# Intermediate Privacy Training
## for Clinical Workforce Members with Access to Protected Health Information (PHI)

Audience:
Clinical Registry Providers,
Temporary Health Care Professionals,
Trainees in Affiliated Health Professional Programs

Final: March 20, 2003

# Objectives

This module is for personnel who use, access, or disclose PHI as part of their job responsibilities.  In this module, you will learn to:

- Identify three key responsibilities you have for the protection of health information.

- Identify new patient rights under the HIPAA Privacy Rule

- Identify categories of authorization for disclosure of health information.

- Identify safeguards to apply to facsimile transmission(s) of health information.

# Our Obligation to the Patient

**Responsibilities:**

- To effectively manage and <u>safeguard</u> their personal health information

- Establish policies and best practices for the management of PHI

- Support and encourage patient rights regarding their PHI

# Notice of
# Privacy Practices

- Serves as the main communication to patients

- Educates patients on:
  - their rights
  - our responsibilities for protecting their PHI
  - how we may use and disclose their PHI

- Directs patients where to go for questions and concerns regarding their PHI

# Notice of
# Privacy Practices

- Patients are provided the Notice at their first service/registration encounter

- Patients sign an acknowledgement that they received the Notice

- Acknowledgement of receipt is documented on the registration screen

# Health Information, Access Use & Disclosure Policy

# "Access Control"

- Access to PHI is based on "need to know" and "minimum necessary" principles

- Individuals needing access to PHI are those:
  - providing care and treatment
  - performing payment/billing activities
  - participating in health care operations

# "Use" of PHI

A "**use**" of PHI occurs with information gathered while providing patient care, and is kept under our direct control.

Examples include:

Giving shift "reports"

Case Manager's review of patient stays

# "Disclosure" of PHI

*"Disclosure" occurs when*

- PHI is communicated outside of the facility's health care network

- Data in an electronic claim is submitted for payment

# Treatment, Payment, Healthcare Operations

Commonly referred to as "TPO"

- Treatment

- Payment

- Health care Operations

# Examples of Permitted Disclosures for TPO

- Providing medical treatment and services

- Coordinating continuing care needs and services

- Obtaining payment for services

# Obtaining Payment

- Activities that are intended to obtain payment for healthcare services (e.g., insurance verification, eligibility, billing/ collections,etc.)

- Activities to obtain payment generally do not require a patient authorization.

# Health Care Operations

- Quality Process/ Performance Improvement
    - Includes requests from other health care providers that treated the patient
- Medical Staff Peer Review
- Auditing & Monitoring
- Compliance reviews

# Disclosures within TPO Requiring Patient Authorization

- Drug and alcohol abuse treatment

- HIV and AIDS test results

- Mental/behavioral health

# Disclosures that are Mandated or Permitted

- Certain disclosures are mandated or permitted by State and Federal law or certain government agencies.

- These types of disclosures <u>do not</u> require a patient authorization.

# Disclosures That are Mandated or Permitted

Examples Include:

- Organ and tissue donation
- Public health activities
- Health oversight agencies
- Coroners, Medical examiners and mortuaries
- Military Commands
- Workers Compensation
- Correctional Facilities
- Law Enforcement
- Serious threat to health or safety

# Permitted Disclosures to Law Enforcement

- Responding to a court order, subpoena, or similar process

- Identifying or locating a suspect, witness or missing person

- Reporting about crime victims

# Documentation for Permitted and Mandated Disclosures

- Certain disclosures of PHI must be documented for purposes of accounting of disclosures.

- Disclosures may be documented:
    - In the clinical record
    - On a mandated reporting form or
    - On a PHI Disclosure Documentation form

# Requests for Information

Respond to requests when necessary to ensure patient safety, treatment, and continuity of care.

# When Friends and Family Ask For Information

Clinical staff may disclose health information to individuals directly involved in the patient's care.

Patients identify the individuals directly involved in their care who may be provided health information.

# Handling Requests for Information

- ✓ Validate identity and authority of requestor

- ✓ Check photo ID for in-person requests

- ✓ Validate phone requests by call back to the requestor

- ✓ Document disclosure of the information

# Disclosures Requiring the Patient's Authorization

- Research

- Marketing

- Fundraising

# Patient Authorization

**An Authorization for Use or Disclosure Form must be completed.**

**Important:** If <u>any</u> of the required elements are not completed on the authorization,  the authorization is <u>INVALID</u> and we <u>may not</u> act on the request**!**

# In Summary

*for Access, Use and Disclosure of Information…*

# Patients Privacy Rights

*Patients have a right to:*

- Request restrictions on use and disclosure of their information.

