

HIPAA

THE PRIVACY RULE

Reviewed December 2012

HISTORY



- In 2000, many patients that were newly diagnosed with depression received free samples of anti-depressant medications in their mail.

HISTORY



- Many of these patients were concerned on how the pharmaceutical companies were notified of their disease.

HISTORY



- After much investigation, the Physician, the Pharmaceutical company and a well known Pharmacy chain were all indicted on breach of confidentiality charges.

HISTORY

- This is just one example of why the Federal government needed to step in and assist in protecting patient privacy.



Definitions

- **Privacy** – state of being concealed; secret
- **Confidentiality** – containing secret information (medical record)
- **Authorization** – to give permission for; to grant power to
- **Breach Confidentiality** – to break an agreement, to violate a promise

HIPAA

- **Health Insurance Portability and Accountability Act**

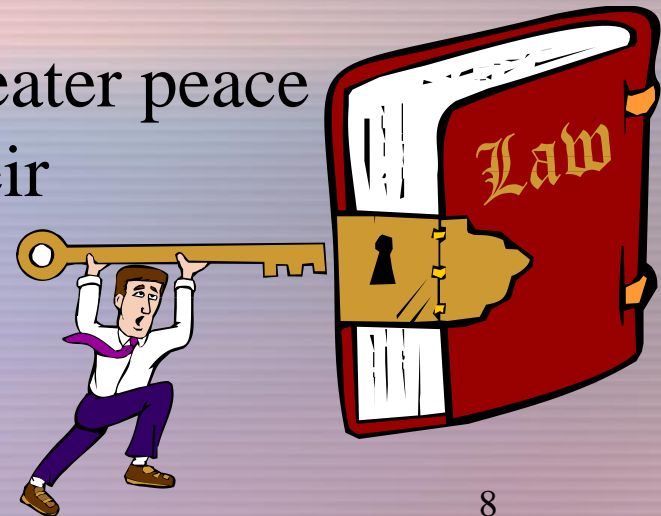


- Much of the patient's health information is documented in a computerized format. Protecting this information has become vitally important.
- The first federal legislation (effective April 14, 2003) that attempts to protect a patient's right to privacy, and the security and access of personal medical information and usage.

HIPAA

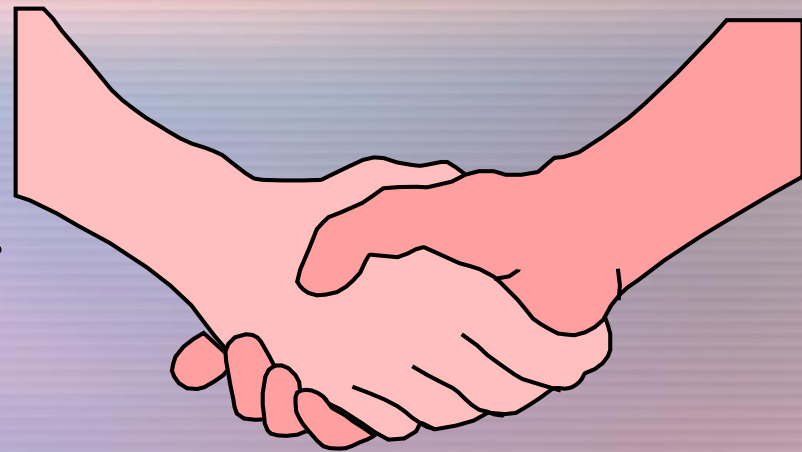
- **Privacy Rule**

- Imposes restrictions on the use/disclosure of personal health information
- Gives patients greater protection of their medical records
- Hopefully provides patients with greater peace of mind related to the security of their information



Confidentiality

- Deals with:
 - Communication or information given to you without fear of disclosure
 - Legitimate Need to Know & Informed Consent
- Potential breeches of confidentiality can occur



Protected Health Information

- **What is Protected Health Information (PHI)?**
 - When a patient gives personal health information to a healthcare provider, that becomes Protected Health Information (PHI)



