

FREQUENTLY ASKED HIPAA PRIVACY RELATED QUESTIONS

The following Questions are grouped and sequenced to address related Questions that have arisen frequently to date.

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Disclosing Patient Information to:
Family (Parent)



Question: 1	Can a family member look at a patient's medical record?
Answer:	<p>No, not unless the patient has authorized disclosure of their patient information to that individual. A patient can authorize family members to gain access to medical records by completing the Authorization for Release of Health Information form, found on Synapse.</p> <p>**There may be select circumstances where the patient verbally authorizes the provider to explain an X-ray or diagnosis report with family present. This verbal authorization should be noted in the chart.</p>
Question: 2	What interaction can occur when the patient has attempted suicide and family input is necessary to make a decision as to whether the patient can be discharged home?
Answer:	<p>According to Policy PR.PHI.140.05 Release/Review of Protected Health Information, CHS may disclose patient information without patient authorization when CHS believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person. The patient information must be disclosed to a person reasonably able to prevent or lessen the threat of suicide, including the target of the threat. If the interaction is a direct result of concern for the welfare of the patient, CHS Employees are permitted to discuss the patient's condition with his/her next of kin.</p>
Question: 3	Can I the biological mother of a patient restrict the child's medical information from the biological father when we both share custody of the child? How can I screen phone calls if the stepmother tries to portray the biological mother?
Answer:	<p>No, both biological parents should be provided the information unless the mother can present a court order restricting the father from being involved in the child's health care or the mother has an order granting her sole health care custody of the child. Note that a biological parent whose parental rights have been terminated by a court order no longer has any rights or relationship to the child whatsoever and should not be given any access to that child's information, barring an authorization signed by the child's remaining custodial parents or guardians.</p> <p>In order to screen phone calls, a specific password can be given to the biological mother and a different password for the biological father. If a female calls in and does not have the mother's password, you will know she is not the mother. If the stepmother has adopted the child and produces the</p>

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	adoption order, she is considered the parent and can have access to the child's information.
Question: 4	Can a parent or someone who has healthcare power of attorney have access to their child's record if they are suspected of abusing the child, even if the parent is paying for the health insurance and wants a detailed bill?
Answer:	When a covered entity reasonably believes that a child has been or may be subjected to abuse or neglect by the personal representative, or that treating a person as an individual's personal representative could endanger the individual, the covered entity may choose not to treat that person as the individual's personal representative, if in the exercise of professional judgment, doing so would not be in the best interests of the individual. The covered entity can also "whiting out" information in the record such as address or notes, that could endanger the child or compromise his safety. Remember that the law requires anyone suspecting child abuse or neglect to report it to DSS.

Disclosing Patient Information to: *Police*



Question: 5	If the police department notifies us of a potential suspect that is in one of our facilities and wants us to call them when the suspect/patient is ready to be sent home, can we provide that information to the Police Department and detain the suspect/patient until the police arrive?
Answer:	In order for CHS to detain a patient, there must be a copy of the arrest warrant on the chart. CHS does not detain patients and will notify only if the warrant for arrest is in the chart. The warrant should state that CHS is to disclose the discharge date or when the patient is leaving the facility to the police department. The law allows for certain information to be disclosed for purposes of identifying or locating the suspect, but the law does not specifically include discharge information. However, since treatment information is included, we could provide the police department with the date the treatment ended (i.e., the discharge date).
Question: 6	Should/Could I report to the police a patient who I in my role as a CHS employee saw registering under another person's identity?
Answer:	Typically, we do not report patients to the police. CHS is in the health business and wants patients to seek healthcare. Registering as the wrong patient can lead to medical identity theft and must be corrected as soon as noted for the delivery of high quality care. If there is solid evidence that a crime was definitely committed on CHS premises i.e. you saw the patient steal a purse, you saw the patient request a credit card using another's patients identify, then yes, notify your manager who can share the incident with the police i.e. crime on premises of potential identity theft.

