

Head Off Front Desk HIPAA Nightmares



Presented by:
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About Your Expert



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Tracy has over 40 years of experience in various specialties in the areas of practice management, billing and coding, including training, communications, and policy and procedure development.

She is an ACMPE Fellow with MGMA, a Certified Professional Coder (CPC), a Certified Professional Medical Auditor (CMPA), a Certified Evaluation and Management Auditor (CEMC) a Certified Professional Medical Coding Curriculum instructor (CPC-I), and an AAPC Fellow. Tracy is co-founder and past president of the NE Kansas Chapter of AAPC, a past president of MGMA-GKC and is currently serving as the Chair of the Certification Commission for National MGMA.

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Objectives

- Provide overview of Privacy Rules that affect your work.
- HIPAA Considerations for front office professionals
- Best Practices for Front Office Professionals related to HIPAA

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Overview of the Law



- Health Insurance Portability and Accountability Act (HIPAA) 1996 (Kennedy- Kassabaum Bill)
- Primary purposes of HIPAA:
 - Protect people from losing their insurance when they change jobs
 - Reduce the costs and administrative burdens in healthcare
 - Develop standards and protection for the privacy and security of confidential healthcare information

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Administrative Simplification

- Privacy
- Transactions and code sets
- Security

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Purpose of HIPAA

- Clarifies and supports patients' rights
- Spells out administrative responsibilities of the entity
- Discussed the need for and the implementation of privacy policies and procedures
- Details permissible uses and disclosures
- Discusses requirements for written agreements between covered entities and business associates
- Describes covered entities responsibilities to train staff.

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Communication

- HIPAA applies to all communication
 - Written
 - Electronic
 - Verbal

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Privacy Is Really About

Professional responsibility

- Minimum necessary
- Incidental disclosure
- Appropriate access

Ethical duty

- Patient's perceptions
- Honoring patients' expectations
- Maintaining office integrity

