

**HIPAA in Emergencies:
Ethical Considerations
During Disasters**

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Faculty

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Topics of Discussion

- Who has to follow HIPAA regulations?
- What is considered Protected Health Information?
- Sharing patient data
- Minimum necessary
- Disclosures to law enforcement

Protected Health Information (PHI)

- Individually identifiable health information about an individuals past, present, or future medical or mental condition, transmitted or maintained in any form by a covered entity

Examples of Protected Health Information

- Name
- Address
- Date of Birth
- Date of Service
- Social Security Number
- Diagnosis

Examples of Protected Health Information

- Telephone Number
- E-mail Address

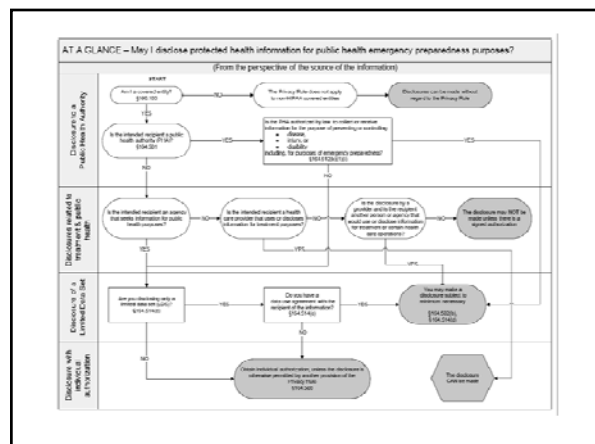
- ### Examples of Protected Health Information
- Full face photographs and comparable images
 - Medical Record Number
 - Other information that would allow the patient / client to be identified
 - * Excludes employment and education records

- ### HIPAA ROUTINE DISCLOSURES
- Treatment
 - Payment
 - Health Care Operations

- ### Disclosures for Public Health Activities During an Emergency
- What is a public health authority?
 - When can disclosures be made to a public health authority?
 - When can public health authorities require me to release information to a third party?

- ### Additional Disclosures During Emergencies
- When can I disclose information to family and friends?
 - What if I am aware of an imminent threat to someone's health and safety?
 - What can I say to the media?
 - What about sharing facility directories?

- ### LIMITED WAIVERS DURING AN EMERGENCY
- Who can provide a waiver of the HIPAA Privacy Rule?
 - Under what circumstances might a waiver be issued?
 - If a waiver is issued, what will be the terms of the waiver?



What Is the Minimum Necessary Rule?

- Department personnel who are directly involved in a patient's treatment and care (e.g., physicians, nurses, social workers and appropriate clerical workers) may have access to all of the patient's PHI
- Department personnel who are not directly involved in a patient's treatment may not have unlimited access to a patient's PHI

What Is the Minimum Necessary Rule?

- It is a violation of the minimum necessary rule for a health care provider to access the PHI of patients with whom the provider has no treatment relationship, unless for research purposes as permitted by the Privacy Regulations and Department Policy

Exceptions to the Minimum Necessary Rule

- The minimum necessary rule does not apply in the following instances:
 - Disclosures to, or requests by, a Health Care Provider for treatment
 - Uses or disclosures made to the patient or his / her legal representatives

Exceptions to the Minimum Necessary Rule

- Uses or disclosures made pursuant to an authorization
- Disclosures made to the Secretary of the United States Department of Health and Human Services for compliance and enforcement of the Privacy Regulations

Exceptions to the Minimum Necessary Rule

- Uses and disclosures required by law
- Uses and disclosures required by compliance with HIPAA standardized transactions

Disclosures to Law Enforcement

- HIPAA Orders
- Pursuant to Process / Required by Law
- Identification and Location Purposes
- Sexually Transmitted Diseases (AL)

Civil Monetary Penalties

TABLE 2.—Categories of Violations and Respective Penalty Amounts Available

Violation Category – Section 1176(a)(1)	Each Violation	All Such Violations of an Identical Provision in a Calendar Year
(A) Did Not Know	\$100 - \$50,000	\$1,500,000
(B) Reasonable Cause	\$1,000 - \$50,000	\$1,500,000
(C)(i) Willful Neglect-Corrected	\$10,000 - \$50,000	\$1,500,000
(C)(ii) Willful Neglect-Not Corrected	\$50,000	\$1,500,000

Criminal Penalties

- The American Recovery and Reinvestment Act of 2009 (ARRA) expanded HIPAA by providing that criminal penalties can be applied to employees and others who wrongfully disclose individually identifiable health information

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