Disclosing Patient Information to: *The Public*




Question: 7	Does the HIPAA Privacy Rule permit a hospital to inform callers or visitors of a patient's location and general condition, even if the patient's information is not included in the main hospital directory of admitted patients?
Answer:	<p>Yes, once the caller asks for the patient by his/her registered name and the patient has not opted out of the directory, you can give a one word condition and location if available. (Please refer to CHS Policy PR.PHI 145.01 Disclosure of Patient Directory Information.) Further information can be provided in appropriate circumstances and with appropriate verification and authorization.</p> <p>Example: If a father calls to locate his minor daughter who is having an allergic reaction and he can provide enough information to prove his relation to the young girl, the operator should provide the father with the information he needs to locate his child. Always ask the patient about the identity of the requestor/caller FIRST (even a minor), if they are able to respond.</p> <p>According to CHS Policy PR.PHI 145.07, <i>Verifying the Identity of a Person Requesting Protected Health Information (PHI)</i>, to verify the identity of an individual requesting information in person, CHS should:</p> <ul style="list-style-type: none"> • Examine a form of photo identification (i.e. driver's license, military identification, passport, or state issued identification card • If a photo ID is unavailable, ask an individual certain personal information to further verify the identity or authority of the individual • Make a good faith effort to verify the identity of a person before releasing any patient information


Disclosing Patient Information to: *Social Services*



Question: 8	What information can be disclosed to social services (child protective services, etc.)?
Answer:	<p>Once the representative or investigator requests patient information, provides documentation that verifies his/her identity, and informs CHS staff that there is an <u>open</u> investigation involving the patient, CHS employees can participate by providing all patient information requested by the protective services investigator. If Social Services requests information for an investigation that is considered closed, DSS must provide a court order or have proof of patient authorization before any patient information can be released.</p>



Releasing Information to Someone other than the Patient



Question: 9	Can an individual (personal representative) who has been given a health care power of attorney have access to the patient's medical record?
Answer:	Yes, an individual that has been given a health care power of attorney will have the right to access the medical records of the patient related to such representation to the extent permitted by the HIPAA Privacy Rule at 45 CFR 164.524. However, when a physician or other covered entity reasonably believes that a patient, who could be an un-emancipated minor, has been (or may be) subjected to domestic violence, abuse or neglect by the personal representative, or that acknowledging a person as an patient's personal representative could endanger the patient. The covered entity may choose to exercise professional judgment and not recognize that person as the patient's personal representative, if in doing so would not be in the best interests of the patient.
Question: 10	Can Students and other non CHS individuals (temp staff/student/volunteer) observe patient care?
Answer:	Students and/or non CHS individuals have to successfully pass the HIPAA ACE post-test, as well as "temp staff/student/volunteer" ACE post-test. And ensure that no patient information leave the treatment area in any form for any reason.
Question: 11	What process should be followed if an individual would like to shadow a CHS doctor or workforce member and will observe the patient and have access to the patient's information?
Answer	<p>Always obtain approval from Department Head of the department where the observation is to occur and follow these steps:</p> <ol style="list-style-type: none"> 1) Students, Residents, Interns, & Faculty, Etc. that are in a CHS Affiliated Education Program: Ensure CHS has in place an Educational and Affiliated Agreement by contacting Nursing Administration with the specific school and then follow appropriate procedures in ADM 200.13 - Student and Faculty Internships and Field/Clinical Experiences. 2) Volunteers and all other Applicants that are not included in #1 above: <ul style="list-style-type: none"> ➢ Applicants would apply through the Volunteer department. ➢ Applicants would successfully complete the HIPAA training (video and ACE module post-test), complete an application packet, references/criminal background check, interviews, and sign a confidentiality agreement/Code of Ethics/Acknowledgement). ➢ The provider of the non affiliate program participant should also be

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	informed that provider must obtain the patient's approval before allowing the "shadower" in to the room. The provider has to ask for and document the patient's permission or obtain a written authorization and note the medical record of the patient's approval.
Question: 12	Can the financial guarantor of a patient's account have access to a detailed bill without completing a written authorization?
Answer:	Yes, the current policy PR PHI 140.05 Release/Review of Protected Health Information (PHI) provides access to detailed bills.
Question: 13	When a Physician leaves a practice do their patient's and the patient's medical records automatically transfer with the Physician?
Answer:	No, the practice owns the medical record. The physician is required by the NC Medical Board to give notice to the patient of his/her departure 30 days in advance. If the patient chooses to follow the physician, the patient must request that the records be transferred by signing an authorization form to authorize the transfer.

Handling of Patient information

Question: 14	Is there a CHS Policy that tells me how I can use and disclose a patient's information?
Answer:	The CHS Policy PR.PHI.140.05 Release/Review of Protected Health Information (PHI) provides guidelines for the use and disclosure of patient information for most situations. This policy can be accessed through Synapse.

