

Patient Rights under the HIPAA Rules



Presented by the
UAMS HIPAA Office
November 28, 2016

Notice of Privacy Practices 2.1.06

- UAMS must give our patients a copy of our "Notice of Privacy Practices" which includes a description of their rights and how their health information may be used and disclosed.
- We must make a good faith effort to obtain written acknowledgement that our patients received the Notice.
- If unable to obtain acknowledgment, the attempt must be documented.
- Both English and Spanish versions may be found at: <http://HIPAA.UAMS.EDU>

Patient Rights

- Access, inspect and copy PHI
- Request amendment of PHI
- Request restrictions on disclosures
- Receive accounting of disclosures
- Request communications of PHI at alternative locations or by alternative means.
- Register complaints concerning their privacy rights.
- Our contact number for privacy complaints is 1-888-511-3969 (toll free) or 501-614-2187₃

Use and Disclosure of PHI 2.1.13

- With a few exceptions, patients or their legal representative(s) can access, inspect and receive copies of their health information.
- Exceptions include if a health care professional believes it could be harmful.
- UAMS must act on request within 30 days. May be extended another 30 days under certain circumstances.

Patient's Right to PHI

- Patients have a right to electronic copies of their records.
- If the patient is requesting information be sent to a 3rd party, the patient must provide a signed, written request that clearly identifies the designated 3rd party and where to send the information
- OCR recently issued additional guidance on patient's right to access and what UAMS can charge for copies of records

Real Life Example

- A clinic failed to provide 41 patients with copies of their medical records when they requested them.
- When the OCR investigated, the clinic did not adequately respond to the investigation.
- They were was fined **\$4.3 Million**.

Patient's Request to Amend Medical Records or PHI 2.1.17

- If the patient believes their information is inaccurate or incomplete, they may request changes to their record.
- Except for routine requests to amend demographic and contact information concerning the patient, have the patient fill out the *Request for Amendment of Health Information Form (Med Rec 2347)* completely.

If the patient requests a record to be changed:

- Notify the HIPAA Office
- 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.

- Must act on request within 60 days. May have one time extension of 30 additional days.
- May notify patient verbally if we agree to request
- Make reasonable efforts to inform and provide amendment to others
- If we deny request, must notify in writing and inform patient of rights with respect to denial

Patient Information

Restriction Requests 2.1.19

A patient has a right to request restrictions on the use and disclosure of their Protected Health Information.

- Uses or disclosure about the patient to carry out treatment, payment or healthcare operations.
- Disclosures to family and friends involved in the patient's care.
- Disclosures to a health plan for the purpose of carrying out healthcare operations or payment (not treatment), where the PHI pertains solely to a health care item or service for which UAMS has been paid in full

Restriction Requests

- Have patient fill out ***Patient Request to Restrict Use/Disclosure Form*** (Med Rec 2348) or refer them to the HIPAA Office.
- All Restriction requests must be sent to UAMS HIPAA Office for processing.
- The HIPAA Office, in conjunction with the DDC and other departments affected by the request, will determine whether it will be agreed to or denied.
- Follow your procedure for making staff aware of any restriction we agree to.

Legal Representatives

- “the person authorized by law to act on behalf of the patient, such as the parent of a minor or a court-appointed guardian”
- UAMS must treat a patient’s Legal Representative as the patient for purposes of the use and disclosure of the patient’s protected health information

Legal Representatives of Minors

The “Legal Representative” of a minor who has not consented to their own treatment is one who has legal authority to act on behalf of the child, including the authority to make healthcare decisions for the child.

- Parent of minor child
- Father
 - Married to the mother
 - Listed as the father on the birth certificate
 - Court order establishing paternity
- Court appointed guardian of a minor
- A person legally acting as the parent in “Loco Parentis”

Requests by Parents of Minors

- **A divorced parent who does not have custody of the minor child is still the minor's parent, and is entitled to PHI concerning their minor child unless the parental rights have been revoked by court order.**
- **Check for documentation in our systems that the requestor is the parent.**

Involved family/friends ask for info

- If the patient is present or otherwise available, ask the patient's permission or give them an opportunity to object or infer from circumstances that the patient does not object.
- If the patient is not available or family is calling by phone, follow your clinic's workflow to determine if the patient has identified the requestor as someone who can receive information about them. If yes:
 - Verify identity and provide info directly relevant to their involvement in the patient's care if you determine the disclosure is in the patient's best interest.
 - Allow person to pick up filled prescriptions, medical supplies, X-rays or other similar forms of PHI, using professional judgment and experience with common practice to make reasonable inferences of the patient's best interest in allowing a person to act on behalf of the individual.
 - 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.

