

Compliance

CAPSULES



INCIDENTAL DISCLOSURES AND THE HIPAA PRIVACY RULE

The HIPAA Privacy Rule and the Office of Civil Rights (OCR) (enforcer of HIPAA) understands that many customary health care communications and practices play an important or even essential role in ensuring that individuals receive prompt, effective, high quality health care.

An incidental use or disclosure is a secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a result of another use or disclosure that is permitted by the Rule.

Due to the nature of these

communications and practices, as well as, the various environments in which individuals receive health

care or other services from covered entities, the potential exists for an individual's health information to be unavoidably overheard and the Rule allows for these incidental disclosures.

The HIPAA Privacy Rule is not intended to prohibit providers from talking to each other and to their patients. For example, a hospital visitor may overhear a provider's confidential conversation with another provider or patient, or may glimpse a patient's information on a sign-in sheet, overhear a pharmacist discuss a prescription with a patient over the counter, or with a physician or patient over the phone, etc. These are incidental disclosures.

The HIPAA Privacy Rule is not intended to impede these customary and essential communications and, thus, does not require that all risk of incidental use or disclosure be eliminated to satisfy its standards.

Corporate Compliance Hotline:
1.800.348.9847 or
www.MyComplianceReport.com
Access ID: "NHR"

INCIDENTAL DISCLOSURES AND THE HIPAA PRIVACY RULE (CONT'D)

REASONABLE SAFEGUARDS

However, the Rule does require covered entities to have in place, appropriate administrative, technical, and physical safeguards that protect against uses and disclosures not permitted by the Privacy Rule, as well as those that limit incidental uses or disclosures.

It is not expected that a covered entity's safeguards guarantee the privacy of protected health information from any and all potential risks. Reasonable safeguards will vary from covered entity to covered entity depending on various factors specific to each covered entity.

EXAMPLES OF SAFEGUARDS

A few examples of safeguards and reasonable precautions to be taken to minimize the chance of incidental disclosures to others who may be nearby include:

- **Avoid using patients' names in public hallways, public areas and elevators.**
- **Always lock computer monitors before walking away.**
- **Turn monitors away from public, whenever space permits.**
- **Ensure no one follows you into secured areas.**
- **Lower your tone when requesting or discussing protected health information, particularly if you work near waiting areas, open areas, registration areas, etc.**

However, when performing job duties in a loud environment (for example, an ED) or where a patient is hearing impaired, normal precautions of speaking quietly may not be practical.

INCIDENTAL DISCLOSURES AND THE HIPAA PRIVACY RULE (CONT'D)

SUMMARY

Protection of the confidentiality of patient health information by health care providers and professionals has long been and continues to be, an important and required practice. However, there will be instances in the provision of care or performing other essential job duties, of being unavoidably overheard. It is our responsibility to be aware of our surroundings and practice the use of reasonable safeguards, when doing so will not adversely affect the care of the patient, but can help avoid an incidental disclosure of our patients' privacy.

Source: Office for Civil Rights, HIPAA Privacy, www.hhs.gov/hipaa

EXAMPLE OF AN INCIDENTAL DISCLOSURE

An example of an incidental disclosure was recently shared with our Corporate Compliance/Privacy Officer:

The Reporter was very concerned that, while recently being registered for a procedure, his/her personal

HIPAA STATS, Oct. – Dec. 2018

	Violations	Inadvertent Breaches
NHRMC & PMH/HC	1	10
NHRMC PG	0	2
Business Partners	0	1

HIPAA violations are addressed according to the HR Policy, "Progressive Discipline."

EXAMPLE OF AN INCIDENTAL DISCLOSURE (CONT'D)

information, as well as, that of other patients being registered, was overheard by others in line.

While this was a legitimate concern by the person reporting, this was an incidental disclosure, according to the OCR and the HIPAA Privacy Rule. Registration areas, in particular, are often in open areas and may also be near a waiting area, where voices carry easily.

Therefore, this is an **excellent reminder** for us all to be mindful of our surroundings and to lower the tone of our voices when speaking to patients, in this type of open setting, when others are nearby. (Exceptions: When other factors, i.e. noise or patient's hearing impairment do not allow).

