

# Putting the HIPAA Rules into Practice

## Professional Entry into Practice - 2016

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

Combination of:

- Full name and
- Date of Birth and
- Last 4 digits of SSN or other demographic info

Checked against documentation in our system

# 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, 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  
ML 1.07
  - 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 ML 1.07
  - 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

ML 1.07 - A report shall be made to local law enforcement officers any time an individual presents for treatment with what appears to be:

- An intentionally inflicted gunshot or knife wound, whether intentionally inflicted by the individual or another person;
- A second or third degree burn to more than five percent (5%) body surface area; or
- A burn to a person's upper respiratory tract or laryngeal edema due to inhalation of super-heated air.

## 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

In response to law enforcement's request to identify or locate a 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. The form is available at [HIPAA@UAMS.EDU](mailto:HIPAA@UAMS.EDU) or in “on demand” forms.**

# Other requests for Information

“Channel 7 is on the line inquiring about a victim of a crime who has been admitted to UAMS with a gunshot wound and the patient’s mother is on hold” - What’s a nurse to do?

- The first part is easy - Refer all requests from the Media to our Office of Marketing and Communications

# Patient Directory 3.1.20

- 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.

We informally refer to patients who “opt out of the directory” as “no info” patients or “private encounters” in Epic.

# Private Encounter

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

1. Notify Admissions/Patient Registration
2. Admissions personnel will update the patient's registration by marking "yes" in the Private Encounter field. The Patient Information Desk will no longer see the patient on their list.

# Private Encounter Patients

4. After Admissions marks the encounter private in Epic, the patient will:
  - display in red on the Unit Manager and
  - as “yes” on the private encounter flag column on “my unit” patient list.

If you build your own patient list, be sure and edit it to add the private encounter column.

5. Also, use any unit specific communication tools to convey this information on your unit.
6. If you are not familiar with the patient, call hospital information at 686-6417 before providing a patient’s room number to a visitor

# Inpatient private encounter - "no info"

Unit Manager (F4 - PROGRESSIVE CARE) - Last Refresh Time: 4/10/2014 7:47:56 AM

Refresh Switch Manager Resize Areas Legend Open Chart Patient Station Form Reprints Update Discharge B

F4 - PROGRESSIVE CARE (30)

Bed Pref	Bed	D/T	Dest Bed	Out	Patient / Bed Status	Pt Class	Iso
	F4-409				Coreami, Ten (18yrs M)	I	
	F4-424				Corehf, One (18yrs M)	I	
	F4-426				Corehf, Two (18yrs M)	I	
	F4-425				Corehf, Three (18yrs M)	I	
	F4-427				Corepn, Three (18yrs M)	I	
	F4-429				Corepn, Threea (18yrs M)	I	
	F4-430				Corepn, Threeb (18yrs M)	I	
	F4-408				Scope, Today (24yrs M)	OD	
	F4-OF1				Sedore, Mrntest (23yrs M)	I	
	F4-414				Chargereview, Six (30yrs M)	I	

In red on unit manager list if private encounter

My Unit (27 Patients)

Unackn Orders	Patient Name	Room/Bed	MRN	Patient Location	Private Encoun Flag	Assigne Nurse	Reasse Pain	Med Overdue / Pended	Panic Rslt	Isolation	Admit Req Doc	Shift Req Doc	Disch. Req Doc	Service
		415/E4-415		E4-415	No									NS
		413/E4-413		E4-413	Yes									

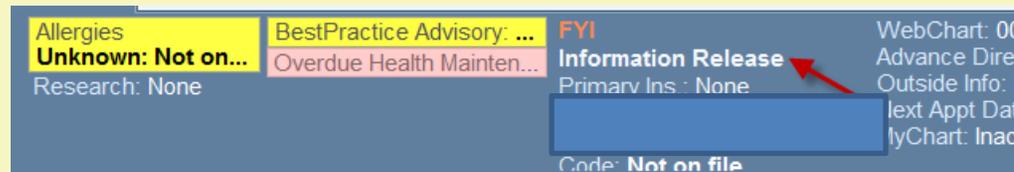
"Yes" in Private encounter flag column

# Break the Glass

- Although all patient records are protected by the HIPAA laws, an individual may ask to have their record placed under an extra level of security, for example, an employee who is a patient here, or UAMS may determine that additional protections should be placed on a patient's record, for example a high profile patient in the media who has been admitted to UAMS.
- In EPIC, a Confidential Patient Type during registration is used for this purpose. The user will be required to "break the glass" in most cases and give a reason for the access in order to view the patient's information.
- If you need the chart to carry out your specific job duties, it is still available to you after providing a reason.
- Patients with a Private Encounter (no info) are not necessarily also behind break the glass

# When 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). If an Outpatient, check for an "Information release" FYI Flag.



- Is requestor listed? If yes, verify identity and provide info directly relevant to their involvement in the patient's care
- Note: the inpatient units may establish a password to help verify the caller's identity.

