



TMA Privacy and Civil Liberties Office Information Paper



MEDICAL EDUCATION AND TRAINING

HIPAA Privacy ♦ January 2012

I. Supporting Policies for Medical Education and Training

- A. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule establishes requirements regarding uses and disclosures of protected health information (PHI).
- B. The Department of Defense Health Information Privacy Regulation (DoD 6025.18-R) implements the HIPAA Privacy Rule for the Military Health System (MHS).

II. Definitions Associated with Medical Education and Training

- A. Covered Entity: A health plan or a healthcare provider within the MHS that transmits any health information in electronic form to carry out financial or administrative activities related to healthcare.
- B. Disclosure: The release, transfer, provision of access to, or revealing in any other manner of PHI outside the entity holding the information.
- C. Military Health System (MHS): All DoD health plans and all DoD healthcare providers that are, in the case of institutional providers, organized under the management authority of, or in the case of covered individual providers, assigned to or employed by TMA, the Army, the Navy, or the Air Force.
- D. Protected Health Information (PHI): Individually identifiable health information that is transmitted or maintained by electronic or any other form or medium, except as otherwise contained in employment records held by a covered entity in its role as an employer.
- E. Use: With respect to PHI, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

III. Guidance Regarding Uses and Disclosures for Medical Education and Training

- A. Healthcare Operations. Under paragraph C4.2 of DoD 6025.18-R, a covered entity may use or disclose PHI, without authorization from the patient, for its own healthcare operations. This includes conducting training programs where students, trainees, or practitioners in areas of healthcare learn, under supervision, to practice or improve their skills as healthcare providers.

- B. Psychotherapy Notes. A covered entity can use or disclose psychotherapy notes, as outlined in paragraph C5.1.2, for training programs where students, trainees, or practitioners in mental health learn, under supervision, to practice or improve their skills in group, joint, family, or individual counseling.
- C. Minimum Necessary Rule.
 - 1. Uses and disclosures of PHI for purposes of a medical training program are excluded from the minimum necessary rule. See C8.2.2 of DoD 6025.18-R.
 - 2. Covered entities should ensure their policies and procedures for minimum necessary uses and disclosures permit medical trainees' access to PHI, including entire medical records.
- D. Oral PHI. Healthcare professionals may discuss a patient's condition during training rounds in an academic or training institution.
 - 1. Reasonable precautions should be taken to minimize the chances of incidental disclosures, such as using lowered voices or talking apart from others who are not directly involved in the training discussions or with the patient's care.
 - 2. Whenever possible, patient identifiers – names, room numbers, etc. – should not be used during discussions when not in the patient's presence.
- E. Business Associates. When a business associate is used, such as an academic medical center, an agreement must be established to ensure that PHI is only used or disclosed to conduct medical training programs, as described above, unless it is permitted or required by DoD 6025.18-R or as required by law.
- F. Unless permitted or required by DoD 6025.18-R or as required by law, PHI that is not de-identified cannot be used or disclosed outside of the covered entity without the patient's authorization.