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HIPAA Privacy Rule and Sharing Information



HIPAA Privacy Rule and Sharing Information Related to Mental Health

Background

The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule provides consumers with important privacy rights and protections with respect to their health information, including important controls over how their health information is used and disclosed by health plans and health care providers. Ensuring strong privacy protections is critical to maintaining individuals' trust in their health care providers and willingness to obtain needed health care services, and these protections are especially important where very sensitive information is concerned, such as mental health information. At the same time, the Privacy Rule recognizes circumstances arise where health information may need to be shared to ensure the patient receives the best treatment and for other important purposes, such as for the health and safety of the patient or others. The Rule is carefully balanced to allow uses and disclosures of information—including mental health information—for treatment and these other purposes with appropriate protections.

In this guidance, we address some of the more frequently asked questions about when it is appropriate under the Privacy Rule for a health care provider to share the protected health information of a patient who is being treated for a mental health condition. We clarify when HIPAA permits health care providers to:

- Communicate with a patient's family members, friends, or others involved in the patient's care;
- Communicate with family members when the patient is an adult;
- Communicate with the parent of a patient who is a minor;
- Consider the patient's capacity to agree or object to the sharing of their information;
- Involve a patient's family members, friends, or others in dealing with patient failures to adhere to medication or other therapy;
- Listen to family members about their loved ones receiving mental health treatment;
- Communicate with family members, law enforcement, or others when the patient presents a serious and imminent threat of harm to self or others; and
- Communicate to law enforcement about the release of a patient brought in for an emergency psychiatric hold.

In addition, the guidance provides relevant reminders about related issues, such as the heightened protections afforded to psychotherapy notes by the Privacy Rule, a parent's right to access the protected health information of a minor child as the child's personal representative, the potential applicability of Federal alcohol and drug abuse confidentiality regulations or state laws that may provide more stringent protections for the information than HIPAA, and the intersection of HIPAA and FERPA in a school setting.

Questions and Answers about HIPAA and Mental Health

Does HIPAA allow a health care provider to communicate with a patient's family, friends, or other persons who are involved in the patient's care?

Yes. In recognition of the integral role that family and friends play in a patient's health care, the HIPAA Privacy Rule allows these routine – and often critical – communications between health care providers and these persons. Where a patient is present and has the capacity to make health care decisions, health care providers may communicate with a patient's family members, friends, or other persons the patient has involved in his or her health care or payment for care, so long as the patient does not object. See 45 CFR 164.510(b). The provider may ask the patient's permission to share relevant information with family members or others, may tell the patient he or she plans to discuss the information and give them an opportunity to agree or object, or may infer from the circumstances, using professional judgment, that the patient does not object. A common example of the latter would be situations in which a family member or friend is invited by the patient and present in the treatment room with the patient and the provider when a disclosure is made.

Where a patient is not present or is incapacitated, a health care provider may share the patient's information with family, friends, or others involved in the patient's care or payment for care, as long as the health care provider determines, based on professional judgment, that doing so is in the best interests of the patient. Note that, when someone other than a friend or family member is involved, the health care provider must be reasonably sure that the patient asked the person to be involved in his or her care or payment for care.

In all cases, disclosures to family members, friends, or other persons involved in the patient's care or payment for care are to be limited to only the protected health information directly relevant to the person's involvement in the patient's care or payment for care.

OCR's website contains additional information about disclosures to family members and friends in fact sheets developed for [consumers - PDF](#) and [providers - PDF](#).

Does HIPAA provide extra protections for mental health information compared with other health information?

Generally, the Privacy Rule applies uniformly to all protected health information, without regard to the type of information. One exception to this general rule is for psychotherapy notes, which receive special protections. The Privacy Rule defines psychotherapy notes as notes recorded by a health care provider who is a mental health professional documenting or analyzing the contents of a conversation during a private counseling session or a group, joint, or family counseling session and that are separate from the rest of the patient's medical record. Psychotherapy notes do not include any information about medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, or results of clinical tests; nor do they include summaries of diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date. Psychotherapy notes also do not include any information that is maintained in a patient's medical record. See 45 CFR 164.501.

Psychotherapy notes are treated differently from other mental health information both because they contain particularly sensitive information and because they are the personal notes of the therapist that typically are not required or useful for treatment, payment, or health care operations purposes, other than by the mental health professional who created the notes. Therefore, with few exceptions, the Privacy Rule requires a covered entity to obtain a patient's authorization prior to a disclosure of psychotherapy notes for any reason, including a disclosure for treatment purposes to a health care provider other than the originator of the notes. See 45 CFR 164.508(a)(2). A notable exception exists for disclosures required by other law, such as for mandatory reporting of abuse, and mandatory "duty to warn" situations regarding threats of serious and imminent harm made by the patient (State laws vary as to whether such a warning is mandatory or permissible).

Is a health care provider permitted to discuss an adult patient's mental health information with the patient's parents or other family members?

In situations where the patient is given the opportunity and does not object, HIPAA allows the provider to share or discuss the patient's mental health information with family members or other persons involved in the patient's care or payment for care. For example, if the patient does not object:

- A psychiatrist may discuss the drugs a patient needs to take with the patient's sister who is present with the patient at a mental health care appointment.
- A therapist may give information to a patient's spouse about warning signs that may signal a developing emergency.

BUT:

- A nurse may not discuss a patient's mental health condition with the patient's brother after the patient has stated she does not want her family to know about her condition.

In all cases, the health care provider may share or discuss only the information that the person involved needs to know about the patient's care or payment for care. See 45 CFR 164.510(b). Finally, it is important to remember that other applicable law (e.g., State confidentiality statutes) or professional ethics may impose stricter limitations on sharing personal health information, particularly where the information relates to a patient's mental health.

When does mental illness or another mental condition constitute incapacity under the Privacy Rule? For example, what if a patient who is experiencing temporary psychosis or is intoxicated does not have the capacity to agree or object to a health care provider sharing information with a family member, but the provider believes the disclosure is in the patient's best interests?

Section 164.510(b)(3) of the HIPAA Privacy Rule permits a health care provider, when a patient is not present or is unable to agree or object to a disclosure due to incapacity or emergency circumstances, to determine whether disclosing a patient's information to the patient's family, friends, or other persons involved in the patient's care or payment for care, is in the best interests of the patient.¹ Where a provider determines that such a disclosure is in the patient's best interests, the provider would be permitted to disclose only the PHI that is directly relevant to the person's involvement in the patient's care or payment for care.

