

## **HIPAA Refresher Training Script**

Everyone should already have had HIPAA training in some form before this. For that reason, this is intended to be a refresher. During this refresher training, we will review the HIPAA Privacy Regulations and how it impacts this department and you.

Here are the objectives for this training:

- You should all now know what HIPAA is;
- What to do if you have questions;
- What government agency is responsible for enforcing HIPAA;
- Two rules to remember for HIPAA; and
- Your homework assignment to help prepare for JCAHO questions related to privacy.

### **Is it H-I-P-P-A, H-I-P-P-O, or H-I-P-A-A?**

One thing we need to clear up is the spelling of HIPAA. HIPAA stands for the Health Insurance Portability and Accountability Act. The spelling is H-I-P-A-A. Let's look at what that means:

- Health Insurance Portability – Part of the initial intent of this law was to help people take their health insurance coverage from one job to the next. In other words, make it portable.
- Accountability – The Act set standards and enforcement mechanisms to help reduce fraud, waste and abuse in health care. The Accountability provisions set up a health care trust fund intended to finance continued enforcement efforts.
- Administrative Simplification – This part of the Act establishes the Electronic Data Interface (EDI) piece which establishes the standardization through which electronic claims data will be submitted and paid.

I know, you are probably saying, “Where is the Privacy part of HIPAA?” That is just it: There is nowhere in HIPAA that addresses patient privacy. It was not intended to cover privacy. What happened is that by standardizing data through the EDI component of the Administrative Simplification for healthcare providers, there was a need that developed to ensure the privacy and security of that information. Let me give you an example:

Assume everyone in this room spoke a different language. When you talk on the phone, it does not matter what you say or how loud you say it because no one else will be able to understand what you are saying. Now, assume that everyone speaks the same language. Suddenly you have to take steps to safeguard that same conversation because now others can hear and understand what you are saying. It is the same way with HIPAA. Under HIPAA, everyone will be speaking the same language when it comes to communicating electronic information submitted for billing. For that reason, safeguards must be implemented to ensure that we keep the information private.

### **So what do I need to know about HIPAA?**

Let's start with the basic rule:

A covered entity may not use or disclose protected health information, except as permitted or required by this subpart or subpart C of part 160 of this subchapter.

Now let's look into this:

1. Covered Entity – that is us. Healthcare entities, hospitals, health plans and other organizations that deal with health information fall under the umbrella of Covered Entity.
2. Use or Disclose – These are HIPAA terms of art. Are you using information or giving out the information?
3. Protected Health Information – Also referred to as PHI. This is a HIPAA term of art. There is a technical definition, but let's simplify it and just say any identifiable, health-related information that belongs to a patient, no matter whether it is paper or electronic.
4. Permitted or Required – This tells us there are exceptions. Some will allow us to disclose information, others require us to disclose information.
5. Subpart – A legislative term intended to make a reader's brain dance in circles. This specific subpart is 45 CFR (Code of Federal Regulations) 164 subpart E. Subpart A is General Provisions, a legislative term for filler. Subparts B-D are reserved, meaning they are empty, a legislative ploy to allow for adding more things later. Subpart E is simply labeled, "Privacy." At last we have found the Privacy piece of HIPAA.
6. Subpart C of Part 160 – This refers to 45 CFR 160. That part, 160, has 3 subparts: A, B, and C. Subpart C deals with enforcement of the HIPAA Privacy Rules by the Office of Civil Rights of the Department of Health and Human Services, the agency responsible for enforcing HIPAA. What this tells us is that a covered entity may use or disclose information to the Office of Civil Rights for enforcement (audit) purposes.

So now that you have mastered that, what does it mean? It means that as a Covered Entity, we may not use or disclose identifiable patient information unless there is an exception that allows us to do so, a requirement that we do so, or the Office of Civil Rights is coming to review our business.

Our biggest exception is for **payment, treatment, and health care operations**. But when we use or disclose information, we must only use or disclose the **minimum necessary** to get the job done. For example:

1. If you need a patient's address to send a follow-up note or a bill to the patient, can you do that? **Answer: Yes.**
2. Why? **Answer: Because it is for treatment (follow-up note) or payment (bill).**
3. So when you access the patient's chart to get the address, can you look through the patient's progress notes? **Answer: No. Because you do not need it to do the job. You are only permitted to access the minimum necessary information to get the job done.**

Review Question: What government agency is responsible for enforcing the HIPAA Privacy rules? **Answer: The Office of Civil Rights of the Department of Health and Human Services.**

### **So what do I do if I have a question about HIPAA?**

The best thing to do is to ask your supervisor. You are not expected to be the MIHS expert on HIPAA. Don't try to be. Get help with the question.

