Putting the HIPAA Rules into Practice

Professional Entry into Practice - 2012

UAMS HIPAA Office

Anita Westbrook
Why HIPAA Matters

• HIPAA is the law, but in the end protecting patient confidentiality is how we show we care.

• 99.2% of our patients - “It is important to me that members of my health team respect my privacy when I am at the hospital or clinic”
Use and Disclosure  3.1.28

• Generally, you may use and disclose PHI for treatment, payment and healthcare operations (TPO) of our organization WITHOUT patient authorization.

• As nurses, most of your uses (within UAMS) and disclosures (outside UAMS) of PHI, will be for Treatment purposes.
Using PHI – “The need to know”

Just because a list of patient is on your computer, it is not automatically OK to access those patients’ records.

Follow the simple “need to know rule”

Before accessing PHI, ask yourself, “Do I need to access this information to perform my specific job duties?”

If the answer is “no”, don’t access the information.
Example

It is appropriate to access the record of an L&D patient you know will be assigned to you on E6.

It is not appropriate to read the records of all L&D and triage patients “in case” one of them is assigned to you.
Verify the patient’s identity before providing PHI

Obtain any 3 of the following patient items:

- Full name
- Date of Birth
- Last 4 digits of SS number
- One additional piece of information such as address, phone, acct number
Verify Identity of Requestor if not known to you

- Caller’s name
- Company name/relationship to patient
- Phone number
- When in doubt, call back the phone number or have them fax a written request on company letterhead

Then verify their AUTHORITY to have the information
Patient Authorization

• HIPAA generally requires that a patient sign an Authorization for disclosures (sharing protected health information – PHI – with someone outside of UAMS) made for purposes other than TPO

• There are certain exceptions to this rule, such as when the disclosure is required or permitted by law, and an authorization is not required in those cases.
Disclosures Required by Law

- Limit disclosure to only the information required by the law
- Make the disclosure only to those authorities authorized to receive the information under the law
- Note: This presentation focuses on disclosures to Law Enforcement and does not cover all of the disclosures required by law
Disclosures Required by Law

• Deaths from suspicious circumstances – ML. 3.05
  – If you have knowledge of a death caused by violence or criminal conduct or other suspicious cause (some examples on next slide)
  – Disclosure may be made to county coroner and chief law enforcement official in the county where the death occurred
Disclosures Required by Law

• death was caused by violence, homicide, suicide or appears to be accidental;
• death resulted from presence of drugs or poisons in the body;
• death resulted from drowning;
• death resulted from motor vehicle accident or body was found in or near a roadway or a railroad;
• death occurred in hospital and no previous medical history to explain the death;
• death resulted from fire or explosion;
• manner of death was from other than natural causes;
Disclosures Required by Law

• Child maltreatment, abuse, or neglect
  – If you have reasonable cause to suspect child (<18) has been abused or neglected
  – May disclose medical records related to the abuse to the DHS and law enforcement officials
Disclosures Required by Law

• Abuse or neglect of elderly, endangered, or impaired adult
  – If you have reasonable cause to suspect endangered or impaired adult, or adult living in long-term care facility, has been abused or neglected
  – May disclose PHI to the DHS, Office of Attorney General, County Prosecutor, County Coroner, and Adult Abuse Hotline
Endangered Adult

An adult eighteen (18) years of age or older, including an adult resident of a long-term care facility, who is found to be in a situation or condition which poses an imminent risk of death or serious bodily harm to that person and who demonstrates a lack of capacity to comprehend the nature and consequence of remaining in the situation or condition
Impaired Adult

Any adult eighteen (18) years or older, who as a result of a mental or physical impairment, is unable to protect himself or herself from abuse, sexual abuse, neglect, or exploitation, and as a consequence thereof is endangered. Adult residents of a long-term care facility are presumed to be impaired adults.
Disclosures Required by Law

• Note that the only categories of patients whose abuse may be reported without their consent are children or certain classes of vulnerable adults.

• If a competent adult who has been abused does not consent to having their health information shared with law enforcement, you may not disclose it (unless it falls under one of the other circumstances discussed here).

