

When May I Disclose Patient Information Under HIPAA?

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No one wants their medical records displayed for all to see, and for good reason. Our medical records contain some of the most private information an individual has recorded about them. For this reason, the Health Insurance Portability and Accountability Act of 1996, commonly known as HIPAA, was passed by the Legislature to control when disclosures of individually identifiable health information may be disclosed. In some instances intuition is enough to guess when it is okay to disclose patient medical information. Clearly if an adult presents him or herself in your medical practice and requests their medical record you are expected to produce that individual's medical record so long as that person has proper identification.

In many instances, a request for a patient's medical record is not as clear cut as the above scenario and you may be left without guidance on whether disclosing patient information is appropriate. Below is an overview of when, under HIPAA, **relevant** disclosures may be made in person, over the phone or in writing to a patient's family, friends or others involved in a patient's care or payment of care.

Patient Status	Family Member or Friend	Other Persons
Patient is present with capacity to make healthcare decisions	Practitioner may disclose relevant information if practitioner: <ol style="list-style-type: none"> 1. obtains patient consent, 2. gives patient an opportunity to object and patient doesn't, or 3. decides from the circumstances on professional judgment that patient doesn't object. 	Practitioner may disclose relevant information if practitioner: <ol style="list-style-type: none"> 1. obtains patient consent, 2. gives patient an opportunity to object and patient doesn't, or 3. decides from the circumstances on professional judgment that patient doesn't object.
Patient is not present or is incapacitated (as defined by law)	Practitioner may disclose relevant information if, based on professional judgment , the disclosure is in the patient's best interest. Practitioner may use professional judgment and experience to decide if it is in the patient's best interest to allow someone to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of health information for the patient.	Practitioner may disclose relevant information if the practitioner is reasonably sure that the patient has involved the person in the patient's care and in his or her professional judgment , the practitioner believes the disclosure to be in the patient's best interest. Practitioner may use professional judgment and experience to decide if it is in the patient's best interest to allow someone to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of health information for the patient.

The above chart is not by any means an exhaustive list of allowable disclosures of patient health information, however, in many instances whether a disclosure of patient health information is allowable is not a clear cut and is a judgment call on the part of the practitioner treating the patient. The best way to approach such situations is with caution and care, and in some circumstances seeking counsel of an experienced healthcare attorney is advisable.

For additional information on HIPAA and allowable patient information disclosures feel free to contact Jennifer Kirschenbaum at (516) 747-6700.