

# The Joint Commission: Patient and Employee Confidentiality

## Patient and Employee Confidentiality

### Lesson Information

#### Abstract

Privacy and confidentiality are needed to build a trusting relationship with patients. As a healthcare worker, you must keep your patient's information private and confidential during his or her stay in your organization and after discharge.

This lesson describes key elements of the Health Insurance Portability and Accountability Act (HIPAA) addressing privacy and confidentiality rules about a patient's health information. The lesson also outlines how to protect employee privacy and confidentiality.

#### Learning Outcome

Achieving a passing score on the posttest demonstrates your ability to:

- Identify the purpose of the HIPAA Privacy Rule.
- Identify two ways that you can ensure patient privacy and confidentiality.
- Recognize two ways to ensure employee confidentiality.

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## Introduction

Privacy and confidentiality are needed to build a trusting relationship with patients. As a healthcare worker, you must keep patients' information private and confidential during their stay in your organization and after they are discharged.

This lesson describes key elements of the Health Insurance Portability and Accountability Act (HIPAA) addressing privacy and confidentiality rules about a patient's health information. The lesson also outlines how to protect employee privacy and confidentiality.



**Did You Know?**

Patients have the right to stop anyone who is not directly responsible for their care from observing their treatment.

## Learning Objectives

Upon completion of this lesson, you will be able to:

1. Identify the purpose of the HIPAA Privacy Rule.
2. Identify two ways that you can ensure patient privacy and confidentiality.
3. Recognize two ways to ensure employee confidentiality.

## Privacy and Confidentiality

The words privacy and confidentiality are often used to mean the same thing. However, there is a difference in the meaning of the two words:

- Privacy refers to a person's right to be free from interference by another person.
- Confidentiality relates to the protection of information.<sup>1</sup>

In the context of medical care, privacy means that no one has the right to interfere with a patient who is receiving care in a healthcare organization. Confidentiality in healthcare settings means that no one can view private healthcare information without a patient's permission.



**Did You Know?**

The law protects all citizens from unwanted invasion of their privacy. A patient's name or photograph cannot be used without the patient's permission, or consent. Using a patient's name or photograph without consent violates the right to privacy and can lead to legal action.<sup>2</sup>

## Quick Check: Privacy and Confidentiality

Select the correct answer and then click **Check Answer**.

### Question 1

Even if a patient does not give permission to use his or her photograph, the hospital's public relations department can use the photograph in advertising as long as the patient's name is not printed.

- True
- False

 Check Answer    Reset Choices   Next Question 

Question 1 of 1

**Tries Remaining: 1**

### ANSWER:

Select the correct answer and then click **Check Answer**.

### Question 1

Even if a patient does not give permission to use his or her photograph, the hospital's public relations department can use the photograph in advertising as long as the patient's name is not printed.

- True
- False

 Check Answer    Reset Choices   Next Question 

Question 1 of 1

**Tries Remaining: 0**

That's correct. It is a violation of privacy to use a patient's picture or name without permission.

## HIPAA and the Privacy Rule

The Department of Health and Human Services created Standards for Privacy of Individually Identifiable Health Information, or the Privacy Rule, as part of the Health Insurance Portability and Accountability Act (HIPAA) of 1996. (HIPAA is pronounced HIP-ah.) This law was passed to protect the use and release of a patient's health information.

Organizations that process health information, such as health insurers and medical billers, must obey HIPAA laws. Hospital staff must also obey HIPAA laws.<sup>3</sup>

## Protected Health Information

The HIPAA privacy and confidentiality laws apply to health information that can be shared verbally, in writing, or on a computer. Examples of a patient's health information include:

- Names
- Addresses
- Birth dates
- Social security numbers
- Information that is related to a past, present, or future physical or mental condition

HIPAA protects any information that can be used to identify a person. Do not share such information with anyone who is not directly caring for the patient.<sup>3</sup>



**Did You Know?**

The HIPAA rule does not restrict patient health information that has been de-identified. De-identifying is the process of removing information from a patient's medical record.<sup>3</sup>

## Securing Health Information

You play an important role in protecting patient rights. There are practices that can help you maintain privacy and confidentiality in your work setting.


Page 1 of 6

*Click the arrows to view examples of practices that help you maintain privacy and confidentiality.*

### Practices for Protecting Patient Confidentiality

Visitors and other healthcare workers may try to view patient information on a computer without permission.