Have you ever tried to ask someone for information and they tell you they cannot give it to you because it violates the HIPAA law? Sometimes they are right, but sometimes they are very wrong. Don't be that person! **Be polite, be courteous.** If you do not know the answer, ask the person to wait until you can talk to someone else. If you definitely cannot give out the information, then politely say so. **BUT IF YOU TELL SOMEONE YOU CANNOT GIVE OUT THE INFORMATION, BE SURE YOU ARE RIGHT!**

If you ask your supervisor and you are still unsure, call the Privacy Officer. Our Privacy Officer is:

**Darrell Contreras. His number is (602) 344-5915.**

You can also check the HIPAA Policies online on the CopaNet. From the CopaNet homepage, click on "Policies and Procedures" on the lower left side. Then select the 14000 Series policies entitled, "HIPAA." There are 38 HIPAA policies to address questions you have about what is permitted or what is not permitted. You should also be able to locate the HIPAA policies in your department's policy manual.

### **What is the Bottom Line for Me?**

You, as an employee, need to remember 2 rules and a homework assignment. We have shortened the torture of HIPAA training for you. Many organizations require their employees to undergo hours of HIPAA training. In exchange for freeing you from the torturous HIPAA training, we need you to remember 2 rules and review a homework assignment.

#### **Rule 1:**

Is using or disclosing this information in the best interest of the patient?

**Yes – Do it and document.**

**No – Don't do it.**

#### **Rule 2:**

Do I need to access this information, whether paper or electronic, to perform my job function?

**Yes – Go ahead and access the information.**

**No – Don't even think about accessing the information.**

With these two rules, you will be guided in how to comply with HIPAA. You will not have the answers to everything, but you will be able to deal with many of the situations you

encounter. Also, ask your supervisor for help. If you still need help, call the Privacy Officer at x5915. **DO NOT DO IT ALONE!**

### **Homework Assignment:**

On the CopaNet, there are policies and procedures. The 14000 series of policies and procedures are devoted to HIPAA. Many of these policies will apply to you. Take a look at the table of contents. At this point, I will identify which policies apply to our department. We are all responsible for following the policies and procedures applicable to our department. Your homework assignment will be to go back and review the policies that apply to this department.

### **What do I need to know for JCAHO?**

JCAHO Surveyors may ask a variety of things.

- They may ask when you last received HIPAA training.
- They may ask you what you do when you have a question about patient privacy.
- They may ask you where your policies are located and how to access those policies related to privacy.
- They may ask you to locate them.
- They may ask nothing at all.

If you are asked by a JCAHO surveyor what you do with a privacy concern, tell them the truth. After this training, you should know. If you always talk to your supervisor, that is fine, just say that. If they ask you to show them where the policies are for privacy, you should now be able to show them.

### **Acknowledgment of Confidentiality Form**

To demonstrate that you attended this training, each of you will be required to sign the Acknowledgment of Confidentiality Form at the end of this training session. The Form will be maintained as part of your personnel file in Human Resources. These files will be audited, so if we do not have one in your file, you will get to do HIPAA training all over again.

Your attendance at this training session will also be tracked on the employee education tracking database. If you do not sign-in and **PRINT LEGIBLY**, you will have the opportunity to do the HIPAA training again.

### **Frequently Asked Questions**

1. How do we have confidential discussions with patients in an open area?  
**Answer: Do the best you can to preserve the confidentiality of those conversations. The government has stated that HIPAA does not require healthcare organizations to remodel in order to comply. Instead, the organization must take reasonable steps to preserve the privacy of its patients through the means available. That means pulling the curtain, lowering voices, looking for a private area in which to talk to the patient or patient's family (if one exists).**

2. Am I allowed to give out patient information to a family member? **Answer: Keep in mind who owns the information – the patient. Ask yourself, would the patient want to give that information out? The easiest way to answer this is to ask the patient. Too often, we try to guess whether it is okay to give out this information when the answer is to let the patient decide. If the patient is able (conscious, has capacity to make decisions), then ask the patient or let the patient talk to the family directly.**
3. What if the patient is not present or not able to respond? **Answer: Don't do this by yourself. Ask for help. The Privacy Regulation allows for limited information to be disclosed to a patient's family or close personal friend if, "in the exercise of professional judgment, [the provider] determine[s] whether the disclosure is in the best interests of the individual and, if so, disclose[s] only the protected health information that is directly relevant to the person's involvement with the individual's health care." That means if you and your supervisor believe that disclosing this information is in the patient's best interest and the patient has not told you otherwise, then you can disclose the information you think that person needs to have to make decisions about treatment.**
4. Do we need to document that we provided the information? **Answer: The technical answer is generally not. However, if you ask the patient if it is okay to disclose information and the patient agrees, I would recommend documenting that in the chart. Similarly, if you make a decision to provide information to a family member or close personal friend, I would recommend that you document who it was and why you thought it was okay to disclose that information. If you do not document and if the patient later objects to whom you disclosed information, you have no way to prove that you even considered the HIPAA Privacy Regulations. Now you see why it is easier to let the patient talk to people when possible?**
5. Where do we go for the answers to other questions? **The Office of Civil Rights has put together a Frequently Asked Questions webpage that is very good. You may be able to find the answer to a question there. Of course, you can always contact the Privacy Officer. Here is the website address:**

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

That concludes the HIPAA refresher training. Thank you for your help to preserve the privacy and confidentiality of our patients' information. Don't forget to sign-in and don't forget to return your completed Acknowledgment of Confidentiality Form.