



NATIONAL
CHILDREN'S
ALLIANCE

HIPAA Information Paper

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HIPAA

Health Insurance Portability and Accountability Act of 1996

The following information is presented as a high-level overview for the understanding and approach to compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This information is provided as a guide and not intended as legal advice for compliance implementation or interpretation of HIPAA. Each agency is responsible for compliance with HIPAA and their respective State laws.

What is HIPAA? HIPAA stands for the Health Insurance Portability and Accountability Act. It was made law in 1996 (Public Law 104-91) as part of a broad congressional movement for healthcare reform based upon the Kennedy-Kassenbaum bill.

HIPAA is designed to:

- Assure health insurance portability
- Provide better access to health insurance
- Reduce health care fraud through the development of compliance programs
- Enforce standards for health information billing data exchange, transaction and code set regulations and standard identifiers
- Provide assurances of the privacy and security of Protected Health Information

What is protected health information (PHI)?

PHI is all information (in any medium: electronic, oral or written) about a patient. This PHI is considered confidential and includes:

- Name, address, telephone and fax numbers
- Birth date and Social Security number
- Names of relatives or employers
- Email address, web URL or IP address
- Any vehicle or other device serial number
- Medical record, or account numbers or health insurance numbers/billing information
- Photographic images or other information that used alone or in combination with other information, could be used to identify the individual, and
- Clinical information including diagnosis and plan of care.

Why do Children’s Advocacy Centers (CACs) need to pay attention to HIPAA? CACs provide a multidisciplinary team (MDT) response to concerns of child maltreatment. Members of the MDT include law enforcement, child protective services, prosecution, medical, mental health, and victim advocacy. The sharing of health information is a necessary part of the way CACs provide services to children and their families. Thus, all CACs need to be aware of how HIPAA regulations may impact their work.

Furthermore, HIPAA applies both civil and criminal sanctions for violations of HIPAA. Civil penalties include fines up to \$100 per person per violation not to exceed \$25,000; and criminal penalties which range from a minimum of \$50,000 fine and/or one year in prison to a maximum of \$250,000 and/or 10 years in prison.

How should I begin my approach? First, do not panic! The guidelines are meant to raise the federal standard to assure reasonable protection of health information. These guidelines and HIPAA are not intended to make your job more difficult or impossible, but rather to be sure that the health information shared, is done in the most sensitive yet effective manner.

Step #1: Assign someone on your staff or team to be the point person for your agency related to HIPAA. In some agencies this person is referred to as a privacy officer (A privacy officer is necessary in those instances where the agency is a covered entity – such as a health care provider, clearinghouse or health insurer – see step #4). Be sure the point person is aware of and has addressed concerns related to HIPAA with both the CAC staff as well as the team.

Step #2: Begin by making a road map of how you access information on child abuse cases. This road map should include who you access information from as well as to whom you provide information. Include how parents/custodians/legal guardians are informed of or give authorization for this process. You may find state law dictates that authorization is obtained from the appropriate legal guardian prior to sharing of this information. Individual state laws vary and supercede HIPAA only where they are contrary to HIPAA and are more stringent with protections of patient PHI. See Step #3.

Track which agency responses are mandated and which respond under practice guidelines. Include any timeframes that may be imposed by state law.

Step #3: Complete a similar road map regarding payment. For example, if you conduct medical exams on-site at the CAC and you have a contract with a medical provider to perform the exams, how is payment retrieved? Does the

CAC pay the provider? Does the provider's agency bill the state or health care dollars for the examination? Does the CAC bill the state for health care dollars?

Include the amount of information that must accompany the request for payment including who compiles the information, who receives the information and what happens to the information, once payment has occurred.

Step #4: Obtain a copy of your state law(s) that address child maltreatment cases. Often times you will find information in the law that will address the sharing of necessary information.

Step #5: Determine your status as defined by HIPAA. If you are a hospital based CAC you will undoubtedly be a covered entity, but if your organizational structure is an independent not-for-profit, you may be considered a business partner. Complete this step with reference to your relationship with each member of the MDT. It may also be helpful for you to document said partners relationship as it relates to you. For example, you are a Department within your local Children's Hospital and are considered to be a covered entity. Law Enforcement and Child Protective Services come to the hospital for the forensic interview and medical evaluation. Case Review is coordinated by the CAC on a monthly basis and takes place in a conference room at the hospital. Law Enforcement's status as it related to you is defined as a business partner.

Step #6: Based on your HIPAA status, determine where your gaps are and develop a step-by-step approach including a timeline to implement new practices and procedures that are HIPAA compliant. (Covered entities should have been compliant with HIPAA Privacy Rules by April 14, 2003).

You may find that you need to add a new authorization form, or that you need to change the levels of access employees have to a child's health information.

Helpful link:

<http://www.hhs.gov/ocr/hipaa/whatsnew.html>