

## Health Insurance Portability and Accountability Act (HIPAA)

### **Introduction**

Originally intended to standardize electronic transactions and protect individuals from the inappropriate disclosure of electronic medical information, the HIPAA regulations are extensive and far-reaching. The medical information privacy component extends to any oral conversation, electronic representation, written document, chart, graph, tabular representation, etc. concerning a person's Protected Health Information (PHI). PHI is individually identifiable health information, including demographic information that relates to a patient's past, present or future physical or mental condition, treatment and payment of services. (Privacy Rule effective April 14, 2003; Security rule effective April 21, 2005)

### **Objectives of HIPAA**

- To establish national baseline standards, implementation specifications, and requirements for health information privacy.
- To protect the privacy of individually identifiable health information.
- To protect the privacy on all individually identifiable health information covered entities in any medium – written, oral or electronic.
- ◆ To ensure individually identifiable health information is kept confidential; the integrity of the information is secure; and information is available when treating the individual.

### **Protected Health Information (PHI)**

PHI includes any individually identifiable information that can be used to identify the individual.

- Names
- Street address, city, county
- All elements of dates (except year) including birth date, admission date, discharge date, date of death. For ages 89 and over, year must also be excluded.
- Telephone and fax numbers
- E-mail, web site (URL) and Internet Protocol addresses
- Social Security numbers
- HPSJ ID number
- Certificate/license number
- VIN and license plate number
- Device identifiers and serial numbers
- Biometric identifiers, including finger and voice prints
- Full-face photographic images and any comparable image
- Any other unique identifying number, characteristic or code

## **Who is subject to HIPAA?**

### Covered entities (direct)

- Health plans – HPSJ
- Health care clearinghouses (process nonstandard data elements into standard data elements)
- Health care providers who electronically transmit any health information in a HIPAA-covered “transaction”

### Business Associates (contractual)

- Not a member of the workforce.
- Person or organization who performs or assists in the performance of a function or activity involving the use of PHI including billing, practice management, or data analysis.
- Provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services involving the disclosure of PHI from the covered entity to the person or organization.

## **Provider Responsibility**

One of the cornerstones of the Privacy Rule is using, disclosing, and requesting of only the minimum necessary PHI needed to accomplish an intended purpose. Recognizing that it is often covered entities who exchange PHI, the Privacy Rule permits covered entities to rely on each other to request only the minimum necessary - §164.514(d)(3)(iii)(B). This means that you can rely on HPSJ to request only the information necessary for us to authorize treatment and pay a patient’s claim. Likewise, as a patient’s treating physician, you may call HPSJ for information about the patient and we will assume that you are only asking for the information necessary to treat the patient or obtain payment.

Such disclosure of patient information is typically conducted in the course of treatment, payment, and health care operations as defined under the Privacy Rule. You are permitted to disclose a patient’s information to HPSJ without the patient’s permission in order for us to determine payment, conduct medical reviews, perform case management and care coordination, and conduct quality assessments and credentialing - §164.506(c)(3&4). It is important to note that these disclosures are permitted without authorization from a patient, except if the PHI will be used for marketing purposes or includes psychotherapy notes - §164.506(a). Remember, it is HPSJ who has the responsibility to request only the minimum necessary when performing these functions.

Copies of HPSJ’s policies regarding the use, disclosure and requesting of PHI are available upon request.

Another important standard of the Privacy Rule is the implementation of safeguards. Your practice probably already has many physical and technical safeguards in place, such as escorting patients from the waiting room to the exam room and positioning computers away from the view of patients. Perhaps the least understood, however, are administrative safeguards. Essentially these are safeguards intended to keep oral conversations private and protect the confidentiality of written records. When it comes to safeguarding oral conversations, the term "reasonable" must be considered. For instance, it is reasonable that PHI not be discussed at the front desk within earshot of a waiting room full of patients. It is not reasonable, however, to sound-proof all exam rooms.

HPSJ applied the same principle of reasonableness when reviewing our own written communications. Faxes and telephone conversations containing PHI are fine as long as we can ascertain the identity of the recipients. However, HPSJ staff is prohibited from sending e-mail to an unsecured address.

For more information about the Privacy Rule standards, HPSJ's Privacy and Security Officer recommends the following web sites:

- [www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa)
- [www.chcf.org](http://www.chcf.org)
- [www.aishealth.com](http://www.aishealth.com)
- [www.hipaaadvisory.com](http://www.hipaaadvisory.com)