This permission clearly applies where a patient is unconscious. However, there may be additional situations in which a health care provider believes, based on professional judgment, that the patient does not have the capacity to agree or object to the sharing of personal health information at a particular time and that sharing the information is in the best interests of the patient at that time. These may include circumstances in which a patient is suffering from temporary psychosis or is under the influence of drugs or alcohol. If, for example, the provider believes the patient cannot meaningfully agree or object to the sharing of the patient's information with family, friends, or other persons involved in their care due to her current mental state, the provider is allowed to discuss the patient's condition or treatment with a family member, if the provider believes it would be in the patient's best interests. In making this determination about the patient's best interests, the provider should take into account the patient's prior expressed preferences regarding disclosures of their information, if any, as well as the circumstances of the current situation. Once the patient regains the capacity to make these choices for herself, the provider should offer the patient the opportunity to agree or object to any future sharing of her information.

Note 1: The Privacy Rule permits, but does not require, providers to disclose information in these situations. Providers who are subject to more stringent privacy standards under other laws, such as certain state confidentiality laws or 42 CFR Part 2, would need to consider whether there is a similar disclosure permission under those laws that would apply in the circumstances.

If a health care provider knows that a patient with a serious mental illness has stopped taking a prescribed medication, can the provider tell the patient's family members?

So long as the patient does not object, HIPAA allows the provider to share or discuss a patient's mental health information with the patient's family members. See 45 CFR 164.510(b). If the provider believes, based on professional judgment, that the patient does not have the capacity to agree or object to sharing the information at that time, and that sharing the information would be in the patient's best interests, the provider may tell the patient's family member. In either case, the health care provider may share or discuss only the information that the family member involved needs to know about the patient's care or payment for care.

Otherwise, if the patient has capacity and objects to the provider sharing information with the patient's family member, the provider may only share the information if doing so is consistent with applicable law and standards of ethical conduct, and the provider has a good faith belief that the patient poses a threat to the health or safety of the patient or others, and the family member is reasonably able to prevent or lessen that threat. See 45 CFR 164.512(j). For example, if a doctor knows from experience that, when a patient's medication is not at a therapeutic level, the patient is at high risk of committing suicide, the doctor may believe in good faith that disclosure is necessary to prevent or lessen the threat of harm to the health or safety of the patient who has stopped taking the prescribed medication, and may share information with the patient's family or other caregivers who can avert the threat. However, absent a good faith belief that the disclosure is necessary to prevent a serious and imminent threat to the health or safety of the patient or others, the doctor must respect the wishes of the patient with respect to the disclosure.

Can a minor child's doctor talk to the child's parent about the patient's mental health status and needs?

With respect to general treatment situations, a parent, guardian, or other person acting in loco parentis usually is the personal representative of the minor child, and a health care provider is permitted to share patient information with a patient's personal representative under the Privacy Rule. However, section 164.502(g) of the Privacy Rule contains several important exceptions to this general rule. A parent is not treated as a minor child's personal representative when: (1) State or other law does not require the consent of a parent or other person before a minor can obtain a particular health care service, the minor consents to the health care service, and the minor child has not requested the parent be treated as a personal representative; (2) someone other than the parent is authorized by law to consent to the provision of a particular health service to a minor and provides such consent; or (3) a parent agrees to a confidential relationship between the minor and a health care provider with respect to the health care service.² For example, if State law provides an adolescent the right to obtain mental health treatment without parental consent, and the adolescent consents to such treatment, the parent would not be the personal representative of the adolescent with respect to that mental health treatment information.

Regardless, however, of whether the parent is otherwise considered a personal representative, the Privacy Rule defers to State or other applicable laws that expressly address the ability of the parent to obtain health information about the minor child. In doing so, the Privacy Rule permits a covered entity to disclose to a parent, or provide the parent with access to, a minor child's protected health information when and to the extent it is permitted or required by State or other laws (including relevant case law). Likewise, the Privacy Rule prohibits a covered entity from disclosing a minor child's protected health information to a parent when and to the extent it is prohibited under State or other laws (including relevant case law). See 45 CFR 164.502(g)(3)(ii).

In cases in which State or other applicable law is silent concerning disclosing a minor's protected health information to a parent, and the parent is not the personal representative of the minor child based on one of the exceptional circumstances described above, a covered entity has discretion to provide or deny a parent access to the minor's health information, if doing so is consistent with State or other applicable law, and the decision is made by a licensed health care professional in the exercise of professional judgment. For more information about personal representatives under the Privacy Rule, see OCR's guidance for [consumers](#) and [providers](#).

In situations where a minor patient is being treated for a mental health disorder and a substance abuse disorder, additional laws may be applicable. The Federal confidentiality statute and regulations that apply to

federally-funded drug and alcohol abuse treatment programs contain provisions that are more stringent than HIPAA. See 42 USC § 290dd-2; 42 CFR 2.11, et. seq.

Note 2: A parent also may not be a personal representative if there are safety concerns. A provider may decide not to treat the parent as the minor's personal representative if the provider believes that the minor has been or may be subject to violence, abuse, or neglect by the parent or the minor may be endangered by treating the parent as the personal representative; and the provider determines, in the exercise of professional judgment, that it is not in the best interests of the patient to treat the parent as the personal representative. See 45 CFR 164.502(g)(5).

At what age of a child is the parent no longer the personal representative of the child for HIPAA purposes?

HIPAA defers to state law to determine the age of majority and the rights of parents to act for a child in making health care decisions, and thus, the ability of the parent to act as the personal representative of the child for HIPAA purposes. See 45 CFR 164.502(g).

Does a parent have a right to receive a copy of psychotherapy notes about a child's mental health treatment?

No. The Privacy Rule distinguishes between mental health information in a mental health professional's private notes and that contained in the medical record. It does not provide a right of access to psychotherapy notes, which the Privacy Rule defines as notes recorded by a health care provider who is a mental health professional documenting or analyzing the contents of a conversation during a private counseling session or a group, joint, or family counseling session and that are separate from the rest of the patient's medical record. See 45 CFR 164.501. Psychotherapy notes are primarily for personal use by the treating professional and generally are not disclosed for other purposes. Thus, the Privacy Rule includes an exception to an individual's (or personal representative's) right of access for psychotherapy notes. See 45 CFR 164.524(a)(1)(i).

However, parents generally are the personal representatives of their minor child and, as such, are able to receive a copy of their child's mental health information contained in the medical record, including information about diagnosis, symptoms, treatment plans, etc. Further, although the Privacy Rule does not provide a right for a patient or personal representative to access psychotherapy notes regarding the patient, HIPAA generally gives providers discretion to disclose the individual's own protected health information (including psychotherapy notes) directly to the individual or the individual's personal representative. As any such disclosure is purely permissive under the Privacy Rule, mental health providers should consult applicable State law for any prohibitions or conditions before making such disclosures.

What options do family members of an adult patient with mental illness have if they are concerned about the patient's mental health and the patient refuses to agree to let a health care provider share information with the family?

