

Health Insurance Portability and Accountability Act (HIPAA)

Essentials of Compliance

Department of Physical and
Occupational Therapy

Topics

- HIPAA Guidelines and practice
- HIPAA Guidelines and research
- Organized Health Care Agreements
- Student /Faculty responsibilities
- Organization at ISU: University Privacy and Oversight Committee (UPOC)

Components to the regulations

- Patient Privacy
- Transaction Code Sets
- Security

Overview Health Information Portability and Accountability Act

Enacted April 14, 2003

- HIPAA describes how PHI may be used.
- PHI may be used for treatment, payment and operations.
- To use PHI for other purposes requires patient consent or fall under certain provisions
 - Research has specific provision

Vocabulary

- Covered Entity
 - Anyone with a patient-provider relationship
- Hybrid entity
 - Organization where some components are involved in healthcare
- PHI (Protected Health Information)

Overview (cont.)

- HIPAA sets the floor
 - State laws
 - Mental health laws
 - Information dealing with children
 - Drug and alcohol rehab laws

PHI

- Created by covered entity
- Relates to health condition in the past, present or future
- Identifies the patient
- Example
 - Medical records, treatment plans, diagnoses, medications, lab tests ...
 - Address, telephone numbers ...

What is not PHI?

- Employment health records
- Student immunization status
- Law enforcement records
- Educational Records

Minimum Necessary

- If information needs to be accessed by others, only minimum necessary should be revealed.
- This concept applies to all aspects of HIPAA
 - Research
 - Payment
 - Working with other health providers

PHI Information that can be shared

- Treatment
- Operations
- Payment
- Government agencies performing oversight
- Law Enforcement
- Abuse
- Reporting that is required by law
- Reporting adverse events
- Terrorism
- Note: Actually easier to share among providers than before April 2003

Patient Rights

- Obtain Records
 - Except psychotherapy notes
 - Except where information could harm patient
- Right to amend or request records be amended.
- Right to know who has had access beyond acceptable use
- Right to limit who you share data with

Disclosures

- You may freely disclose information to other health care provider for that patient
 - Minimum necessary does not apply
 - The intent is to not inhibit the provision of care
- Family or friends can pick up meds, make appointments
 - Minimum necessary applies

Accounting for Disclosures

- Patients can request a list of all disclosures that were outside the scope of treatment, payment and operations
- May go back 6 years
- Keep records of disclosures outside of routine use.
- You have 60 days to provide dates, name address of who received information

Requests for copy of records

- 30 days to comply
- May charge reasonable fee
- Not required for psychotherapy notes
- Not required where data could harm patient or others.

Request to Amend Records

- You must reply within 60 days
- Get request in writing
- Give written reply
- You do not have to amend records, they only have the right to request.

Notice of Privacy Practices FORMS (At time of Intake)

- Notice informs patients:
 - How data is used
 - Their rights
 - Who to contact if they have concerns Clinic Privacy officer (Dr. Kim Cleary, Clinic Director)
- First point of contact: new patient or old patient who has yet to receive HIPAA forms

Notice of Privacy (cont.)

- Make reasonable attempt to provide them with a notice
- Obtain signature if possible indicating they received notice
- Signature is **not required**
- Signature can not be part of another form, e.g., payment
- Keep signature for 6 years

Notice of privacy (cont.)

- Plain language
- Describe, with examples, what can be disclosed
- Describe, with examples, what can not be disclosed without permission
- Required by law to protect PHI
- Patient rights

When notice is not needed

- Emergency
- Indirect provider (no contact with patient)
 - Pathologist
 - Radiologist

How often is notice given?

- Once
- May need to obtain again if privacy statement changes

Minors Rights

- Follow state law on minors
- Age for consent
- Birth control

Authorization for disclosures

- You may get authorization from patient to release data
- Specify time line
- Specify specific data

Penalty for disclosure

- \$100 for inappropriate disclosure
 - Per incident
- \$250,000 and 10 years for intentional disclosure for personal gain

Training

- All staff must be trained
- Relief help?
- Describe discipline for violations
- Must have a plan to protect employees who report violations

Students in Affiliations

- Do not require a business associate agreement
- Training in basic HIPAA
- Hospitals /clinics responsible to inform them on their own policy and procedures

Organized Healthcare Arrangement

- Between covered entities
- All use same procedures
- All use same privacy officer
- Example: physicians at ER, Physicians in hospital

Research

- Latest guidelines are research friendly
- HIPAA concerns data gathered in a treatment relationship
- Must be deidentified
- Usually limited data set

PHI clinical data

- Data gathered in treatment relationship
- Requires privacy statement
- Signature can be component of subject consent
- All approved by IRB
- Not much different from what we currently do.

Client Subject Authorization

- Identifies who receives information
- Identifies what information is used
- Dates of expiration
- Right to revoke agreement

When is “Consent” needed?

- Research for case study or research on a cohort of patients/clients (Human Subjects Committee Approval needed if outside the realm of normal treatment)
 - Deidentification of data
- Use of PHI for non treatment purposes (separate forms needed)
 - Marketing
 - Product development

Student/faculty responsibilities during practicum, clinical experiences, fieldwork

- Understand HIPAA policies and procedures in the specific practice setting.
- Know where the HIPAA office is and how to contact the privacy officer.
- Attend HIPAA orientation if provided at the facility and comply with specific regulations
- Address issues which may be in conflict with HIPAA regulations with appropriate supervisors
- Sign and file appropriate training documents

Idaho State University Privacy and Oversight Committee (UPOC)

- Reviews Health Service units compliance and policies and procedures.
- Conducts site visits to campus entities for assistance
- Makes recommendations for unit compliance with Privacy Rule
- Reviews patients/clients complaints when forwarded from specific units
- Meets once a month or as needed:
- Paul Cady, PhD. Interim Chair
- KCHP Reps: Beth Stamm, PhD, IRH and Alex Urfer PT., PhD, DPOT

Questions?