

What is Protected Health Information?

Protected Health Information, often referred to as PHI, is a concept applicable to the HIPAA Privacy, Security, Breach Notification, and Enforcement Rules. PHI is individually identifiable health information, which means that it is health information that can be linked to a specific person. Health information is any information relating to:

- An individual's past, present, or future physician or mental health condition;
- The provision of health care to an individual;
- The past, present, or future payment for the provision of health care to an individual.

Information is individually identifiable when it explicitly references an individual, or when it includes information that could reasonably be expected to permit individual identification (such as an address or telephone number).

The opposite of PHI is de-identified health information, which is information that provides no reasonable basis on which an individual could be identified. HIPAA restricts the use and disclosure of PHI, but places no restrictions on the use or disclosure of de-identified health information.

Who is subject to HIPAA Restrictions on PHI?

Only covered entities and business associates are subject to HIPAA's rules on PHI. Covered entities are:

- Health plans;
- Health care clearinghouses; and
- Health care providers who transmit health information electronically

Business associates are certain entities that have access to or use PHI in the course of providing services or products to or on behalf of a covered entity. No other entities are subject to HIPAA, even those who may handle PHI; however, other laws that protect patient privacy may be applicable to these entities (e.g., employers).

How does HIPAA protect PHI?

The HIPAA Privacy Rule governs how and when PHI can be disclosed. These rules apply to all forms of PHI – written, verbal, stored on paper or electronically. The rules do not apply to employment records maintained by a covered entity as an employer or to education records subject to the Family Educational Rights and Privacy Act (FERPA). The HIPAA Security Rule establishes safeguards to protect PHI that is stored or transmitted electronically.

There are many reasons that PHI can be disclosed, including:

- For purposes of treatment or payment
- For public health activities, such as reporting a communicable disease
- With a patient's authorization
- When required by law, such as when ordered by a court

Patients have specific rights under HIPAA, including:

- To amend one's own PHI
- To know who has been given access to PHI
- To revoke an authorization granting access to PHI

For more information on state and federal laws related to privacy, see www.healthinfolaw.org/topics/63.

For more information about HIPAA, see www.healthinfolaw.org/federal-law/HIPAA.

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