

Remember, the content and images in this document are copyrighted. HealthcareSource provides them to you only so you can customize this course. You should not copy the text and/or images from this document or use them in any other source, or post this document to a publicly accessible web site.

PATIENT RIGHTS, CONFIDENTIALITY, AND HIPAA PRIVACY

PATIENT RIGHTS, CONFIDENTIALITY, AND HIPAA PRIVACY



Course Introduction

Course Introduction_1 of 25



Patients have rights while using health care services. Previously, many patients and health providers believed that the patient had little control over procedures performed and the way that health care was delivered. This is no longer the case; patients are now more aware of their rights regarding how their care is handled and are willing to voice their feelings when these rights are violated.

Patients now have the right to designate visitors who shall have visitation privileges without discrimination. Visitation policies should define this right and any medical or therapeutic limitations to visitors.

One crucial patient right involves the confidentiality of every individual's health information. This right is protected by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Are you familiar with this?

If you just need a refresher, the Minute Mandatory lesson summarizes the main points of the course and can be accessed by clicking the Minute Mandatories button at the top of this page.

Expanded Course

Course Learning Objective_2



After completing this course, you should be able to correctly define confidentiality, describe practices that promote confidentiality, and list the rights to which patients are entitled.

Review of Key Terms_3



Before you begin this course, please review some frequently used terminology:

Centers for Medicare & Medicaid Services (CMS)

The Centers for Medicare & Medicaid Services (CMS) is an agency within the U.S. Department of Health & Human Services responsible for administration of several key federal health care programs. In addition to Medicare (the federal health insurance program for seniors, people with end-stage renal disease, and those with disabilities) and Medicaid (the federal needs-based program), CMS oversees the Children's Health Insurance Program (CHIP), the Health Insurance Portability and Accountability Act (HIPAA), and the Clinical Laboratory Improvement Amendments (CLIA), among other services.

patient confidentiality

Maintaining patient confidentiality means keeping information about a patient's health care private. The information is shared only with those who need to know in order to perform their duties on behalf of the patient.

patient rights to visitation

Patients have the right to designate visitors who shall receive the same visitation privileges as the patient's immediate family members regardless of whether the visitor is legally related to the patient.

durable power of attorney

A legally appointed person who is to make health care decisions when the patient is not able to do so for himself or herself.

hepatitis

A disease characterized by inflammation of the liver, usually caused by bacterial or viral infection, drugs (including alcohol), toxins, or parasites.

HIPAA

The Health Insurance Portability and Accountability Act of 1996. A federal law that specifies the types of measures required to protect the security and privacy of personally identifiable health information.

human immunodeficiency virus (HIV)

A virus that infects human T-cells. Infection with this virus may lead to the development of acquired immune deficiency syndrome (AIDS).

protected health information (PHI)

PHI is medical information that can be traced to, or identified with, a particular patient. PHI is information created or received by a health care organization that relates to the past, present, or future health or condition of an individual.

The Health Information Technology for Economic and Clinical Health (HITECH) Act

The Health Information Technology for Economic and Clinical Health Act (HITECH Act) legislation was created in 2009 to stimulate the adoption of electronic health records (EHR) and supporting technology in the United States. President Obama signed HITECH into law on February 17, 2009, as part of the American Recovery and Reinvestment Act of 2009 (ARRA) economic stimulus bill.

The Joint Commission (TJC)

An independent, not-for-profit organization, The Joint Commission accredits and certifies nearly 21,000 health care organizations and programs in the United States. Joint Commission accreditation and certification is recognized nationwide as a symbol of quality that reflects an organization's commitment to meeting certain performance standards.

social media

Forms of electronic communication such as websites for social networking and microblogging, such as Facebook.

transaction

The exchange of information between two parties to carry out financial or administrative activities related to health care.

Lesson 1: Patient Rights



Topic 1: The Rights of Patients

Topic 1 Learning Objective_4

After completing this topic, you should be able to describe the rights that patients have when in health care facilities, including rights regarding care and the plan of care, privacy and confidentiality, visitation, and communication.