The HIPAA Privacy Rule permits a health care provider to disclose information to the family members of an adult patient who has capacity and indicates that he or she does not want the disclosure made, only to the extent that the provider perceives a serious and imminent threat to the health or safety of the patient or others and the family members are in a position to lessen the threat. Otherwise, under HIPAA, the provider must respect the wishes of the adult patient who objects to the disclosure. However, HIPAA in no way prevents health care providers from listening to family members or other caregivers who may have concerns about the health and well-being of the patient, so the health care provider can factor that information into the patient's care.

In the event that the patient later requests access to the health record, any information disclosed to the provider by another person who is not a health care provider that was given under a promise of confidentiality (such as that shared by a concerned family member), may be withheld from the patient if the disclosure would be reasonably likely to reveal the source of the information. 45 CFR 164.524(a)(2)(v). This exception to the

patient's right of access to protected health information gives family members the ability to disclose relevant safety information with health care providers without fear of disrupting the family's relationship with the patient.

Does HIPAA permit a doctor to contact a patient's family or law enforcement if the doctor believes that the patient might hurt herself or someone else?

Yes. The Privacy Rule permits a health care provider to disclose necessary information about a patient to law enforcement, family members of the patient, or other persons, when the provider believes the patient presents a serious and imminent threat to self or others. The scope of this permission is described in a [letter to the nation's health care providers - PDF](#)

Specifically, when a health care provider believes in good faith that such a warning is necessary to prevent or lessen a serious and imminent threat to the health or safety of the patient or others, the Privacy Rule allows the provider, consistent with applicable law and standards of ethical conduct, to alert those persons whom the provider believes are reasonably able to prevent or lessen the threat. These provisions may be found in the Privacy Rule at 45 CFR § 164.512(j).

Under these provisions, a health care provider may disclose patient information, including information from mental health records, if necessary, to law enforcement, family members of the patient, or any other persons who may reasonably be able to prevent or lessen the risk of harm. For example, if a mental health professional has a patient who has made a credible threat to inflict serious and imminent bodily harm on one or more persons, HIPAA permits the mental health professional to alert the police, a parent or other family member, school administrators or campus police, and others who may be able to intervene to avert harm from the threat.

In addition to professional ethical standards, most States have laws and/or court decisions which address, and in many instances require, disclosure of patient information to prevent or lessen the risk of harm. Providers should consult the laws applicable to their profession in the States where they practice, as well as 42 USC 290dd-2 and 42 CFR Part 2 under Federal law (governing the disclosure of alcohol and drug abuse treatment records) to understand their duties and authority in situations where they have information indicating a threat to public safety. Note that, where a provider is not subject to such State laws or other ethical standards, the HIPAA permission still would allow disclosures for these purposes to the extent the other conditions of the permission are met.

If a law enforcement officer brings a patient to a hospital or other mental health facility to be placed on a temporary psychiatric hold, and requests to be notified if or when the patient is released, can the facility make that notification?

The Privacy Rule permits a HIPAA covered entity, such as a hospital, to disclose certain protected health information, including the date and time of admission and discharge, in response to a law enforcement official's request, for the purpose of locating or identifying a suspect, fugitive, material witness, or missing person. See 45 CFR § 164.512(f)(2). Under this provision, a covered entity may disclose the following information about an individual: name and address; date and place of birth; social security number; blood type and rh factor; type of injury; date and time of treatment (includes date and time of admission and discharge) or death; and a description of distinguishing physical characteristics (such as height and weight). However, a covered entity may not disclose any protected health information under this provision related to DNA or DNA analysis, dental records, or typing, samples, or analysis of body fluids or tissue. The law enforcement official's request may be made orally or in writing.

Other Privacy Rule provisions also may be relevant depending on the circumstances, such as where a law enforcement official is seeking information about a person who may not rise to the level of a suspect, fugitive, material witness, or missing person, or needs protected health information not permitted under the above provision. For example, the Privacy Rule's law enforcement provisions also permit a covered entity to respond to an administrative request from a law enforcement official, such as an investigative demand for a patient's protected health information, provided the administrative request includes or is accompanied by a written statement specifying that the information requested is relevant, specific and limited in scope, and that de-identified information would not suffice in that situation. The Rule also permits covered entities to respond to court orders and court-ordered warrants, and subpoenas and summonses issued by judicial officers. See 45 CFR § 164.512(f)(1). Further, to the extent that State law may require providers to make certain disclosures,

the Privacy Rule would permit such disclosures of protected health information as “required-by-law” disclosures. See 45 CFR § 164.512(a).

Finally, the Privacy Rule permits a covered health care provider, such as a hospital, to disclose a patient’s protected health information, consistent with applicable legal and ethical standards, to avert a serious and imminent threat to the health or safety of the patient or others. Such disclosures may be to law enforcement authorities or any other persons, such as family members, who are able to prevent or lessen the threat. See 45 CFR § 164.512(j).

If a doctor believes that a patient might hurt himself or herself or someone else, is it the duty of the provider to notify the family or law enforcement authorities?

A health care provider’s “duty to warn” generally is derived from and defined by standards of ethical conduct and State laws and court decisions such as *Tarasoff v. Regents of the University of California*. HIPAA permits a covered health care provider to notify a patient’s family members of a serious and imminent threat to the health or safety of the patient or others if those family members are in a position to lessen or avert the threat. Thus, to the extent that a provider determines that there is a serious and imminent threat of a patient physically harming self or others, HIPAA would permit the provider to warn the appropriate person(s) of the threat, consistent with his or her professional ethical obligations and State law requirements. See 45 CFR 164.512(j). In addition, even where danger is not imminent, HIPAA permits a covered provider to communicate with a patient’s family members, or others involved in the patient’s care, to be on watch or ensure compliance with medication regimens, as long as the patient has been provided an opportunity to agree or object to the disclosure and no objection has been made. See 45 CFR 164.510(b)(2).

Does HIPAA prevent a school administrator, or a school doctor or nurse, from sharing concerns about a student’s mental health with the student’s parents or law enforcement authorities?

Student health information held by a school generally is subject to the Family Educational Rights and Privacy Act (FERPA), not HIPAA. HHS and the Department of Education have developed [guidance clarifying the application of HIPAA and FERPA - PDF](#)

In the limited circumstances where the HIPAA Privacy Rule, and not FERPA, may apply to health information in the school setting, the Rule allows disclosures to parents of a minor patient or to law enforcement in various situations. For example, parents generally are presumed to be the personal representatives of their unemancipated minor child for HIPAA privacy purposes, such that covered entities may disclose the minor’s protected health information to a parent. See 45 CFR § 164.502 (g)(3). In addition, disclosures to prevent or lessen serious and imminent threats to the health or safety of the patient or others are permitted for notification to those who are able to lessen the threat, including law enforcement, parents or others, as relevant. See 45 CFR § 164.512(j).