- Request amendments to their health information

- Request an accounting of disclosures

- Inspect and copy their information

- Complain about health information disclosure practices

# Patient Requests for Restrictions on Uses and Disclosures of PHI

- Requests must be in writing
- Requests will be evaluated on an individual basis
- Refer requests to a supervisor or the Health Information Management department
- Accommodating requests is based on our information system capabilities to restrict information
- Each facility's Notice of Privacy Practices provides information on where to send the request.

# Patient Requests For Alternative Communication

- Patients may request that communications about medical matters be made in a certain way or to a certain location.
- Reasonable requests will be accommodated.
- Each facility's Notice of Privacy Practices provides information on where to send the request.

# Patient Requests to Amend their Health Record

- Patients must submit the request in writing to the Health Information Management Department.

- Each facility's Notice of Privacy Practices provides information on where to send the request.

# Patient Requests for Accounting of Disclosures

Patients may request an accounting of certain disclosures of their PHI.

- Disclosures made for TPO or disclosures authorized by the patient are not included in the accounting.
- Refer such requests to the Health Information Management Department.
- Each facility's Notice of Privacy Practices provides information on where to send the request.

# Disclosures That Must Be Accounted For

***Examples include:***

- Disclosures to Law Enforcement

- Abuse, assault, neglect

- Judicial and administrative proceedings

- Public health activities

- Organ and tissue donation

- Data collection preparatory to research

# Patient Requests to Inspect or Obtain a Copy of their PHI

- Provide the patient with an "Authorization for Use and Disclosure of Health Information" form.

- Health Information Management department is responsible for providing information and copies of information to the patient upon request.

- Each facility's Notice of Privacy Practices provides information on where to send the request.

# Patient Requests in Outpatient Departments

**Copies of Individual PHI (i.e., lab results, x-ray films) provided to a patient at the request of their physician must be documented.**

- Have patient complete an "Authorization for Use and Disclosure of Health Information" **or** document in the medical record specifically what the patient was provided.

- File the release in the patient's medical record **or** forward to the Health Information Management department for inclusion in the record.

# Patient Requests To View Their Health Information

- Open medical records are incomplete and require authorization from the patient's physician

- Obtain an order from the physician and ensure an appropriate review in the presence of a member of the health care team

# Denying a Patients' Request To View Their Health Information

- Patient access may be denied in certain instances

- Consult with the Health Information Management department or an Operations Supervisor

# Patient Complaints

Patient complaints or concerns regarding information practices should be addressed through existing channels. For example:

- Customer Service
- Patient representatives/ Risk Managers
- Privacy Team Leader
- Privacy Officer

Patients may also file a written complaint and request an investigation with the Department of Health and Human Services.

**Each facility's Notice of Privacy Practices provides information on where to send the complaint.**

# Another Key Privacy Consideration is Faxing of Information

# When Is Faxing Appropriate?

Consider faxing when information is:

- Needed urgently for patient care or to obtain payment

- Authorized by the patient/legal representative

# Apply Faxing "Best Practices"

- Verify the accuracy of fax numbers before sending

- Pre-program frequently called numbers

- Notify others if your fax number changes

# …and Faxing Safeguards

- Locate fax machines in secure locations

- Secure incoming faxes

# Use a Fax Cover Sheet!

- Cover sheets are required for all transmissions

- The fax cover sheet template is available online or as a standard form at most facilities

# Exception to Fax Cover Sheet Requirements

All of the following must apply:

- ✓ destination is within the facility

- ✓ destination fax number is preprogrammed

- ✓ receiving fax machine is in a controlled access area

# Misdirected Faxes…

- Obtain the correct fax number

  and

- Immediately transmit a request to the unintended receiver requesting that the material be destroyed immediately or returned by mail

# Misdirected Faxes Containing PHI

- Complete a Quality Variance Report (ask your supervisor or manager for guidance)

- Follow facility procedures

# Our Responsibilities

Protecting and managing health information is complex.  It takes all of us doing our part and upholding our responsibilities to:

- Control access to PHI
- Use and disclose only the information necessary  to meet the need
- Obtain authorizations for disclosures
- Be aware of penalties for privacy / security breaches

# Thank You!

- You have now completed the HIPAA Intermediate Privacy-201 Module for Clinical Workforce Members.

- <u>Disclaimer</u>: This module is intended to provide educational information and is not legal advice. If you have questions regarding the privacy / security laws and implementation procedures at your facility, please contact your supervisor or the health care privacy officer at your facility for more information.

Print Name: _____Degree:_____

Signature: _____Date: _____