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HIPAA Acronyms

HIPAA – Health Insurance Portability & Accountability Act

CMS – Centers for Medicare & Medicaid Services

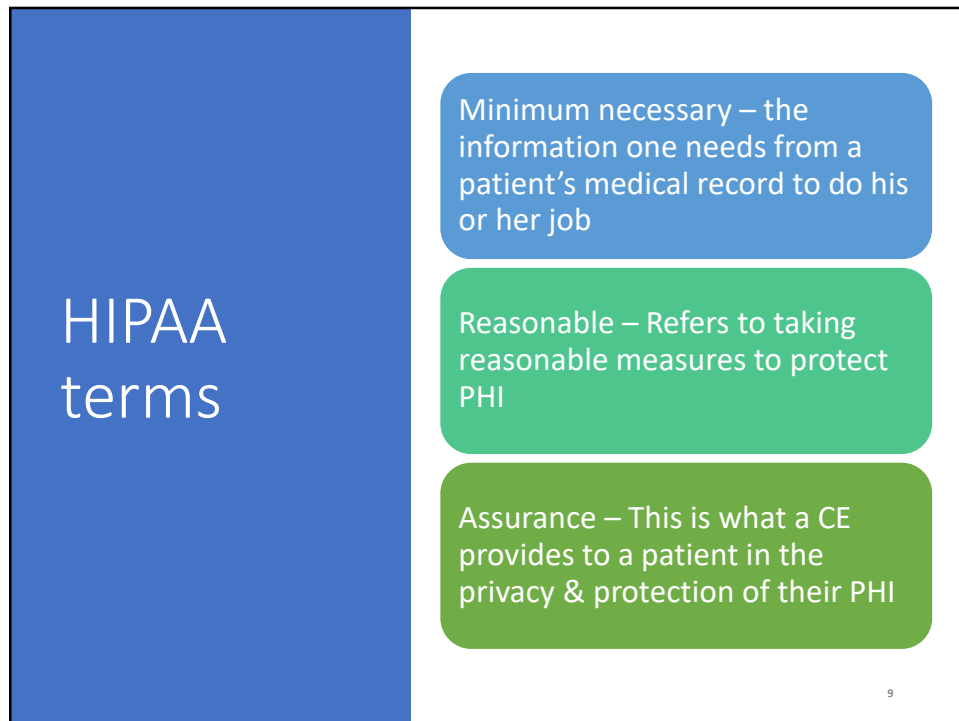
OCR – Office of Civil Rights

CE – Covered Entity

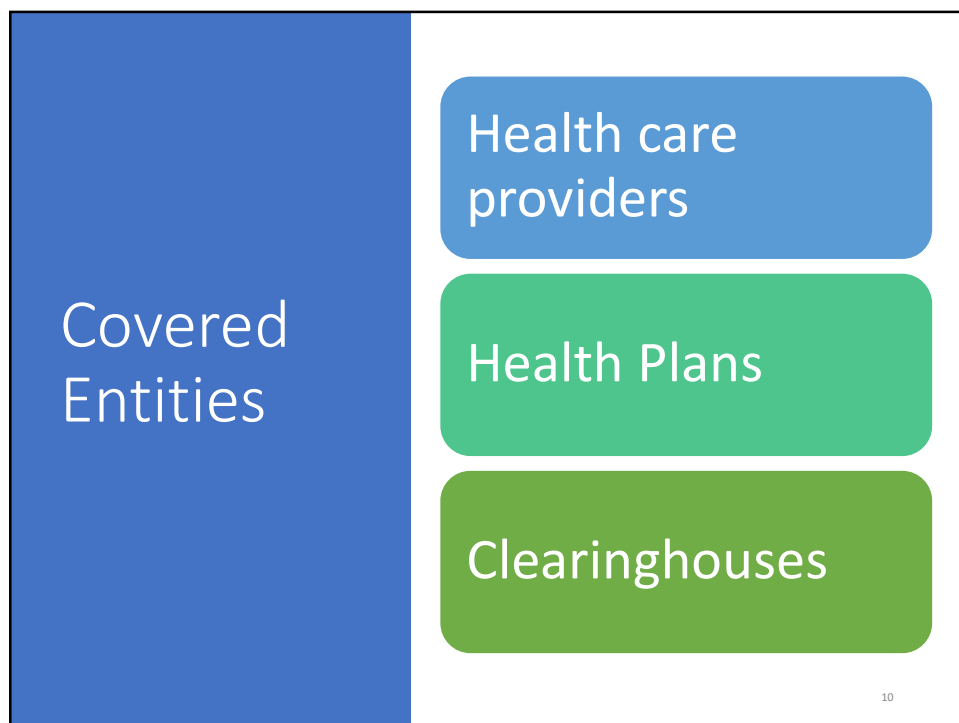
PHI – Protected Health Information

TPO – Treatment, Payment, & Operations

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Notice of Privacy Practice

Each physician office or facility is required to present the Notice of Privacy Practices to the patient one time.

The patient is requested to sign an acknowledgement they received/or were offered the notice.

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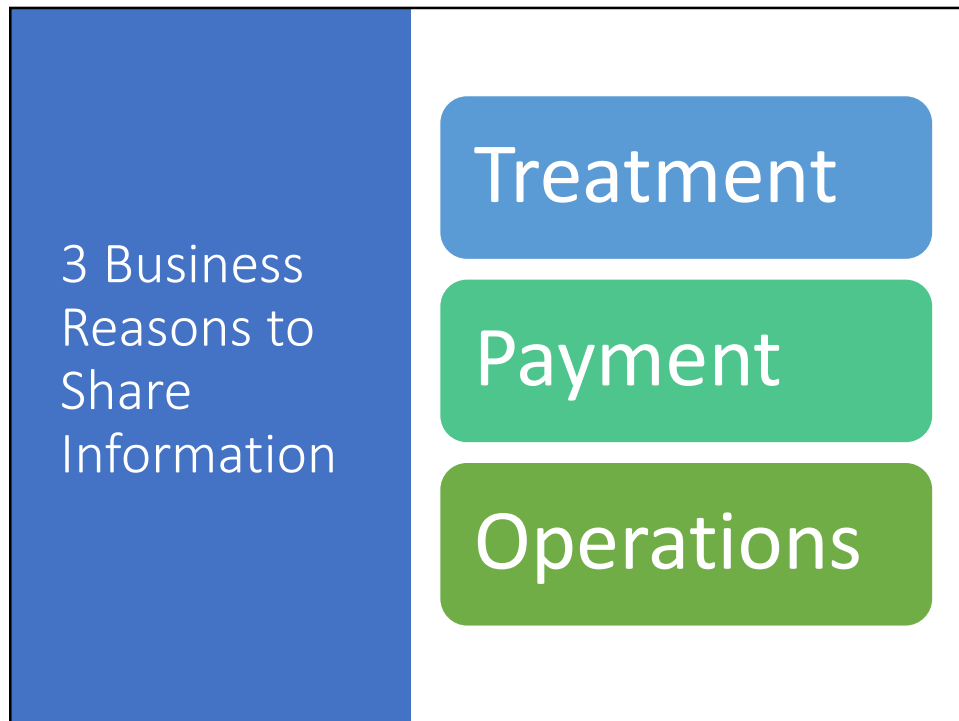
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What Does the Notice Say?