Additional FAQs on Sharing Information Related to Treatment for Mental Health or Substance Use Disorder—Including Opioid Abuse

ADULT PATIENTS

Does having a health care power of attorney (POA) allow access to the patient’s medical and mental health records under HIPAA?

Generally, yes. If a health care power of attorney is currently in effect, the named person would be the patient's personal representative (The period of effectiveness may depend on the type of power of attorney: Some health care power of attorney documents are effective immediately, while others are only triggered if and when the patient lacks the capacity to make health care decisions and then cease to be effective if and when the patient regains such capacity).

"Personal representatives," as defined by HIPAA, are those persons who have authority, under applicable law, to make health care decisions for a patient. HIPAA provides a personal representative of a patient with the same rights to access health information as the patient, including the right to request a complete medical record containing mental health information. The patient's right of access has some exceptions, which would also apply to a personal representative. For example, with respect to mental health information, a psychotherapist's separate notes of counseling sessions, kept separately from the patient chart, are not included in the HIPAA right of access.

Additionally, a provider may decide not to treat someone as the patient's personal representative if the provider believes that the patient has been or may be subject to violence, abuse, or neglect by the designated person or the patient may be endangered by treating such person as the personal representative, and the provider determines, in the exercise of professional judgment, that it is not in the best interests of the patient to treat the person as the personal representative. See 45 CFR 164.502(g)(5).

Does HIPAA permit health care providers to share protected health information (PHI) about an individual who has mental illness with other health care providers who are treating the same individual for care coordination/continuity of care purposes?

HIPAA permits health care providers to disclose to other health providers any protected health information (PHI) contained in the medical record about an individual for treatment, case management, and coordination of care and, with few exceptions, treats mental health information the same as other health information. Some examples of the types of mental health information that may be found in the medical record and are subject to the same HIPAA standards as other protected health information include:

- medication prescription and monitoring
- counseling session start and stop times
- the modalities and frequencies of treatment furnished
- results of clinical tests
- summaries of: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

HIPAA generally does not limit disclosures of PHI between health care providers for treatment, case management, and care coordination, except that covered entities must obtain individuals' authorization to disclose separately maintained psychotherapy session notes for such purposes. Covered entities should determine whether other rules, such as state law or professional practice standards place additional limitations on disclosures of PHI related to mental health.

For more information see:

[Does HIPAA provide extra protections for mental health information compared with other health information?](#)

Does HIPAA permit health care providers to share protected health information (PHI) about an individual with mental illness with a third party that is not a health care provider for case management or continuity of care purposes? For example, can a health care provider refer a homeless patient to a social services agency, such as a housing provider, when doing so may reveal that the basis for eligibility is related to mental health?

HIPAA, with few exceptions, treats all health information, including mental health information, the same. HIPAA allows health care providers to disclose protected health information (PHI), including mental health information, to other public or private-sector entities providing social services (such as housing, income support, job training) in specified circumstances. For example:

- A health care provider may disclose a patient's PHI for treatment purposes without having to obtain the authorization of the individual. Treatment includes the coordination or management of health care by a health care provider with a third party. Health care means care, services, or supplies related to the health of an individual. Thus, health care providers who believe that disclosures to certain social service entities are a necessary component of, or may help further, the individual's health or mental health care may disclose the minimum necessary PHI to such entities without the individual's authorization. For example, a provider may disclose PHI about a patient needing mental health care supportive housing to a service agency that arranges such services for individuals.
- A covered entity may also disclose PHI to such entities pursuant to an authorization signed by the individual. HIPAA permits authorizations that refer to a class of persons who may receive or use the PHI. Thus, providers could in one authorization identify a broad range of social services entities that may receive the PHI if the individual agrees. For example, an authorization could indicate that PHI will be disclosed to "social services providers" for purposes of "supportive housing, public benefits, counseling, and job readiness."

EMERGENCIES, EMERGENCY HOSPITALIZATION OR DANGEROUS SITUATIONS

When does HIPAA allow a doctor to notify an individual's family, friends, or caregivers that a patient has overdosed, e.g., because of opioid abuse?

As explained more thoroughly below, when a patient has overdosed, a health care professional, such as a doctor, generally may notify the patient's family, friends, or caregivers involved in the patient's health care or payment for care if:

- (1) the patient has the capacity to make health care decisions at the time of the disclosure, is given the opportunity to object, and does not object;
- (2) the family, friends, or caregivers have been involved in the patient's health care or payment for care and there has been no objection from the patient;
- (3) the patient had the capacity to make health care decisions at the time the information is shared and the doctor can reasonably infer, based on the exercise of professional judgment, that the patient would not object;
- (4) the patient is incapacitated and the health care professional determines, based on the exercise of professional judgment, that notification and disclosure of PHI is in the patient's best interests;
- (5) the patient is unavailable due to some emergency and the health care professional determines, based on the exercise of professional judgment, that notification and disclosure of PHI is in the patient's best interests; or
- (6) the notification is necessary to prevent a serious and imminent threat to the health or safety of the patient or others.

If the patient who has overdosed is incapacitated and unable to agree or object, a doctor may notify a family member, personal representative, or another person responsible for the individual's care of the patient's location, general condition, or death. See 45 CFR 164.510(b)(1)(ii). Similarly, HIPAA allows a doctor to share additional information with a patient's family member, friend, or caregiver as long as the information shared is directly related to the person's involvement in the patient's health care or payment for care. 45 CFR 164.510(b)(1)(i). Decision-making incapacity may be temporary or long-term. If a patient who has overdosed regains decision-making capacity, health providers must offer the patient the opportunity to agree or object to sharing their health information with involved family, friends, or caregivers before making any further disclosures. If a patient becomes unavailable due to some emergency, a health care professional may

determine, based on the exercise of professional judgment, that notification and disclosure of PHI to someone previously involved in their care is in the patient's best interests. For example, if a patient who is addicted to opioids misses important medical appointments without any explanation, a primary health care provider at a general practice may believe that there is an emergency related to the opioid addiction and under the circumstances, may use professional judgment to determine that it is in the patient's best interests to reach out to emergency contacts, such as parents or family, and inform them of the situation. See 45 CFR 164.510(b)(3).

If the patient is deceased, a doctor may disclose information related to the family member's, friend's, or caregiver's involvement with the patient's care, unless doing so is inconsistent with any prior expressed preference of the patient that is known to the doctor. If the person who will receive notification is the patient's personal representative, that person has a right to request and obtain any information about the patient that the patient could obtain, including a complete medical record, under the HIPAA right of access. See 45 CFR 164.524.