- Computers require strict policies to ensure confidentiality. Be sure that information is only available to healthcare workers directly involved in the patient's care.
- Do not share your password with others.
- Never walk away from a computer screen showing patient information. Instead, you should log off or close any computer screens that show patient information when you leave your desk.<sup>4</sup>



Media Credit



*Click the arrows to view examples of practices that help you maintain privacy and confidentiality.*

### Practices for Protecting Patient Confidentiality

Store medical records in a safe and secure location in the hospital.



*Click the arrows to view examples of practices that help you maintain privacy and confidentiality.*

### Practices for Protecting Patient Confidentiality

Dispose of patient health information in appropriate bins so that it can be shredded.



*Click the arrows to view examples of practices that help you maintain privacy and confidentiality.*

### Practices for Protecting Patient Confidentiality

Follow your organization's policies and procedures for faxing and e-mailing confidential documents. Always double-check the fax number and e-mail address before sending confidential information.





*Click the arrows to view examples of practices that help you maintain privacy and confidentiality.*

### Practices for Protecting Patient Confidentiality

Never take medical records home with you.



*Click the arrows to view examples of practices that help you maintain privacy and confidentiality.*

### Practices for Protecting Patient Confidentiality

Hallways, elevators, cafeterias, and even your home are not proper places to discuss confidential patient information. If you hear others talking about a patient in a public area, remind them to keep such conversations private.



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## Sharing Need-to-Know Information

According to the HIPAA laws, your organization does not need to ask a patient's permission to use or release health information that is needed:

- For treatment
- To process payments
- To carry out general healthcare operations

Examples of general healthcare operations include activities such as tracking and reporting data for quality assurance or utilization review.

Only share a patient's medical or personal information with other healthcare workers on a need-to-know basis. This means that you can share health information with those who are directly involved in the care, treatment, or services given to a patient. When sharing information, use the precautions defined by your organization's policies and procedures to ensure a patient's privacy and confidentiality. You must even be careful when telling others about the admission or discharge of a patient.



Did You Know?

To encourage reporting and analysis of medical errors, The Patient Safety and Quality Improvement Act of 2005 provides Federal confidentiality protections for information collected and created during reporting and analysis of patient safety events.<sup>4</sup>

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## Quick Check: Sharing Need-to-Know Information

A woman dressed in work clothes and wearing a hospital badge picks up one of your patient's medical records and begins to read through it.

Select the correct answer and then click **Check Answer**.

### Question 1

At this point, there is no need to question the woman because it is okay for healthcare workers employed by your organization to review patient medical records.

- True
- False



Check Answer



Reset Choices

Next Question



Question 1 of 1



Review Case Scenario

**Tries Remaining: 1**

### ANSWER:

Select the correct answer and then click **Check Answer**.

### Question 1

At this point, there is no need to question the woman because it is okay for healthcare workers employed by your organization to review patient medical records.

- True
- ✓  False



Check Answer



Reset Choices

Next Question



Question 1 of 1



Review Case Scenario

**Tries Remaining: 0**

That's correct. A patient's health information should be shared with those involved in the case on a need-to-know basis only. You should question the woman about her need to read the document.



## Releasing Medical Information

If you need to give a patient's health information to individuals who are not directly involved in the patient's care, be sure to get written permission from the patient. If the patient cannot give you permission because of a mental or physical condition, get authorization from the patient's legal representative.<sup>2</sup>

A patient's family members and close friends, other than those who have legal authority to make decisions for a patient, cannot view the patient's information without written permission. Even minors who live in states, such as Virginia and Washington, have rights to privacy and confidentiality from their parents when they receive treatment for sexually transmitted diseases or desire to start birth control.<sup>5</sup> Make sure that you know what your state laws require for the release of health information to others.



**Did You Know?**

In an emergency or when a patient cannot give permission and does not have family to give permission for the release of medical information, an organization can use and release health information to protect the best interest of the patient.<sup>2</sup>

## Quick Check: Releasing Medical Information

A visitor stops you in the hallway and begins to ask you questions about the care of a patient, his wife. The visitor asks you to find out what laboratory tests have been ordered for his wife because he thinks she's dying.

Select the correct answer and then click **Check Answer**.

### Question 1

What should you do?

- Show the patient's medical records to her husband.
- Give the visitor the number to the laboratory department so that he can check with them directly.
- Tell the visitor which tests have been ordered for his wife, but do not tell him the test results.
- Tell the visitor to speak with the patient's nurse, but inform him that no one will share information with him without the patient's consent.



