

**Frequently Asked Questions Regarding the HIPAA Privacy Rule**

The following FAQs were taken directly from the Department of Health and Human Services website ([www.hhs.gov/hipaafaq](http://www.hhs.gov/hipaafaq)) and have been reproduced in full for your convenience. The Department cautions that "the information provided \* \* \* is only intended to be general summary information to the public. It is not intended to take the place of either the written law or regulations."

**Question: May physicians' offices use patient sign-in sheets or call out the names of their patients in their waiting rooms?**

**Answer:** Yes. Covered entities, such as physician's offices, may use patient sign-in sheets or call out patient names in waiting rooms, so long as the information disclosed is appropriately limited. The HIPAA Privacy Rule explicitly permits the incidental disclosures that may result from this practice, for example, when other patients in a waiting room hear the identity of the person whose name is called, or see other patient names on a sign-in sheet. However, these incidental disclosures are permitted only when the covered entity has implemented reasonable safeguards and the minimum necessary standard, where appropriate. For example, the sign-in sheet may not display medical information that is not necessary for the purpose of signing in (e.g., the medical problem for which the patient is seeing the physician). See 45 CFR 164.502(a)(1)(iii).

**Question: Does the HIPAA Privacy Rule permit a doctor to discuss a patient's health status, treatment, or payment arrangements with the patient's family and friends?**

**Answer:** Yes. The HIPAA Privacy Rule at 45 CFR 164.510(b) specifically permits covered entities to share information that is directly relevant to the involvement of a spouse, family members, friends, or other persons identified by a patient, in the patient's care or payment for health care. If the patient is present, or is otherwise available prior to the disclosure, and has the capacity to make health care decisions, the covered entity may discuss this information with the family and these other persons if the patient agrees or, when given the opportunity, does not object. The covered entity may also share relevant information with the family and these other persons if it can reasonably infer, based on professional judgment, that the patient does not object. Under these circumstances, for example:

- A doctor may give information about a patient's mobility limitations to a friend driving the patient home from the hospital.
- A hospital may discuss a patient's payment options with her adult daughter.
- A doctor may instruct a patient's roommate about proper medicine dosage when she comes to pick up her friend from the hospital.
- A physician may discuss a patient's treatment with the patient in the presence

of a friend when the patient brings the friend to a medical appointment and asks if the friend can come into the treatment room.

Even when the patient is not present or it is impracticable because of emergency circumstances or the patient's incapacity for the covered entity to ask the patient about discussing her care or payment with a family member or other person, a covered entity may share this information with the person when, in exercising professional judgment, it determines that doing so would be in the best interest of the patient. See 45 CFR 164.510(b). Thus, for example:

- A surgeon may, if consistent with such professional judgment, inform a patient's spouse, who accompanied her husband to the emergency room, that the patient has suffered a heart attack and provide periodic updates on the patient's progress and prognosis.

- A doctor may, if consistent with such professional judgment, discuss an incapacitated patient's condition with a family member over the phone.

In addition, the Privacy Rule expressly permits a covered entity to use professional judgment and experience with common practice to make reasonable inferences about the patient's best interests in allowing another person to act on behalf of the patient to pick up a filled prescription, medical supplies, X-rays, or other similar forms of protected health information. For example, when a person comes to a pharmacy requesting to pick up a prescription on behalf of an

individual he identifies by name, a pharmacist, based on professional judgment and experience with common practice, may allow the person to do so.

***Question:* Won't the HIPAA Privacy Rule's minimum necessary restrictions impede the delivery of quality health care by preventing or hindering necessary exchanges of patient medical information among health care providers involved in treatment?**

**Answer:** No. Disclosures for treatment purposes (including requests for disclosures) between health care providers are explicitly exempted from the minimum necessary requirements.

Uses of protected health information for treatment are not exempt from the minimum necessary standard. However, the Privacy Rule provides the covered entity with substantial discretion with respect to how it implements the minimum necessary standard, and appropriately and reasonably limits access to identifiable health information within the covered entity. The Rule recognizes that the covered entity is in the best position to know and determine who in its workforce needs access to personal health information to perform their jobs. Therefore, the covered entity may develop role-based access policies that allow its health care providers and other employees, as appropriate, access to patient information, including entire medical records, for treatment purposes.

**Question: Can health care providers engage in confidential conversations with other providers or with patients, even if there is a possibility that they could be overheard?**

**Answer:** Yes. The HIPAA Privacy Rule is not intended to prohibit providers from talking to each other and to their patients. Provisions of this Rule requiring covered entities to implement reasonable safeguards that reflect their particular circumstances and exempting treatment disclosures from certain requirements are intended to ensure that providers' primary consideration is the appropriate treatment of their patients. The Privacy Rule recognizes that oral communications often must occur freely and quickly in treatment settings. Thus, covered entities are free to engage in communications as required for quick, effective, and high quality health care. The Privacy Rule also recognizes that overheard communications in these settings may be unavoidable and allows for these incidental disclosures.

For example, the following practices are permissible under the Privacy Rule, if reasonable precautions are taken to minimize the chance of incidental disclosures to others who may be nearby:

- Health care staff may orally coordinate services at hospital nursing stations.
- Nurses or other health care professionals may discuss a patient's condition over the phone with the patient, a provider, or a family member.

- A health care professional may discuss lab test results with a patient or other provider in a joint treatment area.

- A physician may discuss a patient's condition or treatment regimen in the patient's semi-private room.

- Health care professionals may discuss a patient's condition during training rounds in an academic or training institution.

- A pharmacist may discuss a prescription with a patient over the pharmacy counter, or with a physician or the patient over the phone.

In these circumstances, reasonable precautions could include using lowered voices or talking apart from others when sharing protected health information. However, in an emergency situation, in a loud emergency room, or where a patient is hearing impaired, such precautions may not be practicable. Covered entities are free to engage in communications as required for quick, effective, and high quality health care.