When a patient poses a serious and imminent threat to his own or someone else's health or safety, HIPAA permits a health care professional to share the necessary information about the patient with anyone who is in a position to prevent or lessen the threatened harm—including family, friends, and caregivers—without the patient's permission. See 45 CFR 164.512(j). HIPAA expressly defers to the professional judgment of health care professionals when they make determinations about the nature and severity of the threat to health or safety. See 45 CFR 164.512(j)(4). Specifically, HIPAA presumes the health care professional is acting in good faith in making this determination, if the professional relies on his or her actual knowledge or on credible information from another person who has knowledge or authority. For example, a doctor whose patient has overdosed on opioids is presumed to have complied with HIPAA if, based on talking with or observing the patient, the doctor determines that the patient poses a serious and imminent threat to his or her own health. Even when HIPAA permits this disclosure, however, the disclosure must be consistent with applicable state law and standards of ethical conduct. HIPAA does not preempt any state law or professional ethics standards that would prevent a health care professional from sharing protected health information in the circumstances described here. For example, the doctor in this situation still may be subject to a state law that prohibits sharing information related to mental health or a substance use disorder without the patient's consent in all circumstances, even if HIPAA would permit the disclosure.

For more information see OCR's guidance, *How HIPAA Allows Doctors to Respond to the Opioid Crisis*, <https://www.hhs.gov/sites/default/files/hipaa-opioid-crisis.pdf>

When does HIPAA allow a hospital to notify an individual's family, friends, or caregivers that a patient who has been hospitalized for a psychiatric hold has been admitted or discharged?

Hospitals may notify family, friends, or caregivers of a patient in several circumstances:

- **When the patient has a personal representative**

A hospital may notify a patient's personal representative about their admission or discharge and share other PHI with the personal representative without limitation. However, a hospital is permitted to refuse to treat a person as a personal representative if there are safety concerns associated with providing the information to the person, or if a health care professional determines that disclosure is not in the patient's best interest.

- **When the patient agrees or does not object to family involvement**

A hospital may notify a patient's family, friends, or caregivers if the patient agrees, or doesn't object, or if a health care professional is able to infer from the surrounding circumstances, using professional judgment that the patient does not object. This includes when a patient's family, friends, or caregivers have been involved in the patient's health care in the past, and the individual did not object.

- **When the patient becomes unable to agree or object and there has already been family involvement**

When a patient is not present or cannot agree or object because of some incapacity or emergency, a health care provider may share relevant information about the patient with family, friends, or others involved in the patient's care or payment for care if the health care provider determines, based on professional judgment, that doing so is in the best interest of the patient.

For example, a psychiatric hospital may determine that it is in the best interests of an incapacitated patient to initially notify a member of their household, such as a parent, roommate, sibling, partner, or spouse, and inform them about the patient's location and general condition. This may include, for example, notifying a patient's spouse that the patient has been admitted to the hospital.

If the health care provider determines that it is in the patient's interest, the provider may share additional information that is directly related to the family member's or friend's involvement with the patient's care or payment for care, after they clarify the person's level of involvement. For example, a nurse treating a patient may determine that it is in the patient's best interest to discuss with the patient's adult child, who is the patient's primary caregiver, the medications found in a patient's backpack and ask about any other medications the patient may have at home.

Decision-making incapacity may be temporary or long-term. Upon a patient's regaining decision-making capacity, health providers should offer the patient the opportunity to agree or object to sharing their health information with involved family, friends, or caregivers.

- **When notification is needed to lessen a serious and imminent threat of harm to the health or safety of the patient or others**

A hospital may disclose the necessary protected health information to anyone who is in a position to prevent or lessen the threatened harm, including family, friends, and caregivers, without a patient's agreement. HIPAA expressly defers to the professional judgment of health professionals in making determinations about the nature and severity of the threat to health or safety. For example, a health care provider may determine that a patient experiencing a mental health crisis has ingested an unidentified substance and that the provider needs to contact the patient's roommate to help identify the substance and provide the proper treatment, or the patient may have made a credible threat to harm a family member, who needs to be notified so he or she can take steps to avoid harm. OCR would not second guess a health care professional's judgment in determining that a patient presents a serious and imminent threat to their own, or others', health or safety.

What constitutes a "serious and imminent" threat that would permit a health care provider to disclose PHI to prevent harm to the patient, another person, or the public without the patient's authorization or permission?

HIPAA expressly defers to the professional judgment of health professionals in making determinations about the nature and severity of the threat to health or safety posed by a patient. OCR would not second guess a health professional's good faith belief that a patient poses a serious and imminent threat to the health or safety of the patient or others and that the situation requires the disclosure of patient information to prevent or lessen the threat. Health care providers may disclose the necessary protected health information to anyone who is in a position to prevent or lessen the threatened harm, including family, friends, caregivers, and law enforcement, without a patient's permission.

See Guidance on Sharing Information Related to Mental Health, <https://www.hhs.gov/hipaa/for-professionals/special-topics/mental-health/index.html>

If an adult patient who may pose a danger to self stops coming to psychotherapy sessions and does not respond to attempts to make contact, does HIPAA permit the therapist to contact a family member to check on the patient's well-being even if the patient has told the therapist that they do not want information shared with that person?

Yes, under two possible circumstances:

1. Given that the patient is no longer present, if the therapist determines, based on professional judgment, that there may be an emergency situation and that contacting the family member of the absent patient is in the patient's best interests; or
2. If the disclosure is needed to lessen a serious and imminent threat and the family member is in a position to avert or lessen the threat.

In making the determination about the patient's best interests, the provider may take into account the patient's prior expressed preferences regarding disclosures of their information, if any, as well as the circumstances of the current situation. In either case, the health care provider may share or discuss only the information that the family member involved needs to know about the patient's care or payment for care or the minimum necessary for the purpose of preventing or lessening the threatened harm.

Additionally, if the family member is a personal representative of the patient, the therapist may contact that person. However, a provider may decide not to treat someone as a personal representative if the provider believes that the patient has been or may be subject to violence, abuse, or neglect by the personal representative, or the patient may be endangered by treating the person as the personal representative; and the provider determines, in the exercise of professional judgment, that it is not in the best interests of the patient to treat the person as the personal representative. See 45 CFR 164.502(g)(5).

See Guidance on Sharing Information Related to Mental Health, <https://www.hhs.gov/hipaa/for-professionals/special-topics/mental-health/index.html>

[Guidance on Personal Representatives, https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/personal-representatives/index.html](https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/personal-representatives/index.html)

Does HIPAA require a mental health provider to let a patient know that the provider is going to share information with others before disclosing PHI to prevent or lessen a serious and imminent threat?

