



HIPAA QUICKGUIDE

HIPAA & Survey/Review Requesting

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Under the HIPAA Privacy rule (45 CFR 164.506), a covered entity generally cannot use or disclose protected health information (PHI) unless authorized by the patient. However, in limited circumstances, covered entities may use and disclose PHI without individual authorization ***for their own treatment, payment and healthcare operations activities*** (or TPO). This Quick Guide is intended to summarize the information on this issue provided by the U.S. Department of Health & Human Services in its guides entitled "Uses and Disclosures for Treatment, Payment, and Health Care Operations" and "Permitted uses and Disclosures: Exchange for Health Care Operations," and the American Hospital Association's "HIPAA Resources." For more information, please see the source material.

Minimum Necessary Standard

A covered entity must develop policies and procedures that makes reasonable efforts to limit its disclosures of and requests for PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request. This standard only applies to payment and healthcare operation activities, not to treatment. For more information, see 45 CFR Section 164.502.

Consent

A covered entity may voluntarily choose, but ***is not required, to obtain the individual's consent for it to use and disclose information about him or her for treatment, payment, and health care operations.*** A covered entity that chooses to have a consent process has complete discretion to design a process that works best for its business and consumers. Note that a consent document is not a valid permission to use or disclose PHI for a purpose that requires "authorization."

Hospital Use of Surveys or Questionnaires

Based on the exception, a hospital may conduct "quality assessment and improvement activities" as part of its health care operations. ***A survey or questionnaire that determines whether patients were satisfied with the quality of care they received qualifies as a "quality assessment and improvement activity," and therefore, considered a "health care operation."*** Before conducting these surveys, the hospital must state in its notice of information practices that it may use identifiable health information for its health care organization. Note that the hospital must accommodate any reasonable request from a patient for "confidential communications" to specify how/where the hospital may contact the patient.

A hospital may hire a vendor to conduct the surveys on the hospital's behalf pursuant to a business associate agreement under HIPAA.

Notice requirements

Any use or disclosure of PHI for TPO must be consistent with the covered entity's notice of privacy practices. A covered entity is required to provide the individual with adequate notice of its privacy practices, including the uses or disclosures the covered entity may make of the individual's information and the individual's rights with respect to that information.

DISCLAIMER: This Quick Guide is for informational purposes only. It is not intended, nor should it be relied upon as legal opinion or legal advice. It is not a substitute for obtaining professional legal advice from a qualified lawyer. We encourage you to consult with your legal counsel to discuss how HIPAA and other laws may apply to your organization and how to ensure compliance.

Definitions of Treatment, Payment, and Healthcare Operations (TPO)

- **Treatment** – “Treatment” means the provision, coordination, or management of health care and related services among health care providers or a health care provider with a third party, consultation between health care providers relating to a patient, or the referral of a patient from one health care provider to another. This may include consultations or referrals between providers.
- **Payment** – Payment encompasses activities that a health care provider must undertake to receive payment or be reimbursed for services, including submitting a claim to the patient’s health plan, checking eligibility, billing, receiving and applying payment.
- **Healthcare operations** – Health care operations are administrative, financial, legal and quality improvement activities of a covered entity that are necessary to run its business and to support the core functions of treatment and payment. These activities include the following:
 - 1) Conducting quality assessment and improvement activities, population-based activities relating to improving health or reducing health care costs, protocol development, case management, and care coordination;
 - 2) Reviewing the competence or qualifications of health care professionals, evaluating provider and health plan performance, training health care and non-health care professionals, accreditation, certification, licensing, or credentialing activities;
 - 3) Underwriting and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to health care claims
 - 4) Conducting or arranging for medical review, legal, and auditing services, including fraud and abuse detection and compliance programs;
 - 5) Business planning and development, such as conducting cost-management and planning analyses related to managing and operating the entity; and
 - 6) Business management and general administrative activities, including those related to implementing and complying with the Privacy Rule and other Administrative Simplification Rules, customer service, resolution of internal grievances, sale or transfer of assets, creating de-identified health information or a limited data set, and fundraising for the benefit of the covered entity.

For a complete list, refer to 45 CFR 164.501.

Sources:

1. See American Hospital Association, *HIPAA Resources*, <https://www.aha.org/websites/2006-04-07-hipaa-resources-faq-conducting-surveys>
2. See U.S. Department of Health & Human Services, *Uses and Disclosures for Treatment, Payment, and Health Care Operations*. <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/disclosures-treatment-payment-health-care-operations/index.html> (Revised 2003)