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Know Your Place: HIPAA Compliance

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### HIPAA vs HIPPA vs HIPPO

	HIPAA Health Insurance Portability and Accountability Act	HIPPA Health Information Privacy Protection Act	HIPPO Hippopotamus
Name			
Protects health coverage for people who change jobs.	✓	✗	
Requires medical providers to give patients access to their personal health information.	✓	✗	
Requires medical providers to protect the privacy of health information.	✓	✓	
Prohibits fines and measures from asking for proof of vaccination.	✗	✓	
Prohibits fines and measures from requiring you to wear a mask.	✗	✓	
Prohibits anyone from asking you for any health information for any reason.	✗	✓	
History	Passed by Congress and signed into law by President Bill Clinton in 1996.	Invented by people on the Internet during the COVID-19 pandemic.	
Is it a real law?	✓	✗	✓




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Today's Agenda

- What is HIPAA
- Who is covered
- What rules apply
- Other laws implicated
- Penalties
- Best Practices



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What is HIPAA?

- Health Insurance Portability and Accountability Act
- Passed by Congress in 1996
- Privacy Rule
- Security Rule



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Who is Covered by HIPAA?

HIPAA applies to "Covered Entities"

- Health Plans
- Healthcare Providers
- Healthcare Clearinghouses



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## HIPAA Privacy Rule

### General Overview

- Addresses the permitted uses and disclosures of protected health information
- Goal: Protection of the individuals Protected Health Information (PHI) while allowing flow of information needed to provide health care



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## HIPAA Privacy Rule

### Protected Health Information

- Information about health status, provision of health care, or payment of health care services
- Includes:
  - Individual's medical condition
  - Medical diagnoses
  - Medical devices
  - Medical bills



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## HIPAA Privacy Rule

### Limitations on Disclosure of PHI

- Defines and limits the circumstances in which an individual's PHI may be used or disclosed by Covered Entities
- Covered Entities may use or disclose PHI:
  - As permitted by the Privacy Rule
  - When authorized in writing by the individual



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## HIPAA Privacy Rule

### Permitted Uses of PHI under the Rule

- Disclosure to the individual
- Treatment, payment, and health care operations
- Incidental use and disclosure



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## HIPAA Security Rule

### General Overview

- Requires appropriate administrative, physical, and technical safeguards to ensure the confidentiality, integrity, and security of electronic protected health information
- Goal: implementation of safeguards to protect at-risk electronic healthcare information; promotion of use of electronic health information while permitting appropriate access and use of that information



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## HIPAA Security Rule

### Requirements for Protection of PHI

- Requires covered entities to maintain reasonable and appropriate administrative, technical, and physical safeguards to protect ePHI
- Protects a subset of information covered by the Privacy Rule, which is all individually identifiable health information a covered entity creates, receives, maintains or transmits in electronic form
- Only applies to ePHI not PHI transmitted orally or in writing.



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## HIPAA Security Rule

Business Associates

- Those who provide services to Covered Entities involving use or disclosure of PHI.
- Covered Entities are required to obtain satisfactory assurances from its business associates that the business associate will safeguard the PHI it receives from the Covered Entity.
- Assurances must be in written format




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## HIPAA Security Rule

Business Associate Agreement

- Written agreement between Covered Entity and Business Associate
- Describes the permitted and required uses of PHI  
Set forth requirements that the Business Associate use safeguards to protect PHI
- Requires the Business Associate to report any security breaches to the Covered Entity




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## Employers & HIPAA

Application to Employers

- Misconception – HIPAA applies to employee health information
- Reality – HIPAA generally does not apply to employee health information maintained by the employer




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## Employers & HIPPA

HIPAA does not apply to:

- Doctor's notes required for return to work
- Employee supplied information for administration of FMLA
- Requests for ADA accommodations
- Worker's Compensation
- Wellness Programs
- OSHA Logs
- Drug Tests
- Fitness for Duty Exams
- Proof of Vaccination



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## Employers & HIPPA

While HIPAA does not apply, other laws do:

- Americans with Disabilities Act
  - Maintain as confidential
  - Confidential medical file
  - Separate from personnel file
  - Only disclose to supervisors and managers on need to know basis; first aid and safety personnel in emergency; government officials investigating compliance



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## Employers & HIPPA

HIPAA does apply to:

- Employer's request for health information from a covered entity
  - Even if the employee is a patient or member of the covered entity
  - Information cannot be shared with human resources, managers, etc.
  - Unless expressly authorized by employee



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## Penalties for Violations

Penalties are based on the level of perceived negligence:

- 1<sup>st</sup> Tier – \$100 to \$50,000 per incident up to \$1.5 million per year
- 2<sup>nd</sup> Tier – \$1,000 to \$50,000 per incident up to \$1.5 million per year
- 3<sup>rd</sup> Tier – \$10,000 to \$50,000 per incident up to \$1.5 million per year
- 4<sup>th</sup> Tier -- \$50,000 per incident up to \$1.5 million per year.

Subject to change annual. These are approximate ranges.



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## Best Practices

- Be familiar with HIPAA policy and practices
- Use PHI only for permitted uses
- Use the minimum amount of PHI necessary
- Follow established procedures and protocols for protection and security of PHI
- Train your staff
- Be aware of potential security breaches



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## Questions

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