Patient Rights_4

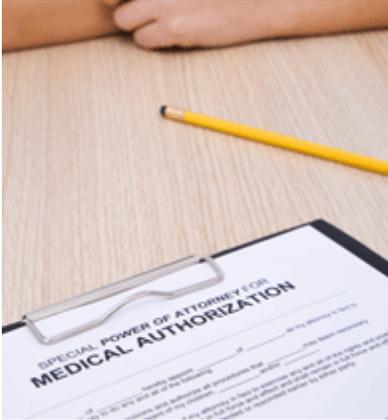


Every patient has rights. Patient rights outline expectations for health care and provide each patient with knowledge regarding the care to which he or she is entitled.

The Joint Commission and the Centers for Medicare & Medicaid Services (CMS) both have requirements for patients' rights. Laws regarding patient rights have been passed by the United States government, many state governments, and professional organizations.

Health care workers are to educate each patient regarding his or her rights and strive to ensure that these rights are met and maintained.

The Joint Commission Regulations_5



The Joint Commission requires health care facilities to have a plan in place to advise the patient of his or her rights. GBMC will need to demonstrate how patients are informed of their rights and how staff members promote patient rights.

Patients' confidentiality must also be protected during all transactions. This facility is required to demonstrate how such privacy is protected.

Patient Rights: Plan of Care_5

In terms of the plan of care, each patient has the right to:

- Expect considerate, safe, and respectful care that supports dignity
- Expect care that is free from abuse, neglect, and exploitation
- Have his or her condition assessed and a plan of care developed and implemented
- Make decisions regarding the plan of care
- Have an advance directive concerning treatment and the knowledge that this directive will be honored
- Expect that the health care facility, within its capacity, will make reasonable responses to requests for care

Considerate, Safe, and Respectful Care_6



Patients have the right to considerate, safe, and respectful care that supports dignity and is free of mental, physical, sexual, and verbal abuse, neglect, and exploitation.

The patient also has the right to be free from seclusion and restraints unless they are medically necessary.

The right to considerate, safe, and respectful care also dictates that health care providers:

- Are trained and competent
- Identify themselves to the patient, indicating if they are students or in training
- Listen to patient concerns
- Help the patient manage his or her pain



The right to considerate, safe, and respectful care dictates that health care providers also:

- Allow a family member, friend, or other individual to be present with the patient for emotional support during the course of stay (unless the

individual's presence infringes on others' rights or safety, or is medically or therapeutically contraindicated)

- Provide the patient with the right to designate visitors who shall receive the same visitation privileges as the patient's immediate family members regardless of whether the visitor is legally related to the patient
- Prohibit discrimination based on age, race, ethnicity, religion, culture, language, physical or mental disability, socioeconomic status, sex, sexual orientation, and gender identity or expression

Informed Care Decisions_7



The patient has the right to make decisions about the plan of care prior to and during the course of treatment and to accept or refuse a recommended treatment. The patient should be informed of the options for care and the anticipated consequences of accepting and refusing the plan of care.

Advance Directive_7

As part of the patient's rights regarding the plan of care, the patient has a right to formulate or review and revise and to have honored an advance directive. An advance directive is a plan that states the patient's wishes regarding life-prolonging procedures.

The patient may wish to:

- Accept all procedures that will prolong his or her life
- Deny all procedures that will prolong his or her life
- Accept some and deny other procedures that will prolong his or her life

In the advance directive, the patient may also designate another person to be responsible for health decisions should the patient become unable to do so.

Privacy and Confidentiality_8



Privacy and confidentiality are important patient rights. Each patient has the right to:

- Expect privacy and freedom from intrusions or disturbances regarding his or her personal affairs
- Expect that all communications and records concerning his or her care will be treated as confidential. Information will be shared only with those who need to know the information to perform their duties on behalf of the patient.
- Review the records pertaining to his or her medical care

Protection of Privacy_8

The patient should receive a written Notice of Privacy Practices, a document that outlines his or her rights in relation to privacy issues. Measures should be taken to protect patient privacy, both in documented health information and during procedures and the delivery of care.

The next lesson will provide more information regarding patient privacy and confidentiality.