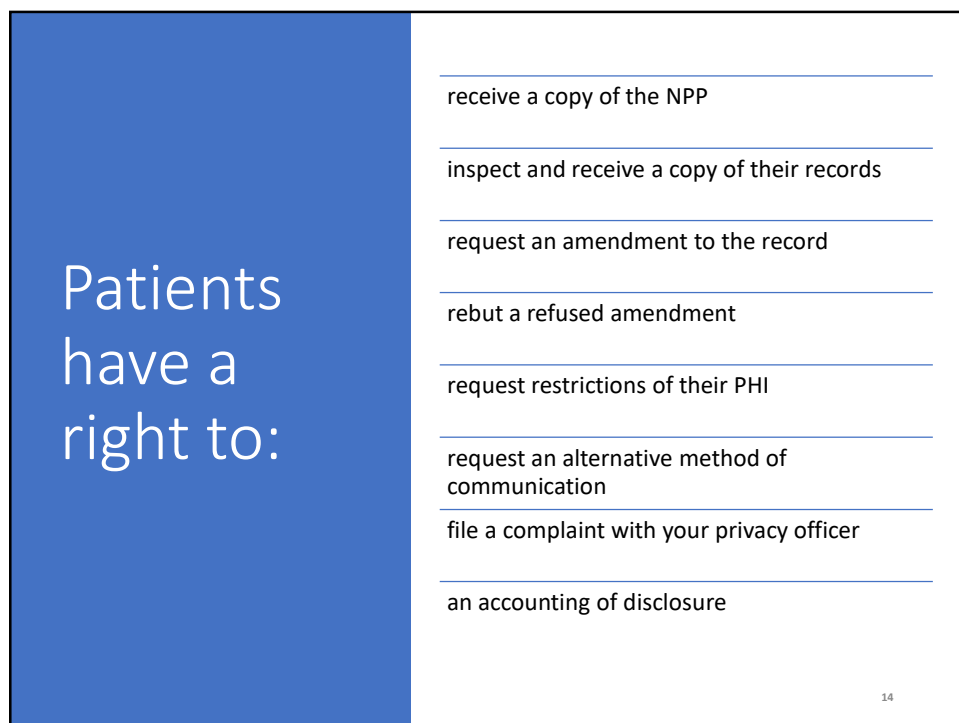
- Notice of Privacy Practices informs the patient how your practice will use and disclose protected health information. The notice must:
 - Be in plain language
 - Describe how information will be used
 - List the patient's rights under the privacy law
 - State the covered entities legal obligations
 - State whom the patient can contact for further information
 - Include an effective date

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Most Common Problem Areas Front Desk

- Staff posting PHI on social media
- Employees illegally accessing PHI
- Patient sign in sheets
- Release of information
- E-mailing PHI
- Faxing

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Mitigate Errors at the Front Desk

- Stand where patients stand and see what you can see
- Walk the same path a patient does- what can you see
- Don't post Passwords on sticky notes
- Don't leave patient paperwork on the desk right side up
- Don't leave keys to a filing cabinet within reach of others

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How Does Minimum Necessary Affect My Job?