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.

# FYI Flags

When responding to requests for information, it is important to check FYI flags especially if you are not familiar with the patient.

Outpatient  
Info Release  
flag

The screenshot shows the Epic EMR interface for patient Uamstest, Abbie T. The patient's profile includes PCP: Check, Robert T., Allergies: No Known Allergies, Research: None, and FYI: General. The FYI flag is highlighted in the left sidebar. The main window displays a table of FYI flags with the following data:

Date and Time	Contact	User	Type	Summary	Status
04/07/14 12:56		Anita Westbrook	Information Release	Verbal permission from pat...	Active
01/21/14 10:24		Lashonda Kearney	General	Patient has a pacemaker	Active
12/14/13 13:09		Jean Elwell	General	RA130 testing	Active

The selected flag (04/07/14 12:56) is expanded to show the following details:

**Information Release**  
Verbal permission from patient to share information with patient's husband, Jim Uamstest, at (501) 999-9999.

Buttons at the bottom of the expanded flag include Deactivate, Edit, and Show History.

# 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. Always check FYI flags before releasing patient information.

# Restriction Requests

While UAMS is evaluating a Restriction Request, you might see a Release Restrictions FYI Flag. Click on the flag and follow the instructions associated with that flag.

The screenshot shows the Epic EMR interface for patient Abbie T. Jamstest. The patient header includes MRN: 003013632, Lang: English, and Patient Type: Private. A yellow 'FYI' flag is visible in the header. Below the header is a table of FYI flags:

Date and Time	Contact	User	Type	Summary	Status
04/07/14 12:45		Anita Westbrook	Release Restrictions	Use extra caution when rel...	Active
01/21/14 10:24		Lashonda Kearney	General	Patient has a pacemaker	Active
12/14/13 13:09		Jean Elwell	General	RA130 testing	Active

Below the table, a 'Release Restrictions' section is visible with the text: 'Use extra caution when releasing these records. Contact HIM at (501) 603-1520.'

FYI Flag

While UAMS evaluates request

# Restriction Requests

If UAMS **agrees** to the request, you would see a “Caution HIM Release Restrictions FYI Flag.” Patient Highlights are used to call additional attention to this restriction. Follow the instructions associated with that flag.

The screenshot shows the Epic EMR interface for patient Abbie T. Uamstest. The Patient Highlights window is open, displaying the following information:

Patient Highlights	
Name: Abbie T Uamstest	MRN: 003013632
<b>Patient has an FYI of type HIM CAUTION! Restricted Release</b>	
Release of this patient's information is restricted. Do not release information to or discuss with [name of individual/entity]. Contact HIM at (501) 603-1520.	

Highlights with specific instructions

# 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.
- UAMS must act on request within 30 days. May be extended another 30 days under certain circumstances.

# 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

- If 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.

## “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.
- Cover or turn printed PHI over face down at work areas
- 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.

# Printed PHI

- Do not remove PHI from UAMS. Check your pockets at the end of shift to ensure you are not taking patient information home
- 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
- Double check that you are in the correct chart.

# 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 in most situations 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.
- Nursing Service 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 records of:
  - Family
  - Friends, acquaintances, and co-workers
- Violations of UAMS HIPAA Policies are taken so seriously that your supervisor will be notified and must impose disciplinary action.
- If we determine the access is a reportable breach, we are required to notify the patient and the OCR.

# Recent OCR Enforcement Activities

- \$4.8 million fine - physician attempted to deactivate a personally-owned computer server resulting in PHI being accessible on internet
- \$4.3 million fine – organization violated 41 patients' rights by denying them access to their medical records
- \$1,725,220 fine - an unencrypted laptop was stolen from facility
- \$865,500 fine - employees repeatedly looked at the ePHI of **celebrity** patients without a permissible reason
- \$800,000 fine – employees left 71 cardboard boxes of medical records of more than 5,000 patients in the driveway of a physician's home





# Social Networking

- Electronic Public Displays of patient information without Patient Authorization are prohibited. This includes the posting of photographs, video or any information about a UAMS patient through electronic means including, but not limited to, social networking sites; such as Facebook, Twitter, Instagram, blogs, and similar services.
- The only exception is a posting in 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.

# Reporting potential HIPAA violations

- All known or suspected 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](http://hipaa.uams.edu)
  - Anyone in a position of responsibility - the person receiving the report should then contact the HIPAA Office.

# Your HIPAA Team

- Heather Schmiegelow, UAMS HIPAA Campus Coordinator (501-526-4817)
- Anita Westbrook, Medical Center Privacy Officer (501-526-6502)
- Jennifer Holland, Research Privacy Officer (501-526-7559)
- Steve Cochran, Security Officer (501-603-1336)
- Bill Dobbins, HIPAA Auditor and Educator (501-526-7436)
- Brittany Parker , HIPAA Office Manager and Education Coordinator (501-603-1379)

<http://www.hipaa.uams.edu>