Communication of Patient Rights_9



When receiving care, the patient has important rights involving communication regarding the process, content, and context of care. The patient has the right to:

- Consent or decline to participate in proposed research studies
- Expect reasonable continuity of care when appropriate
- Be informed of policies and procedures that relate to patient care, treatment, and responsibilities
- Be informed of the existence of business relationships that may influence that care
- Expect effective communication in his or her preferred language regarding tests, delays in treatment, diagnosis, education, medications, therapy, dietary needs, and any other topics specific to each patient situation
- Have complaints and grievances reviewed by the organization, as does the patient's family
- Give or withhold informed consent to produce or use recordings, films, or other images for purposes other than care or to rescind consent before use

Effective Communication_10



The patient and his or her family have the right to effective communication. Communication may involve the assessment of the patient, the plan of care, discharge needs, or help with billing.

The information provided to the patient and his or her family may be written or verbal but should be appropriate to each of the following:

- Age
- Level of understanding
- Preferred language of the patient

GBMC is to provide, at no cost, services required by patients with vision, hearing, speech, language, or cognitive barriers.

Patient Responsibilities_11



While the patient has rights, he or she also has responsibilities. The patient is responsible for:

- Providing complete and accurate information regarding health history and current symptoms
- Ensuring that financial obligations are met
- Treating the facility's staff with respect and courtesy

The patient is also responsible for any actions he or she takes if he or she does not accept the health care staff's treatment plan or follow the health care staff's instructions.

Lesson 2: Patient Privacy and Confidentiality



Topic 1: Privacy and Confidentiality

Topic 1 Learning Objective_12

After completing this topic, you should be able to define patient confidentiality, describe protected health information and patient rights regarding it, and describe the Health Insurance Portability and Accountability Act (HIPAA) and HIPAA HITECH compliance practices.

Patient Confidentiality_12



Patients arrive at GBMC needing treatment and care for a vast range of conditions. These conditions are personal and sensitive to the patient. Every patient deserves to know that employees can be trusted with this information.

Patient Confidentiality Past and Present_12

In the past, medical information was neatly stored in file folders away from the eyes of those who did not need to know. Now, health care information is computerized, e-mailed, faxed, and copied, providing ample opportunities for others to review it. Breaches of patient confidentiality and privacy are thus common.

Due to the possibility of such breaches, many patients are nervous about how their health information will be used, causing some patients to be secretive about their medical histories, to avoid treatment, or to change from one provider to another. However, in health care today, standards are present to protect confidentiality and to alleviate patient concerns in this area.

Maintaining Patient Confidentiality_13



Maintaining patient confidentiality means keeping information about a patient's health care private. Only people who need to know information should receive it and only to the extent needed to perform duties for the patient. Maintaining patient confidentiality requires that any information about a patient cannot be repeated to anyone who is not directly involved with the care of that patient.

One of the greatest forms of communication and connectivity in the twenty-first century is social media. You should never post any information regarding patient care on any form of social media. For more information, review GBMC's policy on social media.

Social Media and Mobile Devices_13

The use of PHI on social media networks is prohibited by the HIPAA Privacy Rule and this facility's patient privacy and confidentiality policies. This includes any specific patient information by text, videos, or images that may identify a patient. Any patient photos used for advertising must have written consent.

HIPAA_14

The HIPAA Privacy Rule is part of a larger federal rule called the Health Insurance Portability and Accountability Act (HIPAA). This act was created in 1996 and is designed to protect the privacy of health information. The act requires compliance with strict regulations regarding the management of medical information in the following areas:

- Coding
- Electronic medical records
- Patient privacy
- Reimbursement

Compliance with HIPAA_14



Each health care facility must comply with the HIPAA privacy standards. Health care facilities must inform patients of their privacy policies and provide training to all staff and volunteers regarding HIPAA regulations. Noncompliance with HIPAA regulations is a federal offense.

The Health Information Technology for Economic and Clinical Health (HITECH) Act_15

The Health Information Technology for Economic and Clinical Health (HITECH) Act, passed in 2009, is intended to increase the meaningful use of electronic health records by physicians and hospitals. Because this legislation results in an expansion of electronic protected health information it also strengthened protections under HIPAA.