Not at the time of disclosure; however, the Notice of Privacy Practices should contain an example of this type of disclosure so patients are informed in advance of that possibility. See 45 CFR 164.520(b). In situations that also involve reports to the appropriate government authority that the patient may be an adult victim of abuse, neglect, or domestic violence, the mental health provider must promptly inform the patient that a report has been or will be made, unless:

- informing the patient would create a danger to the patient; or
- the provider would be informing a personal representative, and the provider reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the patient as determined by the provider, in the exercise of professional judgment. See 45 CFR 164.512(c).

Other standards, such as clinical protocols, ethics rules, or state laws, may also be applicable to patient notification about disclosures in situations involving threats of imminent harm.

SUBSTANCE USE DISORDER TREATMENT

How does HIPAA interact with the federal confidentiality rules for information about substance use disorder treatment, including treatment for opioid abuse, in an emergency situation—which rules should be followed?

A health provider that provides treatment for substance use disorders, including opioid abuse, needs to determine whether it is subject to 42 CFR Part 2 (i.e., a "Part 2 program") and whether it is a covered entity under HIPAA. Generally, the Part 2 rules provide more stringent privacy protections than HIPAA, including in emergency situations. If an entity is subject to both Part 2 and HIPAA, it is responsible for complying with the more protective Part 2 rules, as well as with HIPAA. HIPAA is intended to be a set of minimum federal privacy standards, so it generally is possible to comply with HIPAA and other laws, such as 42 CFR Part 2, that are more protective of individuals' privacy.

For example, HIPAA permits disclosure of protected health information (PHI) for treatment purposes (including in emergencies) without patient authorization, and allows PHI to be used or disclosed to lessen a threat of serious and imminent harm to the health or safety of the patient or others (which may occur as part of a health emergency) without patient authorization or permission. Because HIPAA permits, but does not require, disclosures for treatment or to prevent harm, if Part 2 restricts certain disclosures during an emergency, an entity subject to both sets of requirements could comply with Part 2's restrictions without violating HIPAA.

For more information about applying 42 CFR Part 2 in an emergency, see <https://www.samhsa.gov/about-us/who-we-are/laws-regulations/confidentiality-regulations-faqs>



A HEALTH CARE PROVIDER'S GUIDE TO THE HIPAA PRIVACY RULE:

Communicating with a Patient's Family, Friends, or Others Involved in the Patient's Care

This guide explains when a health care provider is allowed to share a patient's health information with the patient's family members, friends, or others identified by the patient as involved in the patient's care under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule. HIPAA is a Federal law that sets national standards for how health plans, health care clearinghouses, and most health care providers are to protect the privacy of a patient's health information.¹

Even though HIPAA requires health care providers to protect patient privacy, providers are permitted, in most circumstances, to communicate with the patient's family, friends, or others involved in their care or payment for care. This guide is intended to clarify these HIPAA requirements so that health care providers do not unnecessarily withhold a patient's health information from these persons. This guide includes common questions and a table that summarizes the relevant requirements.²

COMMON QUESTIONS ABOUT HIPAA

1. If the patient is present and has the capacity to make health care decisions, when does HIPAA allow a health care provider to discuss the patient's health information with the patient's family, friends, or others involved in the patient's care or payment for care?

If the patient is present and has the capacity to make health care decisions, a health care provider may discuss the patient's health information with a family member, friend, or other person if the patient agrees or, when given the opportunity, does not object. A health care provider also may share information with these persons if, using professional judgment, he or she decides that the patient does not object. In either case, the health care provider may share or discuss only the information that the person involved needs to know about the patient's care or payment for care.

Here are some examples:

- An emergency room doctor may discuss a patient's treatment in front of the patient's friend if the patient asks that her friend come into the treatment room.
- A doctor's office may discuss a patient's bill with the patient's adult daughter who is with the patient at the patient's medical appointment and has questions about the charges.
- A doctor may discuss the drugs a patient needs to take with the patient's health aide who has accompanied the patient to a medical appointment.
- A doctor may give information about a patient's mobility limitations to the patient's sister who is driving the patient home from the hospital.

¹ The HIPAA Privacy Rule applies to those health care providers that transmit any health information in electronic form in connection with certain standard transactions, such as health care claims. See the definitions of "covered entity," "health care provider," and "transaction" at 45 C.F.R. § 160.103.

² The full text of these requirements can be found at 45 C.F.R. § 164.510(b). Note that this guide does not apply to a health care provider's disclosure of psychotherapy notes, which generally requires a patient's written authorization. See 45 C.F.R. § 164.508(a)(2).

- A nurse may discuss a patient's health status with the patient's brother if she informs the patient she is going to do so and the patient does not object.

BUT:

- A nurse may not discuss a patient's condition with the patient's brother after the patient has stated she does not want her family to know about her condition.

2. If the patient is not present or is incapacitated, may a health care provider still share the patient's health information with family, friends, or others involved in the patient's care or payment for care?

Yes. If the patient is not present or is incapacitated, a health care provider may share the patient's information with family, friends, or others as long as the health care provider determines, based on professional judgment, that it is in the best interest of the patient. When someone other than a friend or family member is involved, the health care provider must be reasonably sure that the patient asked the person to be involved in his or her care or payment for care. The health care provider may discuss only the information that the person involved needs to know about the patient's care or payment.

Here are some examples:

- A surgeon who did emergency surgery on a patient may tell the patient's spouse about the patient's condition while the patient is unconscious.
- A pharmacist may give a prescription to a patient's friend who the patient has sent to pick up the prescription.
- A hospital may discuss a patient's bill with her adult son who calls the hospital with questions about charges to his mother's account.
- A health care provider may give information regarding a patient's drug dosage to the patient's health aide who calls the provider with questions about the particular prescription.

BUT:

- A nurse may not tell a patient's friend about a past medical problem that is unrelated to the patient's current condition.
- A health care provider is not required by HIPAA to share a patient's information when the patient is not present or is incapacitated, and can choose to wait until the patient has an opportunity to agree to the disclosure.

3. Does HIPAA require that a health care provider document a patient's decision to allow the provider to share his or her health information with a family member, friend, or other person involved in the patient's care or payment for care?

No. HIPAA does not require that a health care provider document the patient's agreement or lack of objection. However, a health care provider is free to obtain or document the patient's agreement, or lack of objection, in writing, if he or she prefers. For example, a provider may choose to document a patient's agreement to share information with a family member with a note in the patient's medical file.

4. May a health care provider discuss a patient's health information over the phone with the patient's family, friends, or others involved in the patient's care or payment for care?

Yes. Where a health care provider is allowed to share a patient's health information with a person, information may be shared face-to-face, over the phone, or in writing.

