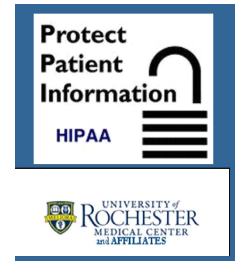


From: HIPAA Highlights
Sent: Thursday, September 30, 2021 9:19 PM
To: All URMU Users
Subject: Correction-HIPAA Highlights September 2021

HIPAA HIGHLIGHTS

September 2021



Incidental Disclosures and HIPAA Privacy

Both patients and providers have had questions regarding whether a disclosure of protected health information (PHI) may be incidental under the HIPAA Privacy regulations.

Question: What are incidental disclosures under HIPAA?

Answer: Incidental disclosures occur when people see or hear protected information (PHI) when they do not have a "need to know" that specific information. The Privacy Rule permits certain incidental disclosures that occur as a by-product of another permissible or required use of the information. Health care providers must apply reasonable safeguards and disclose only the minimum amount of PHI necessary to accomplish the purpose of the communication.

Ways you can minimize incidental disclosures are:

- Don't leave medical records or screens open in patient care areas where visitors or other patients can read them.
- By avoiding using patients' names in public hallways and elevators, and posting signs to remind employees to protect patient confidentiality.
- By speaking quietly when discussing a patient's condition with family members in a waiting room or other public area.
- Pull curtains in semi-private room and treatment areas.

Here are some situations that have come up:

Q: A physician and midlevel provider enter an inpatient's semiprivate room to discuss PHI with their patient, Mr. Rivera. The patient's roommate, Mr. Adams, is present in the other bed. Are the providers permitted to speak with Mr. Rivera?

Yes, the HIPAA Privacy regulations recognize that overhearing communications in these settings may be unavoidable and allows for these incidental disclosures, as long as reasonable safeguards are taken to protect PHI. For example, the providers should make sure that the curtain is pulled between the two patients and speak in lowered voices. However, in emergency situations or where a patient is hearing impaired, such precautions may not be practicable. HIPAA is not intended to stifle quick, effective, quality patient care. Providers should use particular caution in communicating sensitive subject matters (such as HIV, mental illness, substance abuse, etc.) in these settings. If the patient has visitors present, the provider may need to ask the visitors to step out for a couple of minutes while discussing PHI, depending on whether the provider knows their patient has previously agreed to discussions taking place in front of this friend or family member.

Q: Mrs. Schultz enters the waiting room of an ambulatory clinic to check in for her appointment. The registration representative asks Mrs. Schultz for her information (address, phone, insurance information, etc.) in front of others in the waiting room. This makes her uncomfortable. Is this an incidental disclosure?

Again, reasonable safeguards must be in place. It is recommended to have patients waiting in line to register remain back behind a stand or line wherever possible. Patients are then called to the desk one at a time to register to afford some privacy when providing information. If safeguards have been used and others are still able to overhear the information, this is considered an incidental disclosure.

When performing a check-out function in the waiting room of an ambulatory area, making a follow-up appointment and taking copays should not require exchange of PHI. If, however, the check-out function does require exchanging PHI (such as scheduling tests, etc.), then the clinic should look at some other method to limit disclosures, such as performing the function elsewhere, the use of privacy glass, etc.

If you have any questions regarding incidental disclosures, contact your Privacy Officer.

For further information on any HIPAA related topics, please refer to the URM/Strong Health intranet site at: <http://sites.mc.rochester.edu/departments/hipaa/> or contact your [Privacy Officer](#) or [HIPAA Security Official](#).