Protected Health Information (PHI)_15



In order to maintain the confidentiality of patient information, the HIPAA rule addresses protected health information (PHI). PHI is information that can identify a patient. This information includes:

- Name
- Date of birth
- Address, phone number, fax number, and e-mail address
- Names of relatives
- Photographs
- Medical record numbers or health information, such as history and laboratory or radiology results

Patient Rights and PHI_16



To protect the confidentiality of his or her PHI, the patient:

- Must be given written notice of privacy practices
- Must give authorization before providers can disclose PHI outside of treatment, payment, and health care operations
- Has the right to request restrictions of use and disclosure of PHI
- May request to correct PHI
- Can access his or her medical records more freely than he or she could in the past
- Can ask if there have been nonroutine uses and disclosures of PHI

Authorizing Disclosure of PHI_17

A patient must authorize disclosure of PHI. If the patient is less than 18 years of age, his or her parent or guardian must give authorization. Some minors are legally emancipated and are able to provide their own consent. Emancipation laws for minors vary from state to state. Consult the policies of GBMC for specific information.

Disclosing PHI_17



There are circumstances where PHI may be disclosed without the authorization of the patient. Examples of these disclosures include:

- When required by law
- For public health activities to control disease, injury, or disability
- For disaster relief
- For incidental disclosures as a by-product of lawful and permitted disclosures
- In cases of abuse or neglect
- For coroners, funeral directors, and organ donation
- For legal proceedings
- For worker's compensation
- In cases of communicable diseases, such as HIV or hepatitis

Medical Records_18

A medical record belongs to the facility in which it was generated. The medical information in the record belongs to the patient or the patient's legal guardian. The release of any medical information can be done only with the knowledge and written consent of the patient or guardian unless it is released to another health care provider. A spouse, child, or parent cannot have access to a competent adult's chart without his or her consent.

Patients and Their Medical Records_18



A patient may turn in a request to read or receive a copy of his or her medical record. Facility policy may indicate a health care professional or a medical records employee must be present while the patient reads a chart. The medical record may also be reviewed with supervision by anyone authorized by the patient or permitted by law.

Confidential Information_19

In addition to health care employees being able to read the medical records of the patients they care for, they can also read medical records of patients (not in their care) if they are involved in:

- Education
- Quality assurance
- Research
- Treatment
- Utilization review

The use of identifiable medical record information for activities other than treatment, payment, or health care operations is prohibited.

You should never read a chart if you are not involved in the patient's care. Failure to maintain confidentiality can result in dismissal from work and charges for invasion of privacy.

Access to Confidential Information_19



Confidentiality is essential because many different people may have access to patient records. Examples of employees with access to inpatient records include:

- Those who work in Administration
- Dietitians
- Those who are directly involved in the patient's care
- Those who work in Medical Records, Infection Control, Quality Management, or Social Services
- Patient educators
- Pharmacists
- Risk manager and planners
- Physicians

Access is on a need-to-know basis.



Topic 2: Examples of Daily Practice

Topic 2 Learning Objective_20

After completing this topic, you should be able to describe where PHI can be

discussed, limitations on access to and discussion of PHI, and how to safeguard electronic records and the transmission of PHI.

Health Care Staff Access to PHI_20



Health care staff have access to PHI to perform their jobs. Medical and clinical staff can have access to entire medical records. Other disciplines, such as Respiratory Therapy, Physical Therapy, or Pharmacy, may have limited access, depending on the information needed to care for the patient. To safeguard patient confidentiality, these health care workers must be aware of:

- Where PHI can be discussed
- Limitations on access to and discussion of PHI (including disclosure to family)
- Safeguards for electronic records and the transmission of electronic records

Locations for Discussions of Patient Care Information_21



Health care staff discuss patient care information to share information and the treatment plan. Every effort should be made to protect the privacy of the patient by minimizing the risk that others will overhear the conversation. The discussion of PHI should never be done in public areas such as the cafeteria or elevators.

Discussions of PHI can take place in any of the following locations:

- At the nursing station
- With a patient in a treatment area, such as the emergency department
- In an outpatient setting, such as the laboratory or radiology

Limitations on Access to and Discussion of PHI_21

There are certain limitations on access to and discussion of PHI:

- The health care worker should never access PHI for any patient who is not under his or her care.
- If an acquaintance is in the facility, the worker is not to discuss the acquaintance's care with the provider.