In addition, due to the concern reported, this registration area is being re-assessed to determine if additional safeguards can be added/implemented.

SHAREPOINT

As many of you are aware, SharePoint is somewhat of a new, web-based, collaborative platform that integrates with Microsoft Office. Launched 8.1.17, SharePoint gives you access to all your files, anytime, anywhere, from any device. It allows:

- Sharing of files;
- Real time collaboration of documents;
- Viewing of documents from any device; and
- Managing your business files on the road.

There are many great features to this application, but today, we want to briefly discuss two basic sites that documents can be uploaded:

- 1) **Shared NHRMC Documents** (accessible to all employees);
- 2) **Team Documents** (only accessible by staff in each specific department or specified users).

(There are excellent Training tools available on the SharePoint home page.)

SHAREPOINT (CONT'D)

SHAREPOINT AND PATIENT PRIVACY

To avoid an inadvertent disclosure of our patients' PHI, this article is meant to remind anyone using SharePoint of the importance of uploading information to the correct site.

When uploading information to the **Shared NHRMC Documents** site, please always review and ensure the information is free of any PHI. **All NHRMC staff can view the documents uploaded here.**

The **Team Documents** site is a great place to share important information with your department. For some departments, this information might require patient lists/information to be shared, for the continuity of care and/or duties within the department. The Team Document site, allows this type of information to be locked and only shared with others that have a work-related need to know. Also ensure all teaching/training documents created, have no PHI.

Source: NHRMC SHAREPOINT PORTAL Training; Findings

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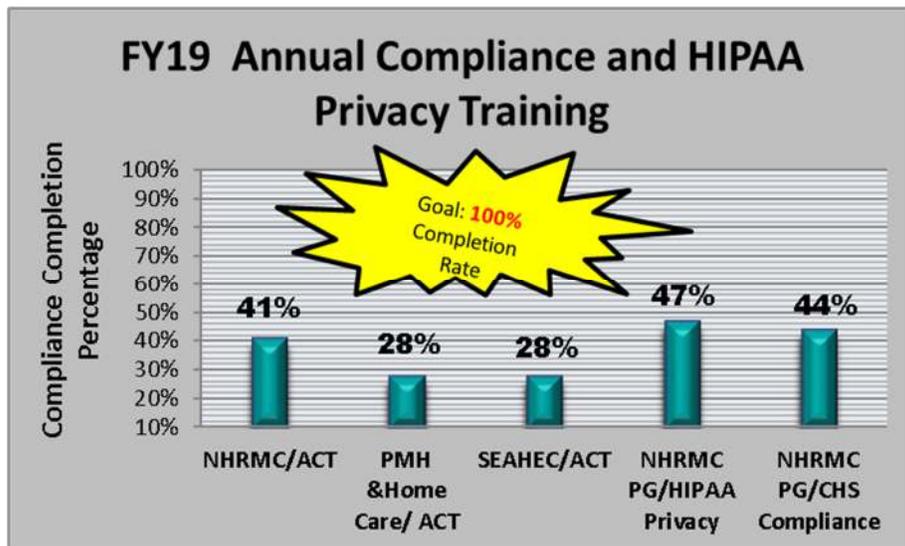


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ANNUAL COMPLIANCE & PRIVACY EDUCATION FY 2019

FY 2019 mandatory computer-based learning modules are due for completion **by August 1, 2019**. FY19 completion rates for compliance and privacy modules were reported to the Compliance Committee and the Board.



COMPLIANCE QUIZ FOR MOVIE TICKETS

Email Your Responses to Stephanie Snyder by January 31, 2019

1. The _____ is not intended to prohibit providers from talking to each other and to their patients.
2. The Rule does require _____ to have in place, appropriate administrative, technical, and physical safeguards.
3. We should all be mindful of our surroundings and the importance of the tone of our _____ in open areas.
4. Shared NHRMC Documents and Team Documents are two basic sites of _____.
5. The _____ site is a great place to share important information with your department only.

Congratulations to Faith Perritte, winner of movie tickets for the September 2018 newsletter!

"I did then what I knew how to do. Now that I know better, I do better"
-Maya Angelou