• You may obtain consent from an adult victim either verbally or in writing.
Disclosures Required by Law

• Intentional infliction of knife or gunshot wounds
  – If a patient’s wounds appear to have been intentionally inflicted by knife or gunshot
  – You may disclose PHI related to the injury to the county sheriff and the city police department
Reporting to agencies and others authorized by law

- Court orders, warrants, and grand jury subpoenas
- Subpoenas and other discovery requests involving a lawsuit
- Contact the UAMS HIPAA Office (603-1379) or UAMS General Counsel’s Office (686-7608) before responding
Disclosures to Law Enforcement

Disclosures for identification and location of suspect, fugitive, material witness or missing person, may disclose:

– name and address;
– date and place of birth;
– Social Security Number;
– ABO blood type and rh factor;
– type of injury;
– date and time of treatment;
– date and time of death, if applicable; and
– description of distinguishing physical characteristics, such as weight, height, gender, race,
– hair/eye color, presence or absence of facial hair, scars, tattoos.
Disclosures to Law Enforcement

• May NOT disclose these for identification purposes:
  – DNA or DNA analysis;
  – dental records;
  – typing, samples or analysis of body fluids or tissue.
Disclosures to Law Enforcement

➤ To prevent or lessen serious and imminent threat to health or safety
  – Disclosure must be made only to someone who is in a position to lessen harm, such as law enforcement
Disclosures to Law Enforcement

• To report a crime on UAMS property
  – May disclose to law enforcement if disclosure of PHI constitutes evidence of criminal conduct that occurred on UAMS property

Special note: All of these “required or permitted by law” disclosures are subject to “accounting of disclosures” and you must fill out the reporting form
Other requests for Information

“The Police are taken care of now but Channel 7 is on the line and his mother is on hold” - What’s a nurse to do?

• The first part is easy - Refer all requests from the Media to Office of Marketing and Communications
The Directory may include:

- Patient Name
- Location in our facility
  - General statement of condition (good, fair, etc.)
  - Religious affiliation (available only to clergy)

Unless the patient tells UAMS not to, the above information may be provided to people who ask for the patient by name.

**Exception** – PRI patients are automatically “opted out” of the Patient Directory and a password is required to provide any information!
“No info” Patients

If a patient such as a VIP or crime victim asks to be excluded from the Directory:

1. Have the patient fill out the *Request to be Excluded from the Directory* form (Med Rec 2338)

2. Notify Admissions/Patient Registration and fax them the form

3. Retain the original request form in the patient’s chart
“No Info” Patients

4. Admissions personnel will update HBOC/Medipac. Patient Information will no longer see the patient on their list.

5. After Admissions enters the information in HBOC, the Sunrise Privacy Status Column will display a comment.

6. Also use any unit specific communication tools to convey this information on your unit.

7. If you are not familiar with the patient, call hospital information at 686-6417 before providing a patient’s room number to a visitor.
Privacy Status Column

<table>
<thead>
<tr>
<th>Orders</th>
<th>Assigned Location</th>
<th>Patient Name</th>
<th>Privacy Status</th>
<th>Pending Status</th>
<th>Visit Status</th>
<th>Temporary Location</th>
<th>Provider</th>
<th>Nurse</th>
<th>Ch</th>
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<tr>
<td>2A-214-2</td>
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<td>Cath Lab</td>
<td>Latimer, Raymond P</td>
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<td>Berta</td>
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</table>
Privacy Status Column

Comments on the column come via the interface from registration system. You do not enter the information.

• **No Info to be given out** – Indicates omitted from Patient Directory, “no info patient”

• **Restricted Chart** - refers to actual **access** to the chart in Sunrise rather than information we can provide.
Restricted Chart

• If you need the chart to carry out your specific job duties, it is still available to you.

• Searching for a patient with this privacy status will display a message that says “This patient has additional privacy status in place….”

• In that case, you will be required to enter a reason for the access.

• If a patient is both “no info” and “restricted chart”, which one displays depends on how the record was last updated in the registration system.
Involved family/friends ask for info

- Ask the patient’s permission or give them an opportunity to object or infer from the circumstances that they do not object.

- If the patient is not available or family is calling by phone, check the patient’s chart for a “Family and Friends Involved in your Care” form (Med Rec 2408) and/or check Sunrise comments. Outpatient Clinics don’t use the form but many clinics document in the Directives section of Centricity if the patient has identified someone who can receive information about them.

- Is requestor listed, and do they know the password?

- If yes, verify identity and provide info directly relevant to their involvement in the patient’s care
Note: If the patient is not available or is incapacitated, or in an emergency situation, professional judgment may be used to make the disclosure if you determine it is in the patient’s best interest and the patient has not otherwise restricted information to the requesting party.
Password field in Sunrise

Comment (Adding New) - Sunrise, Test5

Type: Password
Status: Active
Scope: This Chart

Comment:
Mary Rose Johnson. Password is "piggie"

Entered:
Last Modified:

OK Cancel Discontinue Delete Help
Centricity Directives in Alerts Tab
Patient Rights

Restriction Requests 3.1.34

- Have patient fill out the **Patient Request to Restrict Use/Disclosure Form** (Med Rec 2348)
- All Restriction requests must be sent to UAMS HIPAA Office for processing.
- The HIPAA Office in conjunction with HIM and other departments affected by the request will determine whether it will be agreed to or denied.
- Follow unit procedure for making staff aware of any restriction we agree to including entering in Sunrise Comments or Directives Section of Centricity.
Restriction Requests
Note the password and restriction on Clinical Summary
Patient Rights
Patient’s Right to PHI 3.1.28

• With a few exceptions, patients can access, inspect and receive copies of their health information.

