

HIPAA

Training for EMS Personnel



Outline

- What is HIPAA
- Components of HIPAA
- Examples
- Review

What is HIPAA?

- “HIPAA” stands for the Health Insurance Portability and Accountability Act of 1996
- Passed in the early 1990s to regulate questionable policies and practices of health maintenance organizations
- Created privacy practice standards that the healthcare worker must follow

“Until now, virtually no federal rules existed to protect the privacy of health information and guarantee access to such information. This final rule establishes, for the first time, a set of basic national privacy standards and fair information practices that provides all Americans with a basic level of protection and peace of mind that is essential to their full participation in their care.”

-Preamble to December 2002 Privacy Rule

Why is it needed?

- Provides patients with legal rights and voices in how healthcare groups/companies use the protected health information (PHI)
- Other areas of HIPAA include “*security requirements*” for computer storage and transmission of healthcare data along with insurance claim "transaction *requirements*”

Who Must Comply ?

- Healthcare providers that *charge* for services including EMS agencies, Fire Departments, Vol. Rescue Squads & all personnel who work or volunteer for such groups/agencies
- Companies & individuals acting on behalf of such groups/agencies, more commonly called *“Business Associates”*

How does it Impact EMS?

- Regulations affect how EMS personnel use & transfer pt. information
- Requires EMS agencies to appoint a “Compliance Officer” & create SOPs for the members to follow
- HIPAA mandates training of EMS personnel and administrative support staff

How does it Impact EMS?

- EMS agencies and personnel must follow HIPAA regulations during pt. care situations, when transporting pt. information and for administrative function
- EMS agencies must follow HIPAA rules in retaining, managing & releasing patient information/records

How does it Impact EMS?

- EMS agencies must abide by HIPAA regulations by notifying patients of their rights in a timely manner
- EMS agencies must also request that each patient sign a statement acknowledging that he/she is aware of these rights

Violation of HIPAA

- Civil penalties for violation of HIPAA regulation include fines
 - acted without knowing what you were doing was wrong
- Criminal penalties can include fines and jail
 - knowing what you were doing is wrong and tried to get profit from it
- Enforcement targets the healthcare provider and agency

Components of HIPAA

- Using PHI (Definitions)
- Protecting PHI
- PHI can be defined as any medical information concerning a patient identification;
 - *Name*
 - *ID number*
 - *Or any means of identification*

Using PHI

- Because EMS agencies operate in a *field setting*, HIPAA uses standards of *reasonableness* to address privacy & PHI
- Generally, patient privacy and PHI become an *issue in a pre-hospital setting* when loading a patient and access is not controlled

Using PHI

- Personnel need to focus on information request going out, not coming in, and who is making the request
- Generally, other public safety agencies that do not charge for services are not covered by HIPAA. These include 911 centers, Fire Departments and Law Enforcements

Using PHI

- Basic Rules
- PHI may only be shared for “treatment, payment or operational needs” EMS of agencies. Other requests require written consent from patient
- A “minimum necessary information requirement” is standard for all use of PHI outside of **treatment**

PHI Basic Rules

- Treatment includes sharing PHI between;
 - First Responders
 - EMS personnel
 - ER staff
 - Pharmacies and other in kind parties
- By
 - Voice, Paper
 - Electronic/telecommunication means
- EMS agencies, Billing companies, guarantors

PHI Basic Rules

- Healthcare Operations included in sharing of PHI;
 - EMS personnel
 - Supervisors
 - QA/QI
 - Medical Control Physician
 - Administrative personnel
 - Training
 - Case reviews
 - CISD meetings

PHI Basic Rules

- If PHI needs to be shared with other public safety groups, Gov. agencies or other officials in operational settings such requests:
 - Must be directly related to a justifiable “need” as permitted by HIPAA regulations

PHI Basic Rules

- Valid request for PHI include;
 - Mandated Requirements of Law
 - Public Health Activities
 - Abuse/Domestic Situations
 - Health Oversight Activities
 - Judicial & Administrative
 - **Law Enforcement Activities**

Valid request for PHI (cont.)

