

Policy Manual: Seton Hill University Center for Orthodontics

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| <ul style="list-style-type: none">• The Privacy Standard/Rule | <p>The Privacy Rule is the most complex of the four, setting standards for how protected health information (PHI) "in any form or medium" should be controlled. The Privacy Rule requires covered entities to provide patients with a written "Notice of Privacy Practices". (1)</p> <p><u>The Privacy Notice</u></p> <p>A copy of the Privacy Notice must be provided the first time a patient sees a direct treatment provider, so it will be completed at the first visit, on every patient, at the SHU Center for Orthodontics. It must also be provided at any time thereafter when requested. On that first visit, treatment providers must also make a good faith effort to obtain a written acknowledgement, confirming that a copy of the Notice was obtained. Healthcare insurers must also provide their customers periodic Privacy Notices, but they do not need to secure any signed acknowledgement. HIPAA requires no other documentation from the patient to use or disclose information for basic functions, like treatment and payment, or for a broad range of other core health care operations. <i>Refer to policy attachment for the Seton Hill University Center for Orthodontics HIPAA Privacy practice Notice.</i></p> <p>The Privacy Notice must describe, in general terms, how organizations will protect all health information, and specify the patient's right to:</p> <ul style="list-style-type: none">• gain access to and, if desired, obtain a copy of his/her own health records;• request corrections of errors that the patient finds (or include the patient's statement of disagreement if the institution believes the information is correct);• receive an accounting of how their information has been used (including a list of the persons and institutions to whom/which it has been disclosed);• request limits on access to, and additional protections for, particularly sensitive information;• request confidential communications (by alternative means or at alternative locations) of particularly sensitive information;• complain to the facility's designated privacy officer if there are problems; and• pursue the complaint with the US Department of Health and Human Services' Office of Civil Rights if the problems are not satisfactorily resolved. (1) <p>By contrast, the Privacy Rule does require that patients sign a supplemental authorization before information can be used for certain "extra" purposes like</p> |
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research, or certain kinds of marketing and fundraising. Health care institutions cannot condition treatment or payment for health care services on receiving a patient's authorization for such supplemental uses. (1)

The general approach of the Rule beyond that is: If a person has a right to make a health care decision, then he/she has the right to control information associated with that decision. At the Center, minor children and those who are known to be legally incompetent must have decisions about both health care and health information made by a legally responsible representative.

HIPAA extends extra protections for especially sensitive information -- notably psychotherapy notes, which require a supplemental authorization for release. Genetic information issues are not yet addressed by HIPAA, nor does HIPAA extend any special protections to HIV, substance abuse or other information categories that often receive special treatment in state law.

Although the Privacy Rule is complicated (to put it mildly) it does have an overall scheme for its protections:

- Uses for treatment, payment and a long list of other routine health care operations are covered by the "Notice" that patients acknowledge receiving;
- A few particular kinds of uses -- notably for research, marketing or fundraising -- require a specific, separate written "authorization";
- A few others require only an opportunity to agree or object orally, but no consent or authorization -- notably, this includes listing of patients in facility directories, and disclosures to those involved in a patient's care, such as family members.

PHI Uses and Disclosures: Beyond treatment, payment and health care operations, there is another broad category of uses and disclosures that are permitted without patients' permission. This includes PHI uses and disclosures:

- for public health activities;
- about victims of abuse, neglect or domestic violence;
- for health oversight activities;
- for judicial or administrative proceedings;
- for law enforcement;
- about deceased persons (including organ and tissue donations);

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- for research, without any authorization, where permitted by an IRB or Privacy Board waiver;
- to avert a serious, imminent threat to public safety;
- certain specialized government functions (e.g., national security, military, corrections); or
- anything else required by law.

Individuals would be entitled to an accounting of (some of) these disclosures, though that accounting might be temporarily suspended in certain circumstances.

Over and above all the categories, HIPAA imposes a very general rule on anyone who deals with protected health information: collection, use and disclosure should be no greater than necessary to complete a work-related task. For obvious reasons, this is called the minimum necessary standard. Also, it is referred to as the "Need-To-Know" rule.

The minimum necessary standard is partially waived for health practitioners engaged in treatment -- it still applies to treatment *uses*, but not to *disclosures* between/among practitioners. The regulations relax the requirement in part to avoid any possible interference in the "daily practice" of delivering health care.

Health care facilities are under an obligation to integrate a minimum necessary standard into their policies and procedures. That includes administrative rules as well as, where available, computer-enforced access controls.

Every covered entity must put in place general privacy policies that reflect HIPAA's requirements, and, if they are stricter, the requirements of state law. Those policies must include sanctions for employees that violate them, including termination for serious or repeated violations.

Institutions must designate a privacy officer, who will have the responsibility for enforcing the regulations, as well as supervising (or handling directly) the procedures to handle requests for information access, corrections to records, accountings of disclosures, processing complaints and so forth. At the Center for Orthodontics, The Program Director is the Privacy Officer, with investigative authority delegated to the Business Manager, who will report findings back to the Program Director.

Institutions must also, as noted, include privacy requirements in their contracts with business associates. All employees, faculty and residents/fellows must be educated

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| <p>POLICY ATTACHMENT</p> | <p>in "any form or medium," the TCS Rule covers only PHI in electronic form. Perhaps it is self-evident that an electronic format standard could apply only to electronically-rendered information. However, this "electronic focus" is true of the HIPAA Identifier and Security rules as well. (1,2)</p> <p>At present, the TCS Rule encompasses the following standard electronic transaction formats -- preponderantly derived from the ANSI X12N standards. Specific to the Center for Orthodontics (Dental Procedures), contained within these transactions formats, the standards for coding information include the following related to dental procedures:</p> <ul style="list-style-type: none">• Code on Dental Procedures and Nomenclature (CDT) <p><u>Code on Dental Procedures and Nomenclature (CDT):</u> The American Dental Association's Code on Dental Procedures and Nomenclature (CDT) is used to record and report dental procedures. It is the dental equivalent of Current Procedure Terminology (CPT) codes (medical) for other-than-dental procedures. (1,2,3)</p> <p>Attachment: Seton Hill University Center for Orthodontics HIPAA PRIVACY PRACTICE NOTICE</p> <p>References:</p> <ol style="list-style-type: none">(1) http://privacy.med.miami.edu/glossary/xd_privacy_stds.htm(2) http://aspe.hhs.gov/admsimp/nprm/npinprm.pdf(3) http://www.ada.org/ <p>KKC 6 22 2010</p> |
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