5. If a patient's family member, friend, or other person involved in the patient's care or payment for care calls a health care provider to ask about the patient's condition, does HIPAA require the health care provider to obtain proof of who the person is before speaking with them?

No. If the caller states that he or she is a family member or friend of the patient, or is involved in the patient's care or payment for care, then HIPAA doesn't require proof of identity in this case. However, a health care provider may establish his or her own rules for verifying who is on the phone. In addition, when someone other than a friend or family member is involved, the health care provider must be reasonably sure that the patient asked the person to be involved in his or her care or payment for care.

6. Can a patient have a family member, friend, or other person pick up a filled prescription, medical supplies, X-rays, or other similar forms of patient information, for the patient?

Yes. HIPAA allows health care providers to use professional judgment and experience to decide if it is in the patient's best interest to allow another person to pick up a prescription, medical supplies, X-rays, or other similar forms of information for the patient.

For example, the fact that a relative or friend arrives at a pharmacy and asks to pick up a specific prescription for a patient effectively verifies that he or she is involved in the patient's care. HIPAA allows the pharmacist to give the filled prescription to the relative or friend. The patient does not need to provide the pharmacist with their names in advance.

7. May a health care provider share a patient's health information with an interpreter to communicate with the patient or with the patient's family, friends, or others involved in the patient's care or payment for care?

Yes. HIPAA allows covered health care providers to share a patient's health information with an interpreter without the patient's written authorization under the following circumstances:

- A health care provider may share information with an interpreter who works for the provider (e.g., a bilingual employee, a contract interpreter on staff, or a volunteer).

For example, an emergency room doctor may share information about an incapacitated patient's condition with an interpreter on staff who relays the information to the patient's family.

- A health care provider may share information with an interpreter who is acting on its behalf (but is not a member of the provider's workforce) if the health care provider has a written contract or other agreement with the interpreter that meets HIPAA's business associate contract requirements.

For example, many providers are required under Title VI of the Civil Rights Act of 1964 to take reasonable steps to provide meaningful access to persons with limited English proficiency. These providers often have contracts with private companies, community-based organizations, or telephone interpreter service lines to provide language interpreter services. These arrangements must comply with the HIPAA business associate agreement requirements at 45 C.F.R. 164.504(e).

- A health care provider may share information with an interpreter who is the patient's family member, friend, or other person identified by the patient as his or her interpreter, if the patient agrees, or does not object, or the health care provider determines, using his or her professional judgment, that the patient does not object.

For example, health care providers sometimes see patients who speak a certain language and the provider has no employee, volunteer, or contractor who can competently interpret that language. If the provider is aware of a telephone interpreter service that can help, the provider may have that interpreter tell the patient that the service is available. If the provider decides, based on professional judgment, that the patient has chosen to continue using the interpreter, the provider may talk to the patient using the interpreter.

8. Where can I find additional information about HIPAA?

The Office for Civil Rights, part of the Department of Health and Human Services, has more information about HIPAA on its Web site. Visit <http://www.hhs.gov/ocr/hipaa> for a wide range of helpful information, including the full text of the Privacy Rule, a HIPAA Privacy Rule Summary, fact sheets, over 200 Frequently Asked Questions, as well as many other resources to help health care providers and others understand the law.



	Family Member or Friend	Other Persons
Patient is present and has the capacity to make health care decisions	<p>Provider may disclose relevant information if the provider does one of the following:</p> <ol style="list-style-type: none"> (1) obtains the patient's agreement (2) gives the patient an opportunity to object and the patient does not object (3) decides from the circumstances, based on professional judgment, that the patient does not object <p>Disclosure may be made in person, over the phone, or in writing.</p>	<p>Provider may disclose relevant information if the provider does one of the following:</p> <ol style="list-style-type: none"> (1) obtains the patient's agreement (2) gives the patient the opportunity to object and the patient does not object (3) decides from the circumstances, based on professional judgment, that the patient does not object <p>Disclosure may be made in person, over the phone, or in writing.</p>
Patient is not present or is incapacitated	<p>Provider may disclose relevant information if, based on professional judgment, the disclosure is in the patient's best interest.</p> <p>Disclosure may be made in person, over the phone, or in writing.</p> <p>Provider may use professional judgment and experience to decide if it is in the patient's best interest to allow someone to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of health information for the patient.</p>	<p>Provider may disclose relevant information if the provider is reasonably sure that the patient has involved the person in the patient's care and in his or her professional judgment, the provider believes the disclosure to be in the patient's best interest.</p> <p>Disclosure may be made in person, over the phone, or in writing.</p> <p>Provider may use professional judgment and experience to decide if it is in the patient's best interest to allow someone to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of health information for the patient.</p>

PRIVACY, SECURITY, AND ELECTRONIC HEALTH RECORDS

Your health care provider may be moving from paper records to electronic health records (EHRs) or may be using EHRs already. EHRs allow providers to use information more effectively to improve the quality and efficiency of your care, but EHRs will not change the privacy protections or security safeguards that apply to your health information.

EHRs and Your Health Information

EHRs are electronic versions of the paper charts in your doctor's or other health care provider's office. An EHR may include your medical history, notes, and other information about your health including your symptoms, diagnoses, medications, lab results, vital signs, immunizations, and reports from diagnostic tests such as x-rays.

Providers are working with other doctors, hospitals, and health plans to find ways to share that information. The information in EHRs can be shared with other organizations involved in your care if the computer systems are set up to talk to each other. Information in these records should only be shared for purposes authorized by law or by you.

You have privacy rights whether your information is stored as a paper record or stored in an electronic form. The same federal laws that already protect your health information also apply to information in EHRs.

Benefits of Having EHRs

Whether your health care provider is just beginning to switch from paper records to EHRs or is already using EHRs within the office, you will likely experience one or more of the following benefits:

- **Improved Quality of Care.** As your doctors begin to use EHRs and set up ways to securely share your health information with other providers, it will make it easier for everyone to work together to make sure you are getting the care you need. For example:
 - o Information about your medications will be available in EHRs so that health care providers don't give you another medicine that might be harmful to you.
 - o EHR systems are backed up like most computer systems, so if you are in an area affected by a disaster, like a hurricane, your health information can be retrieved.
 - o EHRs can be available in an emergency. If you are in an accident and are unable to explain your health history, a hospital that has a system may be able to talk to your doctor's system. The hospital will get information about your medications, health issues, and tests, so decisions about your emergency care are faster and more informed.

- **More Efficient Care.** Doctors using EHRs may find it easier or faster to track your lab results and share progress with you. If your doctors' systems can share information, one doctor can see test results from another doctor, so the test doesn't always have to be repeated. Especially with x-rays and certain lab tests, this means you are at less risk from radiation and other side effects. When tests are not repeated unnecessarily, it also means you pay less for your health care in copayments and deductibles.
- **More Convenient Care.** EHRs can alert providers to contact you when it is time for certain screening tests. When doctors, pharmacies, labs, and other members of your health care team are able to share information, you may no longer have to fill out all the same forms over and over again, wait for paper records to be passed from one doctor to the other, or carry those records yourself.