Check Answer



Reset Choices

Next Question >

Question 1 of 1



Review Case Scenario

**Tries Remaining: 2**

ANSWER:

Select the correct answer and then click **Check Answer**.

### Question 1

What should you do?

- Show the patient's medical records to her husband.
- Give the visitor the number to the laboratory department so that he can check with them directly.
- Tell the visitor which tests have been ordered for his wife, but do not tell him the test results.
- Tell the visitor to speak with the patient's nurse, but inform him that no one will share information with him without the patient's consent.

 Check Answer    Reset Choices   Next Question    Question 1 of 1    Review Case Scenario

**Tries Remaining: 1**

That's correct. You cannot share a patient's health information with anyone without written permission from the patient.

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## Mandatory Reporting: No Consent Required

In some instances, such as mandatory reporting, federal laws do not require patients' permission for release of their health information.

- For example, if patients or employees are exposed to communicable diseases, such as human immunodeficiency virus (HIV) or tuberculosis (TB), your organization does not need to obtain permission from an individual before giving health information to the state health department.
- Other examples of mandatory reporting include cases of abuse.<sup>5</sup>

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## Quick Check: Mandatory Reporting?

Select the correct answer and then click **Check Answer**.

**Question 1**

A hospital must obtain a patient's permission to release health information before it can give information to the state health department about the patient's exposure to tuberculosis.

- True
- False

 Check Answer    Reset Choices   Next Question 

Question 1 of 1  
**Tries Remaining: 1**

**ANSWER:**

Select the correct answer and then click **Check Answer**.

**Question 1**

A hospital must obtain a patient's permission to release health information before it can give information to the state health department about the patient's exposure to tuberculosis.

- True
- False

 Check Answer    Reset Choices   Next Question 

Question 1 of 1  
**Tries Remaining: 0**

That's correct. Federal law requires an organization to contact the state health department when patients are diagnosed with or have been exposed to tuberculosis. The organization does not need to obtain permission from the patient.

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## Dealing with the Media

Occasionally, you may be asked by members of the media about private and confidential patient information. If this happens, simply refer the person to your public affairs department or a similar department that deals with the media. Other tips for dealing with the media include<sup>6</sup>:

- Be prepared to be stern and direct with media personnel.
- To prevent violating the laws of privacy and confidentiality, you may answer, "No comment," to any of their questions.

- If a media representative refuses to leave your department or continues to question you and other staff, contact hospital security.
- Let your manager, the department of public affairs, and other healthcare workers know that you received a request for information about a patient so that they can prepare to deal with similar requests.

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## Giving Patients Access to their Health Information

Sometimes patients ask to see their medical records. According to HIPAA laws, patients have the right to<sup>7,8</sup>:

- View medical records containing their own information
- Obtain a copy of the records (including electronically)
- Request corrections to be made

If patients request to see their medical records, consult with risk management or your manager to find out what your state law and organizational policies and procedures are related to this matter. Most states allow patients to see their records but have certain limitations that safeguard confidentiality rules.

Even though information in the medical record is about the patient, the medical record itself belongs to your organization. Therefore, the patient cannot remove any of the contents of the record. However, the patient can request copies of the record. Follow your organization's policies and procedure for providing copies of medical records to patients.

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## Penalties for Noncompliance

Those who do not follow HIPAA laws can be penalized. [Civil penalties](#) and [criminal penalties](#) can be imposed on individuals who do not follow the HIPAA laws.

HIPAA laws set the minimum requirements for privacy and confidentiality across the country. However, if your state privacy laws, professional practice standards, or your organization's policies and procedures are stricter than the HIPAA laws, you must follow the stricter rules.

Penalties for Noncompliance		
Type of Noncompliance	Type of Penalty	Penalty
Organizations that violate HIPAA laws	Civil	<ul style="list-style-type: none"> <li>• \$100 per violation</li> <li>• Up to \$25,000 per calendar year</li> <li>• If the violation occurs and an organization is using reasonable means to protect a patient's health information and if actions to correct the problem are started within 30 days of the violation, no civil penalties are filed.<sup>2</sup></li> </ul>

A healthcare worker who purposely shares or releases a patient's health information in violation of the HIPAA laws	Criminal	<ul style="list-style-type: none"> <li>• \$50,000</li> <li>• Up to 1 year in prison</li> </ul>
Individuals who sell, transfer, or use a patient's health information to harm a patient or for personal gain	Criminal	<ul style="list-style-type: none"> <li>• Fines up to \$250,000</li> <li>• 10 years in prison<sup>2</sup></li> </ul>
Note if the wrongful conduct involves false pretenses, criminal penalties can be \$100,000 and up to 5 years imprisonment. <sup>5</sup>		
Noncompliant organizations may be penalized at maximum of \$1.5 million per violation based on the level of negligence. <sup>8</sup>		



Did You Know?