Providing Medical Record



Question: 15	Can a patient review their Medical Record?
Answer:	Yes. A CHS employee (typically the nurse providing care or their designee) must be present when the patient reviews his/her record in order to Answer: the patient's Questions and to prevent alteration or destruction of the record. The attending physician should be notified of the request before the request is fulfilled.



Physician Access to Patient Information

Question: 16	Should doctors be permitted to see all information about every patient regardless of whether he/she is a physician on record (admitting physician, attending physician, and/or consulting physician?)
Answer:	No. The HIPAA Privacy Rule only allows access to patient information when a physician has a work need to know. (Is it for treatment, payment, health care operations or as authorized by the patient?) The resident or fellow would be expected to access the patient that the attending they work for/with accesses.

Employee Access to Patient Information

Please Refer to Additional Question::



Question: 17	What information about the patient can I share with other employees or providers who are not involved in the patient's care?
Answer:	No patient information should be shared with any person who is not involved in the treatment, care, or management of the patient. The Minimum Necessary standard of HIPAA says that <u>all</u> employees must make a reasonable effort to use or disclose only the minimum amount of patient information necessary to perform their jobs (TPO: Treatment, Payment, and Health Care Operations). Before disclosing information to other employees or providers, ask yourself, "Do they need to know " this information to do their job?"

Patient Information At Home



Question: 18	Can the workforce take patient information home or have patient information faxed to their home in order to continue their daily work activities?
Answer:	CHS discourages all workforce members (physicians, employees, students, volunteers, trainees, etc) from taking protected health information off CHS premises; however in some circumstances departmental management may approve specific tasks for certain members of the workforce to be complete using patient information off CHS premises. Such management must have and enforce departmental policies governing safeguards that will be in place at all times, including secure transport of such patient information and audits of such off site practices. The CHS AUP is in effect regardless of location of the CHS property.

Protecting Patient Privacy in Waiting Rooms

Question: 19	Can we use sign-in sheets and call patients who are waiting for treatment by name?
Answer:	<p>HIPAA does not forbid these practices. However, many areas have found creative ways to sign in and call patients while maintaining patient privacy. For example, if you cannot accommodate face-to-face sign in, consider having patients sign in on a page with peel-off stickers; then peel the stickers off and place the names on a list behind the desk or in a folder.</p> <p>Instead of calling out last names, try first names or first name and last initial only. It may be important to explain to patients that you are not being disrespectful; on the contrary, you are protecting their privacy. You can also try using deli-counter-style number systems if you call patients on a first-come, first-served basis.</p>

Protecting Patient Information from Incidental Disclosures

Please refer to Question:(s):



Question: 20	What precautions should be taken before faxing a patient's protected health information to an unfamiliar physician's fax/location?
Answer:	<p>The employee should:</p> <ul style="list-style-type: none"> • Call before faxing, in order to validate the fax number and briefly inquire about the receiver's ability to receive the fax in a confidential manner. (Is the fax machine in a secured location? Will you be there to receive the fax?) • Stay close by the fax machine if the machine is not in a secure area, and eliminate the opportunity for anyone to read the patient's records while it is transmitting. • Verify that she/he dialed the correct fax number on the fax machine prior to transmitting the fax. • Obtain the fax confirmation sheet as verification that the fax was sent to the intended number or call to verify that the fax was received.
Question: 21	What should a CHS employee do if they find a stack of medical records piled on top of a trash bin and they have not been shredded or destroyed?
Answer:	The employee should take the records to the supervisor who will investigate why the records were not destroyed before being discarded and log the

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inappropriate disposal as a misuse in the Reporting Misuses and Disclosures of patient information database located on Synapse.

Reporting Privacy Violations



Question:
22

When is patient information considered unattended?

Answer:

The following are examples of unattended patient information:

If you have stepped away from the patient information and return momentarily or you have asked a staff member to watch over it while you are away, it is not classified as unattended. If a provider has been summoned for a phone call, chooses to go ask a patient more questions, or gets interrupted by other healthcare providers, charts left open for these brief moments will not be considered unattended.