• Exceptions include if a health care professional believes it could be harmful.
What if an inpatient requests access to their record?

1. Notify physician and obtain approval
2. Obtain written request from patient or document in progress note
3. Do not leave the patient alone with the record.
4. Nothing can be changed or removed by the patient
5. Refer patient to HIM to process any requests for copies
What if an inpatient requests access to their record?

6. Note: Physicians and nurses, using professional judgment, may provide a patient with a copy of a portion of their records such as test results. Document in progress note.

7. If the patient is requesting that family or another designee view or have a copy of the patient’s record, an Authorization (Med Rec 99 From) must be signed by the patient.
Outpatient Requests for Records

• May provide the patient a copy of their most recent service in your clinic or diagnostic reports associated with the most recent service.
• Obtain written request from the patient or make a note in the medical record regarding the request and identifying the records provided to the patient.
• Do not copy or print from other dates of service or from a different clinic. Refer patient to HIM to process those requests or fax the request for the patient to HIM at 686-8361.
• If the patient is requesting that family or another designee view or have a copy of the patient’s record, an Authorization form (Med Rec 99 FR) must be signed by the patient.
Right to Request Amendments to PHI 3.1.32

• It the patient believes their information is inaccurate or incomplete, they may request changes to their record.

• Although UAMS does not have to agree to the request, for example if it is already accurate and complete, there are specific rules we always have to follow when processing these requests.
If the patient request a record changed

- Have patient fill out the *Request for Amendment of Health Information Form (Med Rec 2347)* completely.
- Call HIM at 686-6083 and fax the form to 686-5426 for processing.
- File the original request in the patient’s chart
“Reasonable Safeguards” 3.1.38

- UAMS must take reasonable steps to make sure PHI is kept private
- 84% of our patients agree or strongly agree - “It is important to me that members of my health team communicate quietly with one another.”
Communicate Quietly

• Make it a habit – always lower your voice when discussing patient information.
• Try to discuss patients privately.
• Stop the conversation if someone walks up while giving report or rounding.
• Follow Vocera Communication guidelines
Printed PHI

• Don’t leave PHI “lying around” where others can see it.

• Don’t put PHI, including patient stickers and medication labels, in the regular trash. Shred or place in the privacy bins.

• Obliterate patient information on IV bags or cover with the white labels from the Omnicel before placing in the regular trash.
Electronic PHI

Be aware of your computer screen

• Position your monitor or Computer on Wheels (COW) so the screen cannot easily be seen by passersby

• Minimize the screen if someone walks up

• Log off or lock your computer prior to stepping away from it

• Never share your password or use someone else’s sign on information
Photography – consent required

- Written patient consent is required for photos/video taken for the purpose of treatment, payment, and other health care operations such as teaching within UAMS.
- Written authorization is required for photos/video to be disclosed outside UAMS.
- Exception - When a parent requests UAMS staff to make photographs solely for their personal use (such as a baby book), UAMS is not required to obtain written consent prior to taking the photograph.
- Employees may not take photos with personal digital devices.
Why would the HIPAA Office call me?

• Access to patient records is monitored
• If your name is on an audit report, and the appropriateness is not readily apparent to the auditors, you or your supervisor will be contacted
• This is routine follow-up and is done for physicians, students and staff.
Why would the HIPAA Office call me?

• Access of patient records outside the performance of your job is prohibited
• This includes your own records and the records of:
  • Family
  • Friends and acquaintances
  • Co-workers
• Violations of UAMS HIPAA Policies are taken so seriously that your supervisor will be notified and must impose disciplinary action.
Add slides here for Honey, how was your day?
Social Networking

- Do not post photographs, video or any information about a UAMS patient through an electronic means such as social networking sites, blogs, pinging and tweeting.

- The only exception is a response to a UAMS patient that gives no further information about the patient. For example:
  - A mom posts to your face book wall how much she appreciates your care of her baby. If you reply, you would not include any mention of the baby’s health issues or even the baby’s name if she didn’t include that information in her original posting.
Your HIPAA Team

- Vera Chenault, UAMS HIPAA Campus Coordinator (501-526-4817)
- Anita Westbrook, Medical Center Privacy Officer  (501-526-6502)
- Jennifer Sharp, Research Privacy Officer (501-526-7559)
- Steve Cochran, Security Officer (501-603-1336)
- Bill Dobbins, HIPAA Auditor and Educator (501-526-7436)
- Yolanda Hill, HIPAA Auditor and Educator (501-614-2098)
- Tanya Mehran, HR and Training Coordinator (501-603-1379)

http://www.hipaa.uams.edu