

HIPAA and Healing Touch

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The following is a brief explanation of HIPAA, what it is, what it does and who must comply. This is applicable to United States practitioners only. Other laws may apply in different countries.

What is HIPAA?

HIPAA stands for the Health Insurance Portability and Accountability Act of 1996 and has two main purposes:

1. It helps people obtain health insurance when they start a new job, keep health insurance if a job is lost, and transfer health insurance when jobs are changed. This is the portability part of the law.
2. It creates rules about how to store, move, and disclose health information so that it is kept private and accurate. This is the accountability part of the law.

In addition, the U.S. Department of Health and Human Services (HHS) issued the Privacy Rule to implement the requirements of HIPAA.

A major goal of the Privacy Rule is to assure that individuals' health information is properly protected while allowing the flow of health information needed to provide and promote high quality health care and to protect the public's health and wellbeing. The Rule strikes a balance that permits important uses of information, while protecting the privacy of people who seek care and healing.

Are you, your business or the agency you work for a covered entity?

To decide, ask yourself the following questions:

1. Do you, your business, or the agency you work for, furnish, bill, or receive payment for, healthcare in the normal course of business?
2. If the answer is yes – do you, your business, or the agency conduct covered transactions? (Transactions include claims, benefit eligibility inquiries, referral authorization requests, a request to obtain payment from a health plan, and transmission of encounter information for continued health care.)
3. If the answer is no - STOP! The person, business, or agency is not a covered entity.
4. If the answer is yes, - Are any of the covered transactions transmitted in electronic form?
5. If yes – STOP! You, your business, or the agency is a covered entity.

How does HIPAA relate to the Healing Touch Program and the sharing of information between mentors and mentees?

Few, if any, Healing Touch Practitioners with a private practice would be classified as a covered entity. The practitioner would have to make one of the above listed transactions in electronic form before falling under the HIPAA guidelines. If the practitioner were employed by a clinic or hospital that is covered, then s/he would follow the appropriate guidelines for a covered entity.

The Privacy Rule states that a covered entity can use or disclose Protected Health Information (PHI) for certain healthcare operations that include case management; training programs; accreditation and credentialing, and fraud and abuse compliance.

If a Healing Touch Practitioner does work for an entity that is covered by HIPAA, it is important to know that the individual (client) has the right to receive an accounting of disclosures of their PHI – the date of the disclosure, the person to whom the disclosure was made, a description of the PHI that was disclosed, and a statement of the purpose of the disclosure.

In other words, if asked by the client, the practitioner would have to disclose what charting notes were disclosed, when they were disclosed, to whom they were disclosed and the reason for the disclosure.

Who must comply with the HIPAA privacy standards?

The Privacy Rule, as well as all the Administrative Simplification rules, applies to health plans, healthcare clearinghouses, and to any healthcare provider who transmits health information in electronic form.

The Privacy Rule covers a health care provider whether these transactions are electronically transmitted directly or a billing service or other third party does so on its behalf.

Using electronic technology, such as email, does not mean a healthcare provider is a covered entity; the transmission must be in compliance with a standard transaction.

What does “in electronic form” mean?

In electronic form means: using electronic media, electronic storage media including memory devices in computers (hard drives) and any removable/ transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or transmission media used to exchange information already in electronic storage media.

Transmission media includes, for example, the internet (wide-open), extranet (using Internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media.

Certain transmissions, including paper, via facsimile, and voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission.

When can a covered entity use (i.e., for internal use) or disclose (i.e., for external disclosure) health information?

Covered entities can only use or disclose Protected Health Information (PHI) as follows:

- When the disclosure is to the individual
- For treatment, payment, or healthcare operations
- For the treatment activities of a healthcare provider

If you are a covered entity under HIPAA, you are required by law to give each client a copy of the NOTICE OF PRIVACY PRACTICES at the time of her/his first visit. It is important to plan enough time for the client to read and sign the form before the Healing Touch session begins. Keep the signed copy in the patient's file.

References: United States Department of Health and Human Services, Office of Civil Right Privacy Brief – Summary of the HIPAA Privacy Rule

Bio: Sharon Myrah has been a Healing Touch Certified Practitioner since 1996 and an Instructor since 1998. Combining her Healing Touch career with her 30-year career as a records administrator at a health center in Fort Collins, Colorado, she has been actively involved with HIPAA since 2001. After extensive training, she became the internal Privacy Officer and spent months writing the HIPAA Policy and Procedure Manual for the center.