HIPAA Training for EMS Personnel

DAB Client Support Services
Version 4.1

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Presentation Outline

- Overview of HIPAA
- Components of HIPAA
- HIPAA Case Example
- FAQ Review and Summary
Overview of HIPAA
Overview of HIPAA

• What is HIPAA and Why is it Needed?
  • “HIPAA” stands for the Health Insurance Portability and Accountability Act of 1996
  • HIPAA was passed in the early 1990s to regulate unscrupulous policy and privacy practices of HMOs
  • HIPAA created *privacy practices standards* that healthcare workers must follow
Overview of HIPAA

- What is HIPAA and Why is it Needed?
  - HIPAA provided patients with legal rights and a voice in how healthcare organizations use protected health information (PHI)
  - Other areas of HIPAA include "security requirements" for computer storage and transmission of healthcare data along with insurance claim "transaction requirements"
Overview of HIPAA

• Who Must Comply With HIPAA?
  ▪ Healthcare organizations that charge for services including EMS agencies, Fire Departments, Volunteer Rescue Squads and all personnel who work or volunteer for such organizations
  ▪ Companies and individuals acting on behalf of such organizations, more commonly called “Business Associates”
Overview of HIPAA

- How Does HIPAA Impact EMS?
  - HIPAA regulations affect how EMS personnel use and transfer patient information
  - HIPAA requires EMS agencies to appoint a “Compliance Officer” and create HIPAA policy for the organization to follow
  - HIPAA mandates training for EMS personnel and administrative support staff
Overview of HIPAA

- How Does HIPAA Impact EMS?
  - EMS agencies and personnel must follow HIPAA regulations during patient contact situations, when transferring patient information and for administrative functions.
  - EMS agencies must follow HIPAA regulations in retaining, managing and releasing patient information and records.
Overview of HIPAA

- How Does HIPAA Impact EMS?
  - EMS agencies must follow HIPAA regulations by notifying patients of their HIPAA rights shortly after time of service and must request that each patient sign a statement acknowledging such a notice.
Overview of HIPAA

- **Civil penalties for HIPAA violations include fines**
  - acted without knowing what you were doing was wrong

- **Criminal penalties for HIPAA violations include fines and jail**
  - acted knowing what you were doing is wrong and tried to get profit from it

- **Penalty enforcement targets the healthcare provider AND the organization**
Components of HIPAA
Components of HIPAA

- **Using PHI – Definitions**
  - HIPAA regulations create a "protected health information" (PHI) standard that must be used by EMS agencies and personnel
  - PHI can be defined as any medical information concerning a patient identified by "patient name, identification number or other means of identification"
Components of HIPAA

• **Using PHI – Definitions**
  - Because EMS agencies operate in a *field setting*, HIPAA uses a standard of “*reasonableness*” to address privacy and PHI
  - Generally, patient privacy and PHI become an issue when a patient is *loaded in an ambulance and access to the patient can be controlled*
Components of HIPAA

- **Using** PHI – Definitions
  - EMS personnel need to focus on information requests going *out*, **not** coming *in*, and who is making the request

  - Generally, other public safety agencies that do **not** charge for services are **not** covered by HIPAA. These include *911 centers, fire departments and law enforcement*
Components of HIPAA

- **Using PHI** – Basic Rules

  - PHI may *only* be shared for “treatment, payment or operational needs” of EMS agencies. Most other uses require written consent and authorization by the patient.

  - A “minimum necessary information requirement” is standard for all use of PHI outside of treatment.
Components of HIPAA

• **Using** PHI – Basic Rules
  - **Treatment** includes sharing PHI between first responders, EMS personnel, hospitals, ED staffs, pharmacies and other in-kind parties by *voice, paper, electronic or telecommunication means*
  - **Payment** includes sharing PHI between EMS agencies, billing companies, and guarantors
Components of HIPAA

- **Using PHI** – Basic Rules
  - Healthcare Operations includes sharing PHI between EMS personnel, supervisors, quality control personnel, managers, planners, medical control physicians, other administrative personnel and for other EMS operational functions including training, case reviews and CISD meetings.
Components of HIPAA

- **Using** PHI – Basic Rules

  - If PHI needs to be shared with other public safety organizations, government agencies or other officials in operational settings, such requests **must be directly related to a justifiable “need” as permitted by HIPAA regulations**
Components of HIPAA

- **Using** PHI – Basic Rules

- **Valid** requests for PHI include:
  
  **Mandated Requirements of Law**
  
  **Public Health Activities**
  
  **Abuse/Domestic Situations**
  
  **Health Oversight Activities**
  
  **Judicial & Administrative**
  
  **Law Enforcement Activities**
Components of HIPAA

- **Using** PHI – Basic Rules
  - **Valid** requests (continued)...
    - Deceased Patients
    - Tissue Donation Patients
    - Research Purposes
    - Threat to Public Safety
    - Specialized Government Functions
    - Workers Compensation
Components of HIPAA

- **Using** PHI – Basic Rules
  - Valid requests (continued)...