Protected Health Information

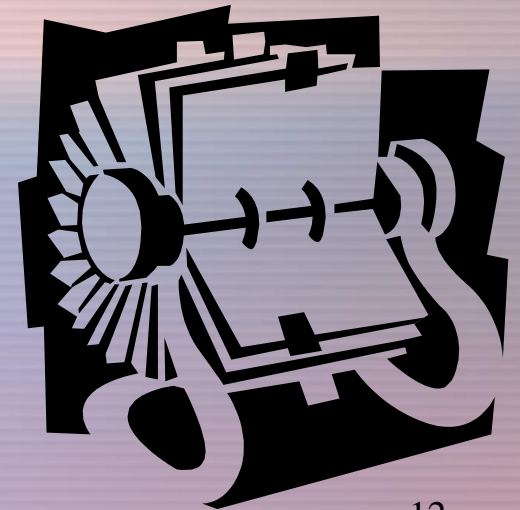
- **PHI Includes:**
 - Verbal information
 - Information on paper
 - Recorded information
 - Electronic information (faxes, e-mails)



Protected Health Information

- **Examples of patients information**

- Patients name or address
- Social Security or other ID numbers
- Doctor's/ Nurse's personal notes
- Billing information



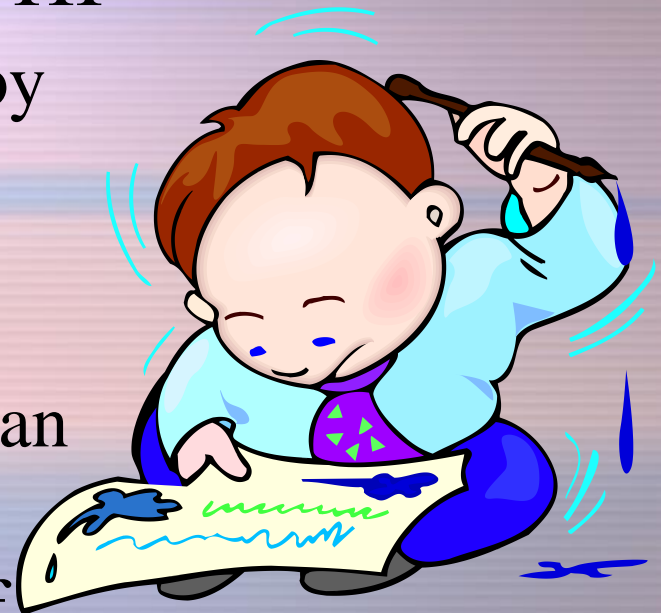
Rules for the Use & Disclosure of PHI

- PHI can be used or disclosed for
 - Treatment, payment, and healthcare operations
 - With authorization/agreement from patient
 - For disclosure to patient



Rules for the Use & Disclosure of PHI

- You're required to release PHI
 - When requested/authorized by the patient (some exceptions apply)
 - When required by the Department Health and Human Services
- Patients can request a list of persons who viewed their PHI, but they too must sign a consent

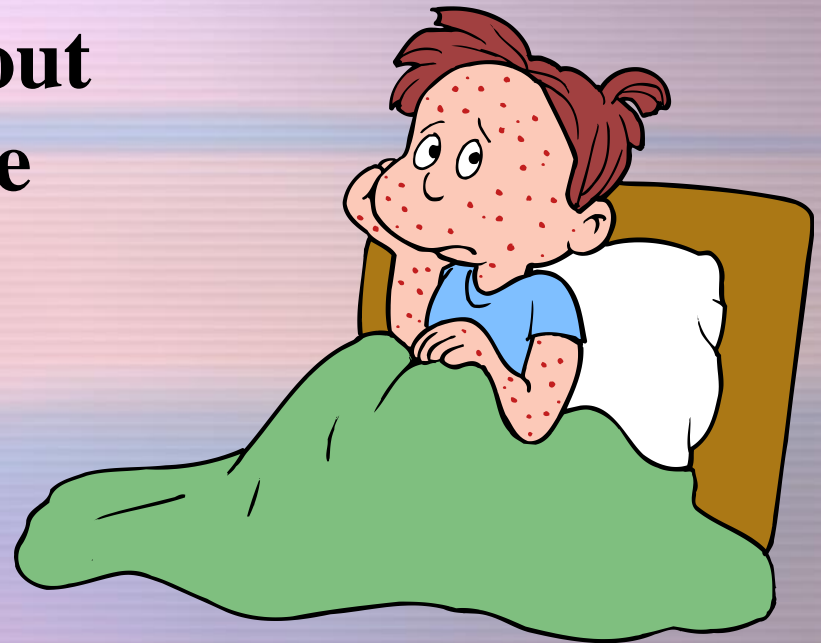


Authorization Guidelines

- **Patient authorization for release of PHI must be obtained in the following situations:**
 - Use/disclosure of psychotherapy notes
 - For research purposes
 - For use/disclosure to third parties for making activities