What is a Breach?

Any use or disclosure of PHI that is not permitted by the Privacy Rule that poses a significant risk of financial reputational or other harm. For example:

- A UAMS employee accesses the record of a patient outside the performance of their job duties.
- PHI is sent to the wrong fax, mailing address or printer

Notification Requirements

- UAMS must notify every person in writing whose unsecured PHI has been breached as soon as feasible but within 60 days.
- UAMS must report breaches to HHS.
 - If less than 500 individuals, log and report annually.
 - If more than 500 individuals must notify HHS at the same time we notify the patient and we must also notify the media.
- If insufficient contact info for 10 or more patients, UAMS must post on our website

How can you help?

- Notify the UAMS HIPAA Office as soon as you suspect a possible breach.
- The HIPAA Office will then determine if an actual breach has occurred and take care of the notification process.
- Help us keep patient contact information current.
- Follow your workflow for “bad addresses”.
- Follow your department’s documentation requirements.

Reporting potential violations

- All known or suspected HIPAA violations or breaches must be reported.
- There will be no retaliation for good faith reporting.
- Reports can be made to:
 - Reporting line at 1-888-511-3969
 - HIPAA Office at 501-614-2187
 - Incident Report Link online at hipaa.uams.edu
 - Anyone in a position of responsibility - the person receiving the report should then contact the HIPAA Office.

Safeguard Printed PHI

- When retrieving information from the printer and sending information, check every page to make sure it is the correct patient.
- Make sure other patients' information is not included on any page.
- Check every piece of paper to make sure it belongs to the correct patient before handing or mailing information to patients. Examples include:
 - After visit summaries
 - Prescriptions
 - Discharge Instructions
 - Patient Labels
- When mailing information, make sure the name matches the name on the envelope.

UAMS Faxing Policy 2.1.04

- **Confidential** data should be faxed only when mail will not suffice.
- Faxes containing **PHI** and other confidential information must have an official UAMS fax cover sheet.
- Reconfirm recipient's fax number before transmittal.
- Confirm receipt of fax
- Notify your supervisor/HIPAA Office immediately if a fax is sent in error.