- Develop policies and procedures related to requests for protected health information.
- Develop internal access policies and procedures for each job function in the office.

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Uses and Disclosures Allowed Without Authorization

- PHI disclosed to the patient
- PHI used for treatment, payment, and operations
- Incidental disclosures
- PHI used and disclosed for 12 national priority purposes

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The 12 National Priority Purposes

- Required by law
- Public health activities
- Victims of abuse or neglect
- Health oversight activities
- Judicial or administrative proceedings
- Law enforcement purposes
- Decedents
- Cadaveric organ, eye, or tissue donation
- Research
- Serious threat to health and safety
- Essential government functions
- Workers Compensation

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All Other Uses & Disclosures

- Require a signed authorization
 - Must be HIPAA compliant
 - Must contain 10 elements
- Business Associates
 - Anyone who uses or discloses patient information on behalf of the practice
 - Must sign a business associate agreement

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What Are Other Disclosures?

- Any disclosure or request for PHI that falls outside treatment, payment, and operations requires a signed authorization from the patient.
- If there is ever a doubt about a disclosure, have the patient sign an authorization.

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What Is An Authorization

- A document the patient signs giving permission for a disclosure of protected health information.
- A HIPAA compliant authorization has several requirements...

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Requirements of Authorization

- Must be in plain language
- Must be specific for the information requested
- Should identify the person authorized to make the disclosure
- The reason for the disclosure
- To whom the disclosure will be given
- Must contain a revocation statement
- List conditions for the document to be revoked
- A re-disclosure statement if the receiving party intends to give the information to someone else
- Signed and dated by the patient or patient's designee

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Required Disclosures

Sometimes disclosures are required by law, but the patient may, or may not have knowledge of such disclosures

It is not necessary the patient have knowledge of disclosures required by law

An accounting of disclosures log is required for those disclosures made without the patient's knowledge, but required by law

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What Is Recorded On The Log?

- Disclosures required by law that should be logged include:
 - Any disclosure for public health reasons
 - To report abuse and neglect
 - Related to a criminal investigation
 - Due to an FDA recall
 - For judicial and administrative proceedings
 - In case of an autopsy
 - To avert a serious threat to health and safety
 - Worker's Compensation

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Additional uses & disclosures

- Clergy unless patient objects
- Family members as providers deems necessary
- Anyone patient has permitted

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HIPAA and Billing Transactions at Front Desk

- Minimum necessary
- Electronic transfer of information
- Verbal communication with payers
- Telephone conversations with patients/ or patient's designee about a bill
- Accounting of disclosures
- Patient's perceptions – use discretion

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What Is A Business Associate?

An entity that “steps in the shoes” of the covered entity to perform a service using protected health information. An example would be the practice's collection agency, accountant, or attorney.

A signed agreement must exist between the business associate and the practice or facility.

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Requirements of Business Associate

- Give satisfactory assurance they will protect your patient's PHI
- Use the PHI only for the purpose for which they are engaged by the covered entity
- Help the covered entity comply with the privacy rule

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HITECH Act of 2009- Overview

Added extra protection for uses and disclosures of electronic PHI- as well as increased enforcement

Business Associates liable for compliance

Expands rights of patients to receive their information electronically

Restricts disclosure to a health plan if patients have paid in full for services

Required modification of Privacy Notice

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Highlights of HITECH

- Health Information Technology for Economic and Clinical Health Act (HITECH)
 - Breach Notification
 - Minimum Necessary Restrictions
 - Right to Electronic Copy
 - Right to Require Non-Disclosure for Out-Of-Pocket expenses
 - Business Associate Agreements
 - Mandatory Audits

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Breach Notification

Breach is an impermissible disclosure that compromises the security and privacy of PHI

CE and Business Associates fall under this rule

Any breach is considered a breach unless the CE or BA can prove low probability of risk for compromised information

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Breach Risk Assessment

- What was the nature and extent of PHI?
- Who was the unauthorized person who used the PHI or to whom the disclosure was made?
- Was the PHI actually acquired or used?
- What extent has the risk to the PHI been mitigated?