Authorization Guidelines

- **PHI can be used/disclosed without authorization for the following reasons:**
 - To inform appropriate agencies
 - Public health activities related to disease prevention/control



Authorization Guidelines

- **PHI can be used/disclosed without authorization:**
 - To report victims of abuse, neglect or domestic violence
 - To funeral homes, tissue/organ banks
 - To avert a serious threat to health/safety

Notice of Privacy Practices

Patients have the right to adequate notice concerning the use/disclosure of their PHI

The Notice of Privacy Practices must contain the patient's rights and the covered entities' legal duties

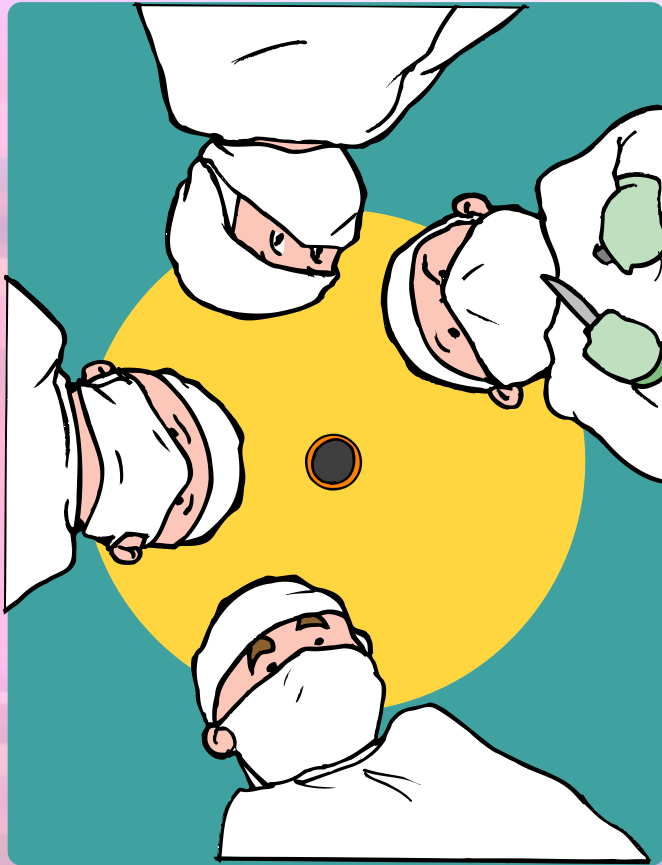
Patients are required to sign a statement that they were informed of and understand the privacy practices



Minimum Necessary

- **What are the Minimum Necessary requirements?**
 - Use/disclosure of PHI is limited to the minimum amount of health information required to do the job
- **It means:**
 - Development of policies/practices on sharing health information

Minimum Necessary



- Identify employees who regularly access PHI.
- Identify the types of PHI needed and the conditions for access.
- Grant only that access necessary to perform the job.

Protections for Health Information

- **Important Safeguards**
 - **Physical Safeguards**
 - Computer terminals are not placed in public areas
 - **Technical Safeguards**
 - Every associate must keep his/her password confidential
 - **Administrative Safeguards**
 - Policy and procedure for release of patient information

The Joint Commission Standards

- **Patients Rights**

- The hospital demonstrates respect for the following patient needs:
 - Confidentiality
 - Privacy
 - Security
 - Resolution of complaints
 - Records and information are protected against LOSS, destruction, tampering and UNAUTHORIZED ACCESS or use



The Joint Commission Standards

- **Patients Rights**

- Patients have a right to confidentiality of all information that is provided to the healthcare professional and institution
- Health care professionals ensure that patient information is secured at all times and if there are any complaints, those complaints will be resolved in a timely manner.



