician)

States to whom the PHI may be disclosed (the name and address of the person or organization)

Includes an expiration date or expiration event, which has not yet passed

States the purpose of the disclosure ("at the request of the individual" is sufficient)

States the individual who signed it has the right to revoke the authorization in writing

Describes the exceptions to the right to revoke (e.g., cannot revoke if authorization has been relied on to release information, or if the authorization was obtained as a condition of getting insurance and insurance law gives the right to contest a claim)

Describes how the individual may revoke it

States that after the PHI is disclosed to others, it may be re-disclosed by others who are not subject to HIPAA and may no longer be protected by HIPAA

Is signed by the individual, or signed by the individual's personal representative, and describes the representative's authority to act for the individual

Is dated

NOTE: THIS IS DETERMINED BY STATE LAW

DISCLOSURES OF PHI REQUIRED BY INDIANA LAW

- Abortion procedure report to ISDH
- Abuse/neglect/exploitation of Adult to DDARS, APS or Law Enforcement
- AIDS/HIV report to ISDH
- Birth Problems to ISDH Birth Problems Registry
- Births to County/Local Health Department
- Blindness or visual impairment report by MD to ISDH
- Burn injury report to State Fire Marshall
- Cancer Registry cases to ISDH
- Child Abuse / neglect to CPS or Law Enforcement
- Communicable Disease reports to ISDH or County/Local Health Department
- Death due to blood transfusion or collection
- Death due to unnatural causes to Coroner
- Deaths and Stillbirths to County/Local Health Department
- Destructive device injury report to ISDH
- Disabled person / birth defect report to ISDH w/in 60 days of diagnosis
- Diseased or dangerous animals to County/Local Health Officer or State Veterinarian
- Dog bite injury report to ISDH
- Endangered Adult report to APS or Law Enforcement
- Fireworks or Pyrotechnics-related injury report to ISDH
- Infants with PKU & other metabolic disorders to ISDH
- Medical neglect of Handicapped Child report to ISDH
- Misadministration of radioactive materials to Nuclear Regulatory Commission
- Radiological overexposure report to ISDH
- TB to County/Local Health Department
- Weapon wounds reported to local Law Enforcement (any injury from firearm & injuries which may result in death by wound from a sharp or pointed instrument)

CHECKLIST

Subpoenas/Discovery Requests/Court Orders

For Release of (PHI)

- Subpoena AND an Order from a Court or Administrative Body (e.g., Department of Labor) signed by a judge

No other documentation needed – may release records requested

- Subpoena or other request for documents submitted by an attorney **without** an Order from a Court (will only have an attorney's signature)

Other documentation needed:

- Written assurance from requester that s/he has made reasonable efforts to:
 - ✓ notify, in writing, the individual who is the subject of the PHI of the request;
 - ✓ the notice included enough information about the litigation to allow the individual to raise an objection to the court or tribunal; **AND**
 - ✓ the time for the individual to raise objections to the court or tribunal has elapsed and no objections were filed or objections that were filed have been resolved and requested disclosures are consistent with the resolution; **OR**
- Written assurance from requester that s/he has made reasonable effort to obtain a qualified protective order; **OR**

We may disclose the requested information if we **independently:**

- Notify the individual who is the subject of the PHI, in writing, of the request; **OR**
- Seek a qualified protective order

Accounting of Disclosures Summary

Require tracking

- **Made accidentally or intentionally** (faxed or e-mailed to the wrong number or person).
- **Required by law**
- **For public health activities – reporting disease**
- **Victims of abuse, neglect or domestic violence**
- **For health oversight activities**
- **For subpoena or judicial or administrative proceeding**
- **For law enforcement purposes** (identifying crime victims or witnesses).
- **About decedents** (to coroners, medical examiner, funeral homes or for cadaveric organ or tissue donation, i.e., IOPO).
- **For research purposes**
- **To avert serious threat to health or safety** of an individual or the public
- **For specialized government functions** (other than national security purposes).
- **For workers' compensation** purposes.

Do not require tracking:

- **For Treatment, Payment, or Health Care Operations.**
- **Made to the individual.**
- To persons involved in the **individual's care** or **payment for care.**
- For **national security** purposes.
- Pursuant to an **authorization** signed by the individual.
- About an inmate or detainee to **correctional institutions** or **law enforcement officials.**
- In the form of a **limited data set.**
- Made prior to April 14, 2003.

Real Examples of Disclosures that require tracking in Accounting of Disclosure

- Nursing department gives additional information to Funeral Home after patient dies
- Security releases PHI to Funeral Home when deceased patient is released
- Reports to Indiana Organ Procurement Organization by person contacting IOPO
- Injury Report to Employer when individual's injury is work-related
- Information about implanted medical devices to vendors for FDA tracking purposes
- Reports about drugs to FDA
- Rape reported to Law Enforcement (hospital may release PHI with verbal consent of patient)
- Police request for name, address, etc. of injured person suspected of committing a crime
- Police request for name, address, etc. of individual who is a missing person who may have received treatment
- Sheriff requests name & address of patient injured in parking lot accident
- Medical records released upon Court Order (signed by a judge)
- Medical records released pursuant to a Subpoena, if accompanied by Court Order, or very specific assurances set out in HIPAA
- Employee testimony including PHI pursuant to Subpoena
- Unintentional disclosures (mistakes)
- Intentional unauthorized disclosures, e.g., employee accesses ex-spouse's medical records and uses PHI in a child custody dispute

HIPAA Safeguards

DO:

- Dispose of all paper trash containing PHI in containers that are designated by the facility for confidential paper;
- Turn computer screens away from the view of visitors or other unauthorized persons when feasible;
- Use computer screen savers;
- Logout of computers when not using them;
- Lock filing cabinets or offices where PHI is contained or stored;
- Escort vendors or other visitors in areas where PHI may be visible;
- Keep patient records in areas that are inaccessible to unauthorized persons;
- Limit patient information on white boards;
- Avoid leaving patient charts unattended on countertops or desks;
- Keep surgery and procedure schedules in a drawer or where not easily seen;
- Keep voices low when discussing patients;
- Talk to patients privately when possible
- Report privacy concerns when identified
- Complete Privacy Training
- Receive and review periodic reminders about Privacy and Security

DON'T:

- Share computer passwords;
- Discuss patients in public areas inside or outside of the facility, such as cafeterias, elevators, restaurants, or shopping malls

HIPAA Awareness Walkthrough Questionnaire

1. Can you tell me the steps you follow when you fax a document?
2. Has a patient ever asked you to e-mail his or her test results or other records?
 - a. If so, how did you respond?
 - b. If not, how would you respond if asked?
3. If patients want to file a complaint about the privacy or security of their health information, whom should they contact?
4. Can you name 1 place where you can find the correct phone number and mailing address to file a complaint?
5. Can you give me an example of health information that you might withhold from the parent of a minor child? (e.g. STD treatment if minor consented to own treatment)
6. What does the HIPAA “minimum necessary” requirement mean to you in your work?
7. When a visitor asks you for information about a patient, how do you decide whether you can share that information?
8. Can you give me an example of a case when it’s okay to release PHI without the patient’s written authorization?
9. If you call a patient with lab results and get an answering machine, how much information do you leave on the recorder?
10. If you call a patient to schedule an appointment and get another household member, how much information do you give that person?
11. A caller identifies herself as the granddaughter of one of your patients and she says she’s calling to make an appointment for her grandmother. Can you make the appointment as the granddaughter requests?
12. Can you show me where I can find the policy and procedure that gives you instructions or guidance to answer the questions I just asked?