Disclosing PHI to Family Members by Phone_21

Before disclosing PHI to a patient's family member by phone, you must obtain the patient's permission to release the information. Additionally, the identity of the individual on the phone must be verified.

Safeguarding Electronic Records_22

Health care staff has access to confidential information via electronic records. The confidentiality of these electronic records must be safeguarded through the following actions:

- Computer workstations should be secured at all times.
- Passwords should not be shared.
- Access to electronic information should be limited to those who have a need to know the information.
- Computer workstations should always be logged off at the end of each session.

Safeguarding the Transmission of PHI_22



Health care staff have an obligation to safeguard patient information. Measures that safeguard this information include:

- Shredding transitory documents containing PHI
- Leaving phone messages or sending mail reminders for appointments. Only the date and time should be given, never the reason.
- Keeping fax machines in secure locations. The use of preprogrammed fax numbers will help eliminate sending information to incorrect locations.
- Verifying the identities of all involved in the care of each patient
- Secure storage of permanent records containing PHI

Summary_23



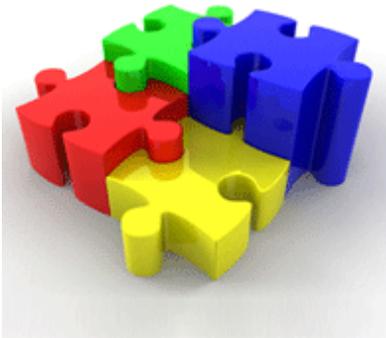
Every health care patient has the right to privacy and confidentiality as protected by HIPAA. The health care provider should make an effort to honor these rights in each aspect of patient care. All information regarding the patient is to be safeguarded through distribution on a need-to-know basis. The use of PHI on social media networks is prohibited unless the patient has given written consent.

All discussions regarding patient care should take place in a private area. You should never read information that you do not need to know as part of your daily duties. If you see another provider doing this, discuss it with your supervisor.

Obligation to Report

- Always maintain a **questioning attitude**.
- Report any activity that appears to violate any laws or the GBMC Code of Business Ethics.
- Retaliation for reporting is **NOT** tolerated at GBMC.
- Call us at **1-800-299-7991**. The HOTLINE is open 24/7 and is anonymous.
- Submit an incident report on **Quantros**, where anonymous reporting is also an option.
- Email us at:
 - Compliance@gbmc.org
 - HIPAA@gbmc.org

Next Steps_24



We hope this course has been both informative and helpful. For more information, you may want to consult the sources used to prepare this course. The final screen of the course contains the bibliography.

Click the Test link or button when you are ready to complete the requirements for this course. Upon completion of the test, you can view your test results, which will give you a summary of your performance.

Bibliography_25

- American Hospital Association. (2003). *The patient care partnership: Understanding expectations, rights and responsibilities*. Retrieved August 7, 2018, from <https://www.aha.org/system/files/2018-01/aha-patient-care-partnership.pdf>
- Badzek, L., & Gross, L. (June 1999). Confidentiality and privacy: At the forefront for nurses. *Nursing World, American Journal of Nursing*. Retrieved August 7, 2018, from https://journals.lww.com/ajnonline/Abstract/1999/06000/Confidentiality_and_Privacy__At_the_Forefront_for.48.aspx
- Buppert, C. (2002). Safeguarding patient privacy. *Nursing Management*, 33(12), 31–35.
- Centers for Medicare and Medicaid Services. (2006). *HIPAA, administrative simplification glossary*. Retrieved August 7, 2018, from <https://www.cms.gov/apps/glossary/default.asp?letter=all&audience=7>
- Centers for Medicare and Medicaid Services, Department of Health and Human Services (2018). *State operations manual, Appendix A, Survey protocol, regulations, and interpretive guidelines for hospitals*. (Rev. 183, 10-23-18) Retrieved August 15, 2019, from https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_a_hospitals.pdf
- Health Insurance Portability and Accountability Act. (2014). *HIPAA survival guide*, Retrieved December 22, 2014, from <http://www.hipaasurvivalguide.com/hitech-act-summary.php>
- HIPAA Social Medical Rules. (March 2018). *HIPAA Journal*. Retrieved August 7, 2018, from <https://www.hipaajournal.com/hipaa-social-media/>
- The Joint Commission. (2020). *2020 hospital accreditation standards*. Oakbrook Terrace, IL.
- McLeod Health. (Revised April 2018). *Patient bill of rights*. Retrieved August 7, 2018, from <https://www.mcleodhealth.org/mcleod-patient-bill-rights/>
- Medicare and Medicaid Programs: Changes to the Hospital and Critical Access Hospital Conditions of Participation to Ensure Visitation Rights for All Patients, 75 Fed. Reg. 70831 (November 19, 2010) (to be codified 42 CFR Parts 482 and 485). Retrieved November 9, 2011, from <http://edocket.access.gpo.gov/2010/pdf/2010-29194.pdf>
- Providence Health System. (April 2018). *Privacy & Information Security*. Retrieved August 7, 2018, from