In all areas (staff and public):

- Patient information left in areas easily accessible by the public (this includes nursing stations: not every nurse needs access to every patient's information)
- Patient lists, charts, and computer screens left up/open when not in use
- Print-outs are not retrieved from printers in a timely manner (i.e. if the printer is not in a manned staff area, the print-out should be removed upon printing).
- Faxes are left to sit on the fax machine for a long time; faxes arrive without cover sheets

Disposing of Patient Information



<p>Question: 23</p>	<p>How should I dispose of different types of patient information?</p>
<p>Answer:</p>	<p>CHS policy addresses how patient information should be disposed of:</p> <ol style="list-style-type: none"> 1. Paper: All paper on which is recorded protected health information (patient individual identifiers) will be deposited in a locked confidential shred bin by all CHS staff. The contents of the bins will be collected for shredding by CHS Environmental Services staff, their designee or a CHS business associate. 2. IV Bags: The label should be removed from the IV bottle or bag and should be rolled with the adhesive exposed and discarded in the regular trash. If the label cannot be removed from the bag/bottle, discard the IV bag/bottle in the regulated medical waste receptacle, after releasing any excess fluid. 3. ID Bracelet: ID bracelets removed by a staff member should be properly disposed of in a special plastic shred bin receptacle. This receptacle should be ordered from the Distribution Center. The receptacle's contents should be emptied into the regulated medical waste receptacle when full. The receptacle is reusable and should be located in a centralized location in the Nursing Station. This receptacle is NOT for sharps disposal. 4. Small Bag: All small bags with a non removable label containing patient identifiers should be placed in the regulated medical waste receptacle. The clean small bag with non-removable PHI can also go into the special plastic shred bin receptacle as described above. If the label is removable, follow the disposal process under IV bags. 5. Specimen Containers or Collection Devices: Any labels should be removed from the container/device, rolled with the adhesive exposed, and discarded in the regular trash. Excess fluid should be emptied down the drain. If a label cannot be removed from the container/device, or if it contains solid material, discard it in the regulated medical waste trash receptacle. 6. Film Based Fax Cartridges: Film based fax cartridges should be deposited in the regulated medical waste receptacles. 7. Electronic PHI: These items should be disposed of in accordance with the Information Services Electronic Data Cleansing Policy. (Examples include: Servers, PCs, Laptops, PDAs, Medical Monitoring Equipment, Routers, Network Monitoring Devices, Storage Area Network Devices, Cell Phones, Faxes, Printers, Diskettes, CD-ROMs, ZIP Drives, and VHS Tapes). 8. Miscellaneous - Any other items labeled with patient information should have the information marked out or the label peeled off. Disposal methods listed above or in other more specific policies (ie. Hazardous Waste) should then be followed.

Structural Changes Required by HIPAA Rule



<p>Question: 24</p>	<p>Does the HIPAA Privacy Rule require hospitals and doctors' offices to be retrofitted, to provide private rooms, and soundproof walls to avoid any possibility that a conversation is overheard?</p>
<p>Answer:</p>	<p>No, the HIPAA Privacy Rule is not intended to prohibit providers from talking to each other and to their patients. The following reasonable precautions should be taken to minimize the chance of incidental disclosures to others who may be nearby:</p> <ul style="list-style-type: none"> • Use lowered voices • Choose appropriate location for conversation: <ul style="list-style-type: none"> ○ Use conference rooms to discuss patient information, not hallways ○ Use rooms with doors for the hearing impaired instead of curtained areas, where available • Clear open areas/rooms/hallways of everyone except: <ul style="list-style-type: none"> ○ The patient who is the subject of the patient information being discussed ○ The patient's authorized family/friend representative who is needed for treatment or care decisions ○ Other patients who are being treated in the area. • Exceptions: <ul style="list-style-type: none"> ○ If the patient is a prisoner, the guard may remain in the room with the patient. ○ Students that are legitimately enrolled in CHS affiliated educational programs are to be concerned with only the patients to which they have been assigned; however, HIPAA still applies.

Glossary:

1. Adult: A person 18 years or older.
2. Directory: A list containing limited information about the current inpatient population (there may be other informal directories like ED): patient name, location in the facility, possibly health condition (expressed in general terms that does not communicate specific medical information about the patient), and religious affiliation (for the clergy only). This directory may be used to inform visitors or callers about a patient's location in the facility and general condition.
3. Emancipated Minor: A person under the age of 18 who is considered an adult by virtue of a court order or marriage.
4. Minor: Person under the age of 18.
5. Medical Emergency - A medical condition that occurs suddenly and without warning with symptoms which are so acute and severe as to require immediate medical attention. Such attention is required to prevent: permanent damage to the health of the patient, serious impairment to bodily function, or serious and permanent lack of function of any bodily organ or part.
6. Workforce Member - any CHS Physician, Employee, Student, Volunteer or Trainee.