Keeping Your Electronic Health Information Secure

Most of us feel that our health information is private and should be protected. The federal government put in place the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule to ensure you have rights over your own health information, no matter what form it is in. The government also created the HIPAA Security Rule to require specific protections to safeguard your electronic health information. A few possible measures that can be built in to EHR systems may include:

- "Access control" tools like passwords and PIN numbers, to help limit access to your information to authorized individuals.
- "Encrypting" your stored information. That means your health information cannot be read or understood except by those using a system that can "decrypt" it with a "key."
- An "audit trail" feature, which records who accessed your information, what changes were made and when.

Finally, federal law requires doctors, hospitals, and other health care providers to notify you of a "breach." The law also requires the health care provider to notify the Secretary of Health and Human Services. If a breach affects more than 500 residents of a state or jurisdiction, the health care provider must also notify prominent media outlets serving the state or jurisdiction. This requirement helps patients know if something has gone wrong with the protection of their information and helps keep providers accountable for EHR protection.

To learn more, visit www.hhs.gov/ocr/privacy/.



YOUR HEALTH INFORMATION PRIVACY RIGHTS

Most of us feel that our health information is private and should be protected. That is why there is a federal law that sets rules for health care providers and health insurance companies about who can look at and receive our health information. This law, called the Health Insurance Portability and Accountability Act of 1996 (HIPAA), gives you rights over your health information, including the right to get a copy of your information, make sure it is correct, and know who has seen it.

Get It.

You can ask to see or get a copy of your medical record and other health information. If you want a copy, you may have to put your request in writing and pay for the cost of copying and mailing. In most cases, your copies must be given to you within 30 days.

Check It.

You can ask to change any wrong information in your file or add information to your file if you think something is missing or incomplete. For example, if you and your hospital agree that your file has the wrong result for a test, the hospital must change it. Even if the hospital believes the test result is correct, you still have the right to have your disagreement noted in your file. In most cases, the file should be updated within 60 days.

Know Who Has Seen It.

By law, your health information can be used and shared for specific reasons not directly related to your care, like making sure doctors give good care, making sure nursing homes are clean and safe, reporting when the flu is in your area, or reporting as required by state or federal law. In many of these cases, you can find out who has seen your health information. You can:

- **Learn how your health information is used and shared by your doctor or health insurer.** Generally, your health information cannot be used for purposes not directly related to your care without your permission. For example, your doctor cannot give it to your employer, or share it for things like marketing and advertising, without your written authorization. You probably received a notice telling you how your health information may be used on your first visit to a new health care provider or when you got new health insurance, but you can ask for another copy anytime.
- **Let your providers or health insurance companies know if there is information you do not want to share.** You can ask that your health information not be shared with certain people, groups, or companies. If you go to a clinic, for example, you can ask the doctor not to share your medical records with other doctors or nurses at the clinic. You can ask for other kinds of restrictions, but they do not always have to agree to do what you ask, particularly if it could affect your care. Finally, you can also ask your health care provider or pharmacy not to tell your health insurance company about care you receive or drugs you take, if you pay for the care or drugs in full and the provider or pharmacy does not need to get paid by your insurance company.

- **Ask to be reached somewhere other than home.** You can make reasonable requests to be contacted at different places or in a different way. For example, you can ask to have a nurse call you at your office instead of your home or to send mail to you in an envelope instead of on a postcard.

If you think your rights are being denied or your health information is not being protected, you have the right to file a complaint with your provider, health insurer, or the U.S. Department of Health and Human Services.

To learn more, visit www.hhs.gov/ocr/privacy/.



SHARING HEALTH INFORMATION WITH FAMILY MEMBERS AND FRIENDS

There is a federal law, called the Health Insurance Portability and Accountability Act of 1996 (HIPAA), that sets rules for health care providers and health plans about who can look at and receive your health information, including those closest to you – your family members and friends. The HIPAA Privacy Rule ensures that you have rights over your health information, including the right to get your information, make sure it's correct, and know who has seen it.

What Happens if You Want to Share Health Information with a Family Member or a Friend?

HIPAA requires most doctors, nurses, hospitals, nursing homes, and other health care providers to protect the privacy of your health information. However, if you don't object, a health care provider or health plan may share relevant information with family members or friends involved in your health care or payment for your health care in certain circumstances.

- Under HIPAA, your health care provider may share your information face-to-face, over the phone, or in writing. A health care provider or health plan may share relevant information if:
- You give your provider or plan permission to share the information.
- You are present and do not object to sharing the information.
- You are not present, and the provider determines based on professional judgment that it's in your best interest.

Examples:

- An emergency room doctor may discuss your treatment in front of your friend when you ask your friend to come into the treatment room.
- Your hospital may discuss your bill with your daughter who is with you and has a question about the charges, if you do not object.
- Your doctor may discuss the drugs you need to take with your health aide who has come with you to your appointment.
- Your nurse may **not** discuss your condition with your brother if you tell her not to.
- HIPAA also allows health care providers to give prescription drugs, medical supplies, x-rays, and other health care items to a family member, friend, or other person you send to pick them up.

A health care provider or health plan may also share relevant information if you are not around or cannot give permission when a health care provider or plan representative believes, based on professional judgment, that sharing the information is in your best interest.

Examples:

- You had emergency surgery and are still unconscious. Your surgeon may tell your spouse about your condition, either in person or by phone, while you are unconscious.
- Your doctor may discuss your drugs with your caregiver who calls your doctor with a question about the right dosage.
- A doctor may **not** tell your friend about a past medical problem that is unrelated to your current condition.

For more information about sharing your health information with family members and friends, or more information about HIPAA, visit www.hhs.gov/ocr/privacy/hipaa/understanding/index.html.





Mindful
Continuing Education

“This course was developed from the public domain document: HIPAA Privacy Rule and Sharing Information Related to Mental Health – U.S Department of Health and Human Services, Office for Civil Rights (ORC).”

“This course was developed from the public domain document: A Health Care Provider’s Guide to the HIPAA Privacy Rule: Communicating with a Patient’s Family, Friends, or Others Involved in the Patient’s Care – U.S. Department of Health and Human Services, Office for Civil Rights (ORC).”

This course was developed from the public domain document: Privacy, Security, and Electronic Health Records, Sharing Health Information with Family and Friends, and Your Health Information Privacy Rights - U.S. Department of Health and Human Services, Office for Civil Rights (ORC).”