

HIPAA for Emergency Department

By Vera Chenault, JD, UAMS HIPAA Campus Coordinator
and
Anita Westbrook, UAMS Medical Center Privacy Officer

TPO

- HIPAA is not intended to interfere with treatment of patients or to restrict access to patient records for the purpose of making healthcare decisions
- Sharing information for the purpose of treatment, payment, or healthcare operations (TPO) is always allowed without an authorization

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 by law or made to law enforcement or other agencies

Disclosures required by law

- There are certain disclosures that are *required* (not just permitted) by law
- These disclosures may be made without a patient authorization
- However, you must account for the disclosure on the “Accounting for Disclosures” form

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

Disclosures Required by Law

- Deaths from suspicious circumstances
 - If you have knowledge of a death caused by violence or criminal conduct or other suspicious cause (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 occurred while person in police custody, a jail, or penal institution;
- death resulted from fire or explosion;
- death of minor indicated child abuse prior to death;
- death of minor and no prior medical history to explain the death;
- human skeletal remains were recovered or unidentified deceased person was discovered;
- death was due to criminal abortion;
- manner of death was from other than natural causes;
- death was sudden and unexplained;
- death occurred at work site; or
- death occurred in the home.

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

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

- Other disclosures to government or other agencies are allowed by law, without a patient authorization
- These must be limited to the amount authorized by the law, may be made only to the authorized authorities, and must be limited to the minimum necessary required for the purpose

Reporting to agencies and others authorized by law

- Court orders, warrants, and grand jury subpoenas
 - If you are uncertain about a disclosure to be made under one of these documents, contact the UAMS HIPAA Office or UAMS General Counsel's Office

Reporting to agencies and others authorized by law

- Subpoenas and other discovery requests involving a lawsuit
 - If you are uncertain about a disclosure to be made under a subpoena or other request from an attorney, contact the UAMS HIPAA Office or UAMS General Counsel's Office

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

Accounting for Disclosures

- A Disclosure Reporting Form must be completed for disclosures to law enforcement, except when the patient is in law enforcement custody
- See last page of handout

UAMS HIPAA Office

- <http://hipaa.uams.edu>
- 603-1379
 - Vera Chenault, HIPAA Campus Coordinator
 - Anita Westbrook, Medical Center Privacy Officer
 - Ashley Vestal, Administrative Assistant and Training Coordinator