- Deceased Patients
- Tissue Donation Patients
- Research Purposes
- Threat to Public Safety
- Specialized Government Functions
- Workers Compensation

Valid request for PHI (cont.)

- **Law Enforcement**
 - **Process/Covered by Law**
 - **Identification and Location**
 - **Victims of Crime**
 - **Deceased Patients**
 - **Crime on Premises**
 - **Reporting Crime**

Valid request for PHI (cont.)

- Generally, “valid” requests for PHI from other public safety agencies may be granted keeping “the best interest of the patient” in mind
- In many cases, EMS personnel must use “professional judgment” in granting such PHI request
- PHI must remain confidential for all other requests unless “prior written authorization” has been obtained from the patient.
- *It cannot be released without written consent*

Using PHI – NPP Notification Process

- “Notice of privacy practices” (NPP) including patient rights must be provided to each patient at the time of service or as soon as possible after said encounter
- HIPAA regulations give patients specific rights concerning PHI and how it is used

Managing PHI - Records

- Physical Safeguards
- Limited access
- E-PCRs must meet HIPAA security for electronic PHI
- Passwords, identification and protocols
- Request for PHI (administrative approval)
- Dedicated Fax line
- E-mailing of PHI (PHI security standards)
- Made in writing
- More information Google 2006 45 CFR 164.500

Case Scenarios

- Pt. walking across intersection is hit by car at 55 MPH. The vehicle was involved in MVA just prior to striking the pt.
- EMS, Fire, Police & SPD all have responded
- Pt has multiple injuries, is unresponsive, open Fx both legs, with lots of bleeding and vitals are deteriorating

Case Scenario

- Fire & Police on scene first
- Fire starts treating pt. in front of many bystanders that were helping the victim
- *Did a HIPAA violation occur?*

Scenario

- No – First responders need to treat pt. in the environment found, no reasonable measures could be taken to assure privacy
- Ambulance arrives, crew goes to pt. The first responder gives a detailed report to the crew in front of bystanders and Police.
 - *Did HIPAA violation occur?*

Examples

- NO – First responders need to give report to the crew
- The crew loads the pt into the ambulance and starts treating pt.
- A few minutes later a firefighter brings a priest over that says he know the pt.
- The priest ask about pt condition and ask if the pt is going to die?
- Is this a HIPAA issue?

Example

- YES – The information request means PHI would be given out. The relationship between pt and priest would have to be verified. Proceed with caution, minimum necessary information requirement in place
- A few minutes later a Police officer brings an obviously upset woman to the rig who states that is her son and ask will he live and what is his condition?
- Is this a HIPAA issue?

Example

- Yes -The information request means PHI would be given OUT. The Police say yes this is his mother, proceed with caution again in what information you share
- You leave the scene with pt. You give a radio report to MC with PHI exchange.
- Is this a HIPAA issue?

Example

- No & Yes – PHI is given out, generally pt ID is not given over radio. If that is needed or requested via MC use a cell phone
- You arrive at Hospital and you transfer care over to them. While writing your PCR a crew member from another department states “WOW” that was a bad one, huh?
- Did a HIPAA violation occur?

Example

- Yes – Only crew members directly involved with the call, supervisors or other administrative personnel should be reading PCR's.
- Police officers on the scene and at the hospital requested certain information including pt identity and condition. They are requesting this information as part of a potential fatality investigation
- Is it a HIPAA violation to provide this information?

Example

- NO – LEA Issues
- In this case of a potentially fatal MVC, providing the Police with certain information for the investigation is appropriate. This is limited “minimum necessary information requirement”.
- Several weeks later you are contacted by patients attorney, who wants to talk with you about the incident and pt injuries.
- Is it a HIPAA violation to speak with this individual?

Example

- Possibly – Confirm ID and make sure he has authorization as the pt. representative. This is better handled with a subpoena for deposition or trial.

Review

- Understand the concept of **PHI** and the rules
- Know when “**minimum necessary requirements**” should be used
- Respect the **Privacy** of the Patient
- Act in the **Best interest of Patients**