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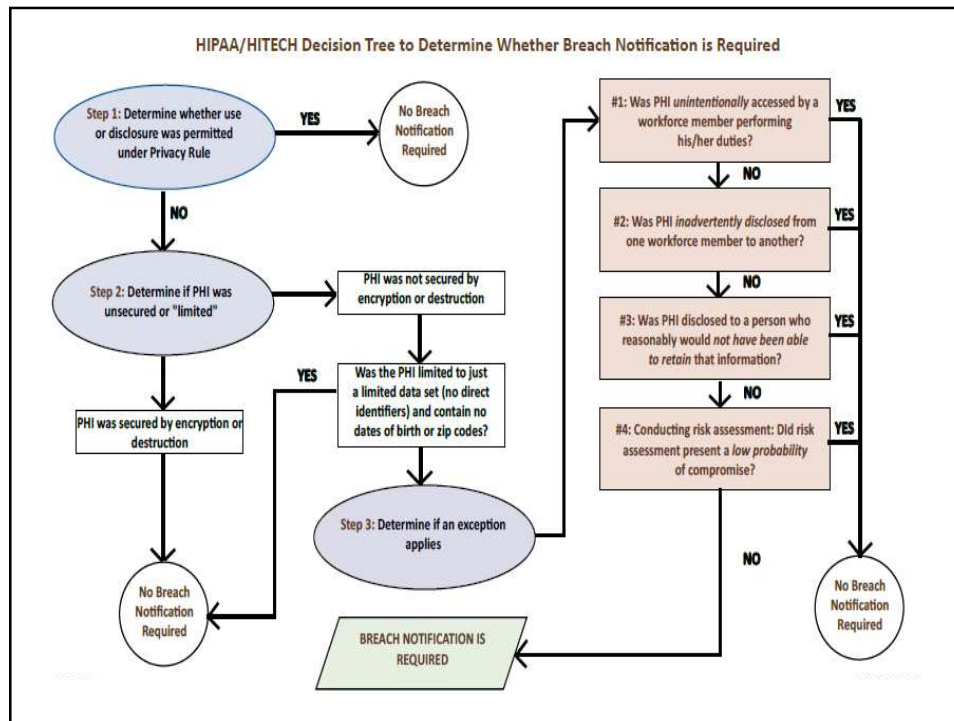
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Breach Exceptions

1. Unintentional access or acquisition
2. Inadvertent disclosure
3. CE or BA has good faith belief the disclosed information will not be able to be retained by receiving party

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You send a fax to a physician that includes medical records. After it is sent, you realize that you've dialed the wrong physician's number. You contact the physician that you faxed in error and advise him to fax the documents to the correct location.

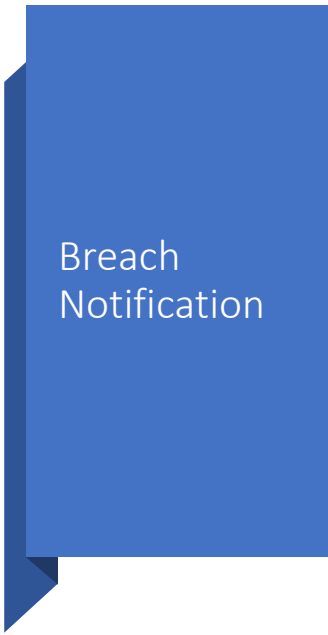
Did you handle this situation properly?

Yes, making sure the medical records get to the proper physician is an adequate response.

No, you did not complete all the necessary steps. This is considered a privacy incident and should be reported to your privacy officer.

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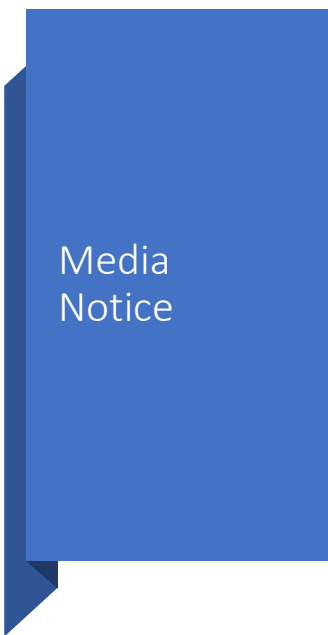