The Health Information Technology for Economic and Clinical Health (HITECH) Act enacted as part of the American Recovery and Reinvestment Act of 2009 significantly increased penalty amounts for violations of HIPAA rules and encourage prompt corrective action.<sup>10</sup>

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## Quick Check: Penalties for Noncompliance

Select the correct answer then click **Check Answer**.

### Question 1

Healthcare workers who violate privacy and confidentiality laws by selling a patient's personal information to another person or organization are subject to receiving what type of penalties?

- Criminal penalties of up to \$5,000 and 2 years in prison
- Criminal penalties of up to \$50,000 and 6 years in prison
- Criminal penalties of up to \$150,000 and 8 years in prison
- Criminal penalties of up to \$250,00 and 10 years in prison

Check Answer   Reset Choices   Next Question

Question 1 of 1  
Tries Remaining: 2

ANSWER:

Select the correct answer then click **Check Answer**.

### Question 1

Healthcare workers who violate privacy and confidentiality laws by selling a patient's personal information to another person or organization are subject to receiving what type of penalties?

- Criminal penalties of up to \$5,000 and 2 years in prison
- Criminal penalties of up to \$50,000 and 6 years in prison
- Criminal penalties of up to \$150,000 and 8 years in prison
- ✓  Criminal penalties of up to \$250,00 and 10 years in prison

 Check Answer    Reset Choices   Next Question 

Question 1 of 1


**Tries Remaining:** 1

That's correct. Individuals who willfully violate the privacy and confidentiality laws will be prosecuted by the Department of Justice receiving penalties of up to \$250,000 and 10 years in prison.

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## Employee Confidentiality


Hospital employees are also entitled to confidentiality. Employees have the right to strict confidentiality of all personal and employment information, including employee records. Employee information should be secured and carefully maintained at all times.<sup>9</sup>

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*Click the arrows to view practices that can help ensure confidentiality of employee information.*

### Protecting Employee Confidentiality

Follow the guidelines of your organization's human resources department for giving references about current or former employees to others over the telephone.





*Click the arrows to view practices that can help ensure confidentiality of employee information.*

### Protecting Employee Confidentiality

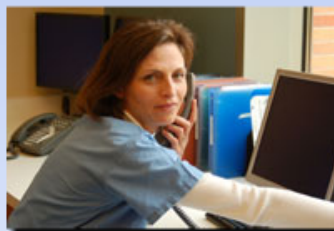
Provide minimal information about employees when asked to do so by the human resources department or your manager. In most organizations, you can only give information about an individual's employment status, such as job title and date of employment. Avoid answering any other questions about employees.



*Click the arrows to view practices that can help ensure confidentiality of employee information.*

### Protecting Employee Confidentiality

Refuse to give employee information to attorneys, private agencies, or any other individuals without the employee's permission.



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## Quick Check: Employee Confidentiality

You help answer the phone at the nurses' station on your unit. A credit card company is on the phone saying that Nancy, your co-worker, is applying for a credit card and they want to verify some information.

Select the correct answer and then click **Check Answer**.

### Question 1

What should you do?

- Provide them with the information because Nancy is a co-worker.
- Transfer the call to the human resources department.
- Report the credit card company to the Better Business Bureau for inappropriateness.
- Tell the person that you will call them back later when you have more time to talk.



Check Answer



Reset Choices

Next Question



Question 1 of 1



Review Case Scenario

**Tries Remaining: 2**

### ANSWER:

Select the correct answer and then click **Check Answer**.

### Question 1

What should you do?

- Provide them with the information because Nancy is a co-worker.
- Transfer the call to the human resources department.
- Report the credit card company to the Better Business Bureau for inappropriateness.
- Tell the person that you will call them back later when you have more time to talk.



Check Answer



Reset Choices

Next Question



Question 1 of 1



Review Case Scenario

**Tries Remaining: 1**

That's correct. The human resources department can best handle this type of call to avoid breaking confidentiality rules.

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## Summary

HIPAA laws require that healthcare organizations, such as hospitals and clinics, set policies and procedures to prevent use or release of health information. Your organization is also required to provide education to you about its privacy and confidentiality policies and procedures. Make sure that you read and understand your organization's policies to prevent accidentally breaking these important rules.