Faxing Guidelines

- Located in non-public areas.
- Centralized fax machines: Pick up information immediately
- **DO NOT FAX** the following records/results:



HIV results

Mental Health

Narcotic prescriptions

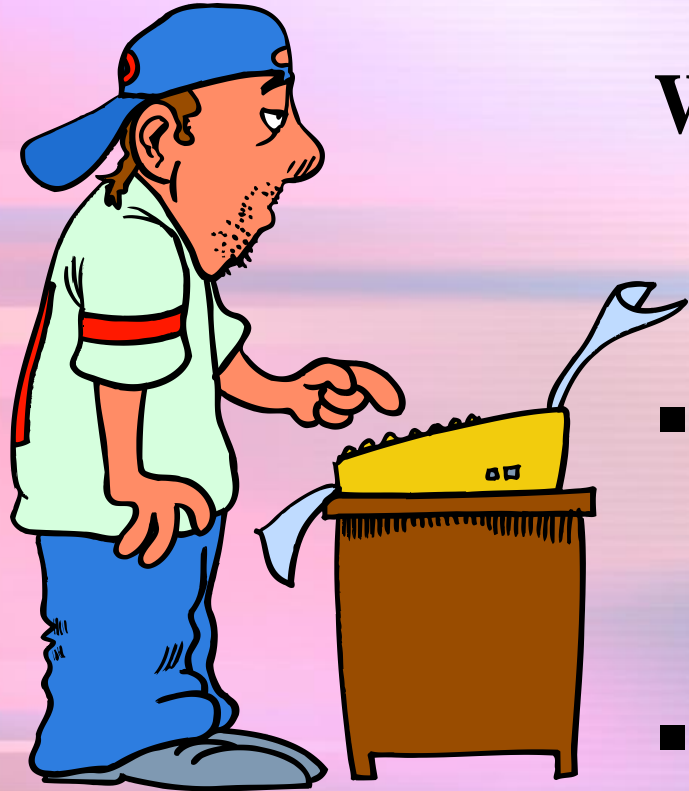
Alcohol abuse

Substance abuse

Child abuse

Faxing Guidelines

When you fax to outside offices:

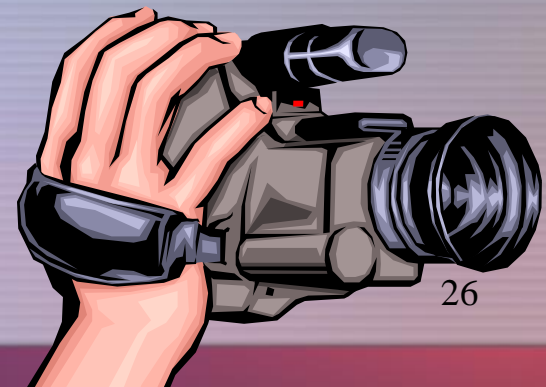
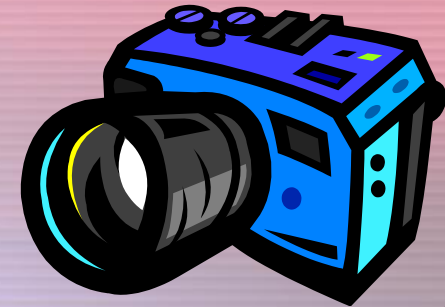


- **Check the transmission print out**
- **Verify that the correct number was dialed**

Privacy

- No photographs or recordings of any type are to be taken of patients in the clinical setting.
- No cameras, palm pilots, cell phones or any electronic devices with photography capabilities are permitted in the clinical environment.

Protect Your Patient!



Enforcement of the Medical Privacy Regulations



- **Office for Civil Rights**

- A patient may complain to the Privacy Officer in a hospital ...

OR

- The Director of Health and Human Services (HHS)

Patient Privacy Rights

- It's your job to make sure patients know they have the right to:
 - To see and copy their PHI
 - Protect patient's privacy and confidentiality
 - Contact your hospital's privacy administrator for any privacy concerns



HITECH

**HHealth Information Technology for Economic and Clinical
Health Act**

HITECH , It's a Federal Law, part of the American
Reinvestment and Recovery Act (ARRA)
Effective September 23, 2009

Updated the HIPAA rule to
include protections against identity theft



HITECH (continued)

Purpose:

- Applies to covered health care entities and business associates. Makes massive changes to privacy and security laws
- Creates a nationwide electronic health record
- Increases penalties for privacy and security violations
- Breach Notification requirements (**Patient, Department of Health and Human Services, and Media**)

Criminal Penalties

- Criminal provisions
- Penalties
- Sharing of civil monetary penalties with harmed individuals

What can you do?

- If you have any questions, ask your clinical instructor or contact the hospital's Privacy Administrator