Breach Notification

- **Individual Notice**
 - Within 60 days
 - Written or electronic
 - If no correct address, place on website (10 or more affected patients) post for 90 days
 - Toll free number patients to call for more information
 - Fewer than 10 patients, may find an alternative to notification (phone, etc.)
 - Must tell what was breached, how the patient can protect themselves, and what the entity is doing to prevent further breaches

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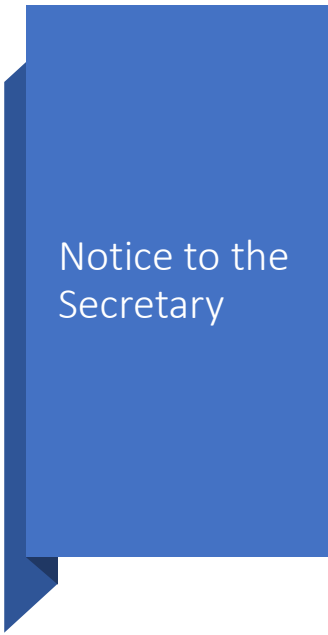


Media Notice

- 500 or more patients whose PHI has been breached.
- No later than 60 days from discovery
- Also must provide individual notice
- Must include the same information as was given under individual notice

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Notice to the Secretary

- The Secretary of HHS should be notified:
 - Immediately for breaches over 500 patients
 - Once per year for other breaches
 - Must complete an electronic breach report done on line via OCR portal