*Law Enforcement Activities*

- Process / Covered by Law
- Identification and Location
- Victims of Crime
- Deceased Patients
- Crime on Premises
- Reporting Crime
Components of HIPAA

- **Using PHI – Basic Rules**
  - Generally, “valid” requests for PHI from other public safety agencies may only be granted keeping “the best interests of the patient” in mind.
  - In many cases, EMS personnel must use “professional judgment” in granting such requests.
Components of HIPAA

• **Using PHI** – Basic Rules

  - PHI **must** remain confidential for all other requests unless “prior authorization” is obtained from the patient. This means that *PHI cannot be released without the written consent of the patient*.
Components of HIPAA

- **Using PHI** – Family or Friends
  - One exception is information requests from “family, friends or other individuals involved in care or payment arrangements for the patient”
  - EMS personnel can grant limited requests with the approval of the patient or by using “professional judgment” when the patient is incapacitated
Components of HIPAA

- **Using** PHI – 4 Step Decision Method

1. Is information coming **in** or going **out**?
2. Who is making the PHI request and for what reason?
3. Does the reason fall within **treatment**, **payment** or **operational** requirements?
4. If **not**, is the reason **valid** and **appropriate**?
Components of HIPAA

- **Using PHI** – NPP Notification Process
  - HIPAA regulations give patients specific rights concerning PHI and how it is used
  - A "notice of privacy practices" (NPP) including patient rights must be provided to each patient at time of service or as soon as possible after
Components of HIPAA

- **Managing PHI – Records**
  
  HIPAA regulations require that patient care reports (PCRs) be stored using appropriate “physical safeguards” – such storage must include “limited access” requirements for EMS personnel or other individuals not authorized to view healthcare records.
Components of HIPAA

• **Managing** PHI – Records

  - EMS agencies using *electronic* PCRs (E-PCRs) must also meet the HIPAA security standard for electronic PHI – this standard includes the use of appropriate electronic safeguards along with the correct use of user identification, passwords and security protocols by EMS personnel
Components of HIPAA

- **Managing PHI – Records**
  - Release of patient records for appropriate purposes must be managed through the use of request forms and EMS agency policy
  - “General” record release policies without administrative review are **not** recommended
Components of HIPAA

- **Managing PHI – Records**
  - Facsimile transmission of PCRs must be to “dedicated” medical record FAX machines if unattended – **ALL** PCR faxes should use cover sheets with verification statements
  - E-mailing E-PCRs or PHI references requires use of HIPAA regulated PHI security standards
Components of HIPAA

• **Managing** PHI – Records
  
  ▪ All patient requests or complaints must be made in writing to the EMS agency HIPAA officer – the EMS agency must also respond to requests or complaints in writing
  
  ▪ A number of other issues impact EMS and HIPAA – Google the following:

  2006 45 CFR 164.500

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HIPAA Case Example
HIPAA Case Example

- Incident Scenario
  - Patient was walking across intersection when he was struck by SUV at high rate of speed. SUV was involved in an MVA prior to striking patient
  - EMS, Fire, Police and State Police all respond to incident
HIPAA Case Example

- Description of Patient
  - Patient was auto/pedestrian struck by SUV during roll over, obvious multiple trauma
  - Patient is unconscious but breathing. Injuries include open fractures, lacerations, burns and deteriorating vitals
HIPAA Case Example

• First Response
  ▪ Fire Department arrives at incident scene, followed by Police. Multiple bystanders at incident scene assisting patient. Fire first responders begin assessment of patient in front of bystanders and Police.

*Did a HIPAA violation occur?*
HIPAA Case Example

- First Response

Did a HIPAA violation occur?