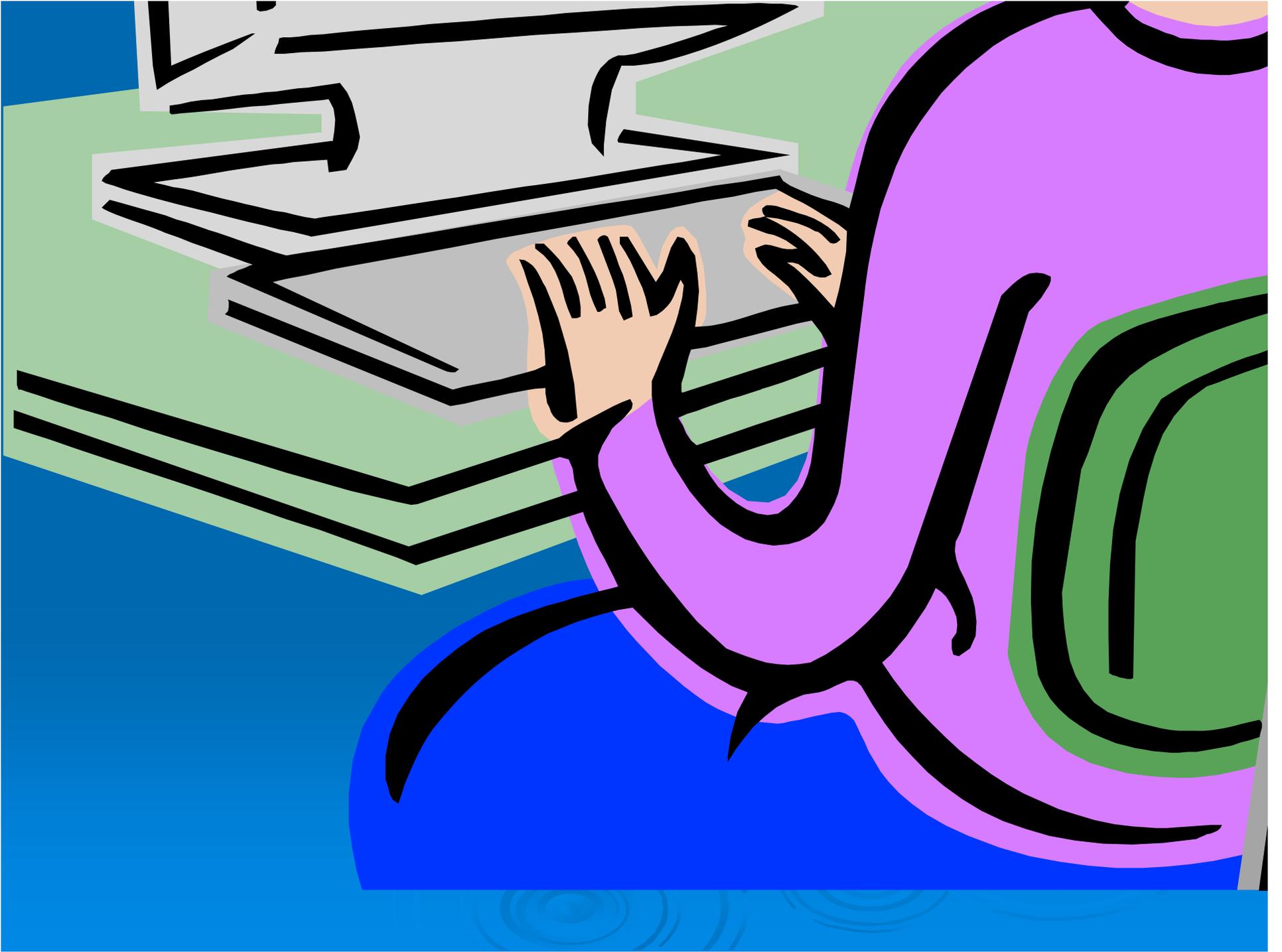
Electronic PHI

- Minimize your computer screen if someone walks up
- Log off or lock your computer prior to stepping away from it
- Encrypt any email containing PHI sent outside UAMS intranet.
- All computers and laptops and thumb drives containing PHI must be encrypted.

Passwords

- Always maintain and use passwords in a secure and confidential manner
- Never share your password or use someone else's sign on information
- If you are asked to sign on using someone else's information, refuse to do so and report them





Social Networking

- Electronic Public Displays of PHI on social media sites without a Patient Authorization are prohibited.
- Electronic Public Displays of patient information, including PHI, must be in accordance with official and authorized UAMS business practices and activities.
- The only exception is a response to a UAMS patient that gives no further information about the patient.

Your HIPAA Office

<http://hipaa.uams.edu>

hipaa@uams.edu

(501) 603-1379

Heather Schmiegelow– HIPAA Campus Coordinator

Stephen Cochran – Security Officer

William Dobbins– Compliance Audit Manager

Brittany Parker – HIPAA Office Manager/Education Coordinator

Sara Ayers– HIPAA Compliance Manager & Regional
Programs Privacy Officer

Anita Westbrook– UAMS Medical Center Privacy Officer

Browser address bar: <http://hipaa.uams.edu/> UAMS HIPAA Office

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HIPAA Office

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HIPAA Office News

- Check out the Latest UAMS Capsule! HIPAA Web Page Re-design
- Check out the Latest HIPAA Star Recipients
- Check out the December UAMS Capsule! A HIPAA Holiday Tale
- Review the new UAMS HIPAA Policy (2.1.43 Phishing and Fraud)

hipaa.UAMS.edu
Confidentiality is a team sport; when we protect PHI, everyone wins!



- Online Module
- Troubleshooting Guide & FAQ
- UConnect Training & Tip Sheets
- HIPAA Required Privacy & Security Training
- Level I HIPAA Training
- HIPAA Law Enforcement Training
- Past Inservices
- HIPAA Office Publications
- ROI Guide
- ROI Guide for Billing

https://secure.uams.edu/HIPAAReport/Report_Incident.html