Ensuring privacy and confidentiality is important when building a trusting relationship with patients whom you serve. Therefore:



- Never discuss a patient's health information with anyone who does not have permission to know it.
- Don't discuss patient information in public areas, such as the hallway and cafeteria.
- If you are unsure about what information you can give, contact your supervisor or manager before giving information to others.

Employees, like patients, have the right to privacy and confidentiality of their employment information. If you receive a call about the employment status of another employee, transfer the call to one of your human resources personnel.

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## Resources

None

## Glossary

**Civil penalties:** Fines imposed by the government to enforce regulations or laws.

**Criminal penalties:** Penalties given when breaking the law causes injury to the public or a member of the public. These penalties include a term in jail or prison and possibly a fine.



## General Instructions for Taking Tests

You have chosen to begin the test on:

### **The Joint Commission: Patient and Employee Confidentiality**

There are 10 questions in this test. Be sure you have enough time to complete all questions before you continue. If you exit the test before clicking 'Complete the Test,' your answers to the questions will not be saved. If you leave some questions blank and click, 'Complete the Test,' any unanswered questions will be scored as incorrect.

Tests may include case studies, true/false, and multiple choice questions, including single or multiple answer. Your test score is the percentage of questions answered correctly out of the total.

If you are ready to begin, click **Take Test** in the menu bar above.

You have the option to take this test later. If you would rather take this test later, click **Personal Page** in the menu bar above to return to your list of assigned lessons.

After you achieve a passing score for this test, please click **Evaluation** to complete and submit an evaluation of the activity.

## Post test – Patient and Employee Confidentiality

1. What is a possible consequence for healthcare organizations that break patient privacy and confidentiality laws?
  - A. Civil penalties of \$100 per violation up to \$25,000 per year
  - B. Criminal penalties of life in prison for the chief executive officer
  - C. Loss of license and closure of the organization
  - D. Loss of Medicare funding
  
2. Which statement best describes the purpose of HIPAA's Privacy Rule?
  - A. It allows healthcare workers to view information about patients within the hospital.
  - B. It provides maximum insurance reimbursement to hospitals that follow the law.
  - C. It prevents patient information from being shared among facilities that are involved in a patient's care.
  - D. It protects the privacy and confidentiality of a patient's health information.
  
3. Who is permitted to view the medical information about a hospital employee who is receiving care on your unit?
  - A. The employee's manager
  - B. The employee's co-workers
  - C. The staff involved in direct care of the employee
  - D. Anyone who works in the hospital
  
4. Which statement best defines patient confidentiality?
  - A. The right of media personnel to interfere with the care of a patient
  - B. The protection of patient health information
  - C. The permission that is needed to release information
  - D. The requirement to report anyone who has a communicable disease
  
5. What should the front desk attendant do when a visitor to the healthcare organization asks for the address of an employee?
  - A. Verify that the person is employed with the organization, and then show the visitor how to get to the employee's work area.
  - B. Contact the security department because the visitor may harm the employee.
  - C. Tell the visitor that he should contact someone in the human resources department and provide the department's telephone number.
  - D. Contact the employee's manager so that the visitor can speak with him or her.

6. You are assigned to care for a patient who is a famous movie star. Your friend who works in the radiology department hears about this and calls you to ask why the movie star has been admitted.
- What should you do?
- A. Ask the nurse caring for the movie star about the patient's diagnosis.
  - B. Look up the diagnosis in the patient's medical record.
  - C. Walk into the patient's room and question him or her about the reason for admission.
  - D. Tell your friend that it would be a violation of the law to discuss the patient's case with her.
7. Employee information that should be kept confidential includes both personal and employment information.
- A. True
  - B. False
8. What is the key reason for healthcare workers to ensure patient privacy and confidentiality?
- A. To build and maintain patient trust
  - B. To avoid lawsuits
  - C. To decrease patient satisfaction
  - D. To improve healthcare outcomes
9. Whom can an adult patient's healthcare or personal information be released to without the patient's consent?
- A. To a member of the family
  - B. To the hospital quality assurance team
  - C. To the media
  - D. To any healthcare worker employed by the hospital
10. What action should you take when a patient and his family member ask to review his electronic medical record because the patient wants to find out more about his medical condition?
- A. Show the patient his medical record and allow him to make edits to the record.
  - B. Allow the patient's family member to review the record before giving it to the patient.
  - C. Tell the patient that he is not allowed to review his medical record.
  - D. Discuss the request with your manager to make sure that you follow hospital policies and procedures.