- **No** – First responders needed to treat the patient in the environment found, no “reasonable” measures could be taken to assure privacy. First responders might **not** be covered by HIPAA.
HIPAA Case Example

- Ambulance On-Scene
  - Your ambulance arrives at the incident scene, the crew gathers equipment and goes to the side of the patient. The first responders give a report to the AIC that bystanders and the Police hear. The AIC questions bystanders about the accident.

Did a HIPAA violation occur?
HIPAA Case Example

- Ambulance On-Scene

Did a HIPAA violation occur?

- **No** – First responders needed to give your crew a report and the AIC needed to gather more information. Again, no “reasonable” measures could be taken to assure privacy given the nature of the incident and the resources available.
HIPAA Case Example

• Back of Ambulance
  - Your crew loads the patient and begins working on him. A few minutes later a firefighter brings over a priest who says he knows the patient. The priest asks questions about the condition of the patient and then asks if he will die.

*Is this a HIPAA issue?*
HIPAA Case Example

- Back of Ambulance

Is this a HIPAA issue?

- **YES** – The information request means PHI would be given **out**. The relationship between the priest and the patient in this case needs verification. Proceed with caution, minimum necessary information requirement **in place**.
HIPAA Case Example

• Back of Ambulance
  ▪ A few minutes later the Police bring an obviously upset woman to the truck who they identify as the patient’s mother. She wants to know if her son will live and what condition he is in.

*Is this a HIPAA issue?*
HIPAA Case Example

- Back of Ambulance

Is this a HIPAA issue?

**YES –** The information request means PHI would be given **out**. The Police have established the relationship between the patient and the person requesting information. Proceed with compassion, minimum necessary information requirement in place.
HIPAA Case Example

- During Transport
  - The patient is packaged and your unit leaves the incident scene transporting to the hospital. A radio report is given to Medical Control with PHI exchanged.

*Is this a HIPAA issue?*
HIPAA Case Example

- During Transport

Is this a HIPAA issue?

- **NO and YES** – PHI is given **out**, but radio reports generally do **not** identify the patient unless required. Consider a cell phone if patient identification needed. Multiple patient scenarios do not change methods.
HIPAA Case Example

• At the Hospital
  ▪ Your unit arrives at the hospital and the patient is turned over to the hospital staff. As the AIC is writing up the PCR, a crew member from another ambulance reads what the AIC wrote and says “WOW, that was a bad one, huh?”

*Did a HIPAA violation occur?*
HIPAA Case Example

• At the Hospital

Did a HIPAA Violation Occur?

- **YES** – Only crew members directly involved with the call, supervisors or other administrative personnel should be reading PCRs. Members not involved with the call should **not** be looking at PCRs and reading PHI.
HIPAA Case Example

- **At the Hospital**

  As your unit prepares to leave the hospital, a local TV news crew approaches with camera running and asks if you can describe what happened. Before you can stop him, a new member tells the news crew the name of the patient and his condition.

  Did a HIPAA violation occur?
HIPAA Case Example

- At the Hospital

Did a HIPAA Violation Occur?

- **YES** – Only limited information can be released concerning incidents, patients and patient condition. An agency Public Information Officer (PIO) should be tasked with this responsibility.
HIPAA Case Example

- LEA Issues

  Police officers on the scene and at the hospital requested certain information including patient identity and condition. They are requesting this information as part of a potential fatality investigation.

  *Is it a HIPAA violation to provide this information?*
HIPAA Case Example

- LEA Issues

Is it a HIPAA violation to provide this information?

- NO – In the case of a potentially fatal motor vehicle accident, providing the Police with certain information for investigation activity is appropriate. This information is limited by the “minimum necessary information requirement.”
HIPAA Case Example

• After the Call
  § Several weeks go by during which the patient remains in a coma. You are contacted at the station by the “patient’s attorney” who wants to talk to you about the incident and the patient’s injuries.

Is it a HIPAA violation to speak with this individual?
HIPAA Case Example

• After the Call

Is it a HIPAA violation to speak with this individual?

- POSSIBLY – Confirming the identity and authorization of patient representatives is an administrative function. Speaking to attorneys is best handled by subpoena to deposition or trial.
FAQ and Form Review

- HIPAA HO FAQ Review
- HIPAA Quick Reference Guide
Review of Key Points
Key Points

• Understand the concept of PHI and follow the rules.

• Know when “minimum necessary requirements” should be used.

• Respect the privacy of patients.

• Act in the best interest of patients.
Questions and ............... Answers?