<https://www.providence.org/about/integrity-and-compliance/privacy-information-security>

U.S. Department of Health and Human Services. *HITECH Act Enforcement Interim Final Rule*. Retrieved October 25, 2016, from <http://www.hhs.gov/hipaa/for-professionals/special-topics/HITECH-act-enforcement-interim-final-rule/>

The White House, Office of the Press Secretary. (April 15, 2010). Presidential memorandum—Hospital visitation. Retrieved September 13, 2018, from <https://obamawhitehouse.archives.gov/the-press-office/presidential-memorandum-hospital-visitation>

Minute Mandatories®

Protecting Patients' Rights_1



Protecting patient rights includes:

- Providing the patient with information regarding his or her rights
- Providing safe, considerate, and respectful care that supports dignity and is free from mental, physical, financial, and sexual abuse
- Communicating with the patient and his or her family regarding care and treatment options
- Providing the opportunity for informed decisions
- Providing the patient with the opportunity to formulate or review and revise an advance directive
- Informing the patient and/or family about the complaint and grievance resolution process, including providing the phone number and address needed to file a complaint or grievance with the relevant state authority

- Providing the patient with the opportunity to designate who he or she wants to visit

Protecting Patients' Privacy and Confidentiality_2



Protecting patient rights and promoting privacy are key components to providing care that is competent and satisfying to the patient. These practices include:

- Incorporating these rights into daily care and treatment of the patient
- Understanding the Health Insurance Portability and Accountability Act (HIPAA) and protected health information (PHI)
- Preventing accidental and purposeful disclosure of PHI
- Practicing the need-to-know concept. PHI should be shared only with those who need to know to provide treatment.
- Taking safeguards to prevent exposure of electronic PHI

The HITECH Act, passed in 2009, is intended to increase the meaningful use of electronic health records by physicians and hospitals. Because this legislation results in an expansion of electronic protected health information it also strengthened protections under HIPAA.

Social Media and Mobile Devices_2

The use of PHI on social media networks is prohibited by the HIPAA Privacy Rule and this facilitates patient privacy and confidentiality policies. This includes any specific patient information by text, videos, or images that may identify a patient. Any patient photos used for advertising must have written consent.

Social media is one of the greatest forms of communication and connectivity in the twenty-first century. You should never post any information regarding patient

care on any form of social media. For more information, review your facility's policy on social media.

Summary_3



Every health care patient has the right to privacy and confidentiality as protected by HIPAA. The health care provider should make an effort to honor these rights in each aspect of patient care. All information regarding the patient is to be safeguarded through distribution on a need-to-know basis. All discussions regarding patient care should take place in a private area. You should never read information that you do not need to know as part of your daily duties. If you see another provider doing this, discuss it with your supervisor.

Next Steps_3



We hope this course has been both informative and helpful. For more information, you can review the Expanded Course path at the beginning of this course and consult the sources in the bibliography that follows.

Click the Test link or button when you are ready to complete the requirements for this course. Upon completion of the test, you can view your test results, which will give you a summary of your performance.