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Forms required by HIPAA




Notice of Privacy Practices




Acknowledgment of Privacy Practices



Good Faith Effort



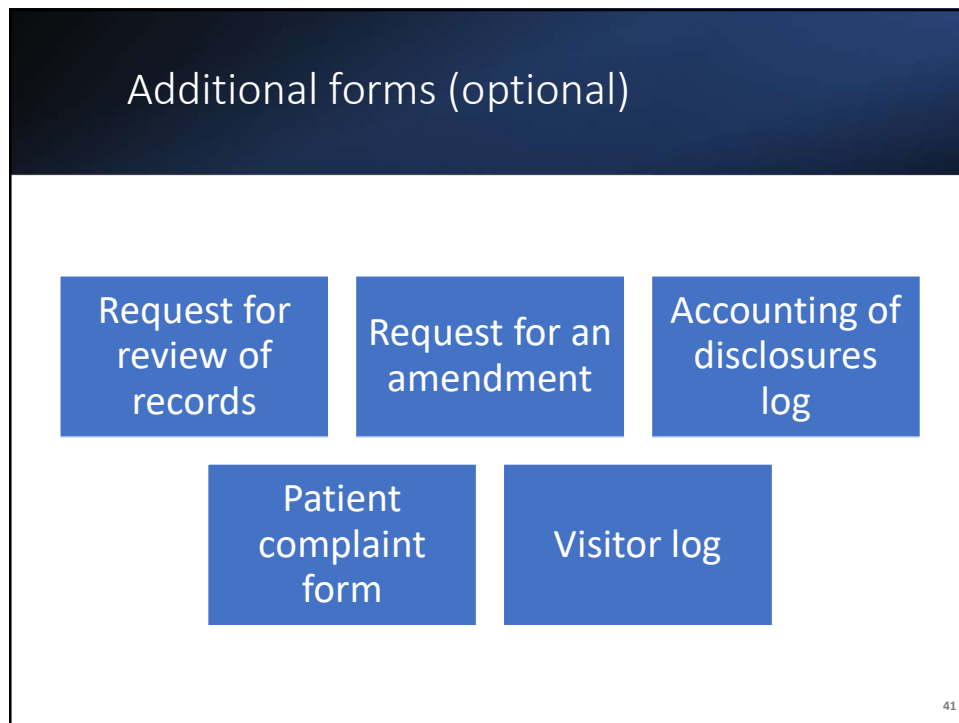
Authorization Forms



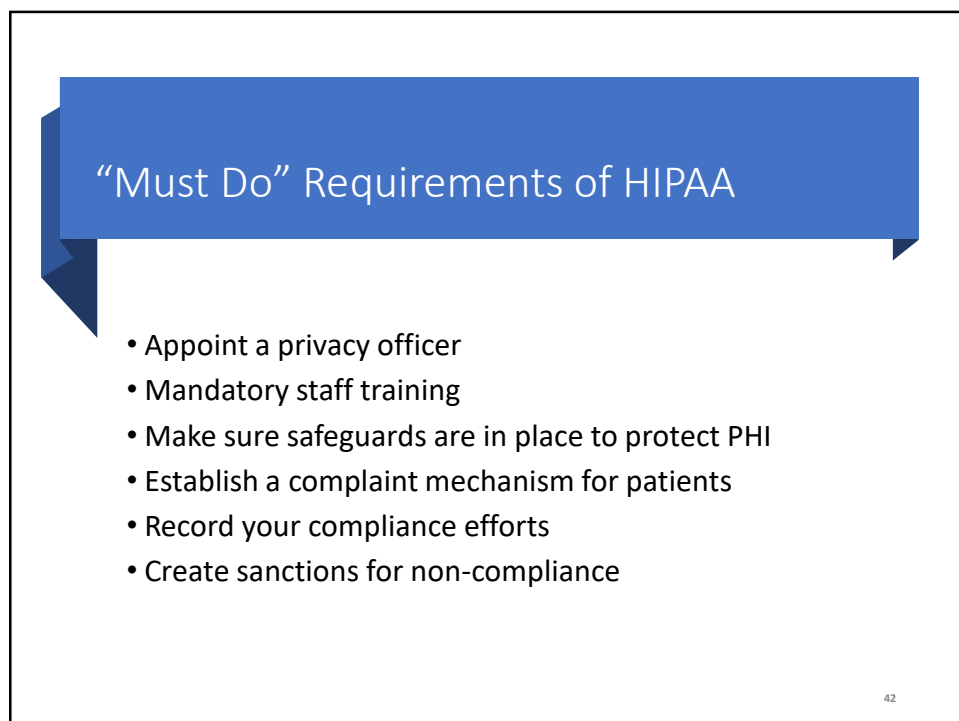
Business Associate Agreements

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“Must Do” Requirements of HIPAA

- Ensure Business Associate Agreements are in place
- Create and maintain policies and procedures
- Establish a minimum necessary information exchange
- De-identify as much as possible, information being exchanged

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Regulatory and Legal Issues



HIPAA
and Minors

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Healthit.gov

<https://www.healthit.gov/sites/default/files/appa8-1.pdf#:~:text=Age%20of%20majority%20is%2018.%20Minors%2015%20and,consent%20for%20mental%20health%20and%20substance%20abuse%20treatment>

Appendix A – Overview and Detailed Tables

Table A-8a. Overview: State Laws Expressly Granting Minors the Right to Consent to Health Care Without Parental Permission and Addressing Disclosure of Related Information to Parents*—Sexually Transmitted Disease and HIV/AIDS**

State	Age at Which Person May Generally Consent to Health Care(1)	Minor Has Right to Consent to Care***	Provider Discretion to Notify Parents of Treatment Given or Needed Parents' Right of Access to Related Record
Alabama	14 ⁽¹⁾	12 [†]	1-Y
Alaska	18	Y	—
Arizona	18	Y	—
Arkansas	18	Y [†]	1-Y
California	18	12 [†]	A-N
Colorado	18	Y [†]	1-Y, 1-N ⁽¹⁾ , A-N
Connecticut	18	Y [†]	1-N, A-N
Delaware	18	12 [†]	1-Y
District of Columbia	18	Y	1-Y1, 1-Y4 ⁽¹⁾
Florida	18	Y [†]	1-N, A-N
Georgia	18	Y	1-Y
Guam	18	Y [†]	1-N, A-N
Hawaii	18	14	1-Y
Idaho	18	14 [†]	—
Illinois	18	12 [†]	1-Y
Indiana	18	Y	—
Iowa	18	Y [†]	1-Y4 ⁽¹⁾
Kansas	18	Y	1-Y
Kentucky	18	Y	1-Y
Louisiana	18	Y	1-Y

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