

Confidentiality

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Introduction

Purpose

Use this section to

- determine what information and which records should be treated with confidentiality;
- identify state policy for maintaining patient confidentiality;
- take measures to assure TB patients' confidentiality;
- determine when it is permissible to share information for public health reasons.

The protection of private patient information is commonly referred to as confidentiality. Confidentiality involves the protection of information revealed during patient-healthcare worker encounters, including all written or electronic records of these encounters. Confidentiality is an essential issue in many different aspects of tuberculosis (TB) control. Healthcare workers need to be aware of confidentiality issues that are relevant to patient-healthcare worker encounters, as well as to the collection, management, and sharing of information gathered on TB patients.¹

Guidance

Healthcare workers should keep patient information in confidence and only divulge it with the permission of the patient except as otherwise required by law.²



For roles and responsibilities, refer to the “Roles, Responsibilities, and Contact Information” topic in the Introduction.

Health Insurance Portability and Accountability Act (HIPAA)

Confidentiality of patient information has long been a requirement in the healthcare field and now has its own set of regulations, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. The new regulations protect the privacy of certain individually identifiable health data, referred to as protected health information (PHI). PHI is individually identifiable health information that is transmitted or maintained in any form or medium (e.g., electronic, paper, or oral), but excludes certain educational and employment records.

Centers for Disease Control and Prevention Guidance on HIPAA

The Centers for Disease Control and Prevention (CDC) published the report, “HIPAA Privacy Rule and Public Health: Guidance from CDC and the U.S. Department of Health and Human Services” (*MMWR* 2003;52 [S-2]:1–12 at <http://www.cdc.gov/mmwr/preview/mmwrhtml/su5201a1.htm>), to provide guidance in implementing the HIPAA requirements. In this report, the U.S. Department of Health and Human Services (DHHS) recognized the importance of sharing PHI to accomplish essential public health objectives and to meet certain other societal needs (e.g., administration of justice and law enforcement).

Covered entities—which are health plans, healthcare clearinghouses, and healthcare providers who transmit health information in electronic form in connection with certain transactions—are permitted by the Privacy Rule to do the following:

- Share PHI for specified public health purposes. For example, covered entities may disclose PHI, without individual authorization, to a public health authority legally authorized to collect or receive the information for the purpose of preventing or controlling disease, injury, or disability.
- Make disclosures that are required by other laws, including laws that require disclosures for public health purposes.³

Idaho HIPAA Policies

- Healthcare workers now follow HIPAA if they are subject to it. The Department of Health and Welfare follows the Government Healthcare Information Act as far as public health report disclosures at the state and local level.
- The Idaho Department of Health and Welfare has determined that the Department is a HIPAA-covered entity. As defined by HIPAA, covered entities are health plans, health-care clearinghouses and health-care providers.⁴ While a public health entity does fall under this category, it is also exempted in situations when federal, state, tribal or local laws require disclosure of protected health information (PHI).⁵ This helps ensure patient privacy while still allowing the sharing of protected health information to accomplish essential public health functions.

National Guidelines

The following guidelines for protecting tuberculosis (TB) patients' confidentiality are adapted from the National Tuberculosis Controllers Association's (NTCA's) and Centers for Disease Control and Prevention's (CDC's) "Guidelines for the Investigation of Contacts of Persons with Infectious Tuberculosis: Recommendations from the National Tuberculosis Controllers Association and CDC" (*MMWR* 2005;54[No. RR-15]).

TABLE 1: HOW TO PROTECT CONFIDENTIALITY

Conducting All Activities	<ul style="list-style-type: none"> ▪ Make every attempt to ensure patient confidentiality.
Training	<ul style="list-style-type: none"> ▪ Participate in training on maintaining confidentiality and obtaining informed consent in accordance with local/state laws.
Interviewing Patients	<ul style="list-style-type: none"> ▪ Interview the tuberculosis (TB) patient in a private setting. ▪ Inform the patient about confidentiality rights. ▪ Explain to a human immunodeficiency virus (HIV)-infected patient that HIV status will be kept confidential. ▪ Consult with the patient to identify boundaries for confidentiality and obtain oral consent for any breaches in confidentiality. ▪ If written consent is required, present the consent form to the patient, and retain a copy in the patient's medical record. If consent is refused, the TB program should develop a plan of action.
Conducting Site Investigations	<ul style="list-style-type: none"> ▪ Plan site investigation procedures in advance of any visit, in consultation with and with the consent of the index patient if possible. ▪ Obtain agreement to maintain confidentiality from any site personnel who receive information about the identity of the index patient.
Communicating with the Press	<ul style="list-style-type: none"> ▪ Maintain confidentiality in communications with the press.
Breaching Confidentiality	<ul style="list-style-type: none"> ▪ Breach confidentiality only with approval of TB program administrators and with the consent of the TB patient when possible.

Resources and References

Resources

(For easy access to references, hyperlinks are provided for online references in the list below.)

- CDC. “HIPAA Privacy Rule and Public Health: Guidance from CDC and the U.S. Department of Health and Human Services” (*MMWR* 2003;52[S-2]) at <http://www.cdc.gov/mmwr/preview/mmwrhtml/su5201a1.htm>
- CDC. Module 7: “Confidentiality in Tuberculosis Control” (*Self-Study Modules on Tuberculosis* 1999) at <http://www.phppo.cdc.gov/phtn/tbmodules/modules6-9/Default.htm>
- United States Department of Health and Human Services. “Health Insurance Portability and Accountability Act of 1996” [online statute] at <http://www.aspe.hhs.gov/admsimp/pl104191.htm>
- United States Department of Health and Human Services. “Office for Civil Rights – HIPAA” [Web page] at <http://www.hhs.gov/ocr/hipaa/>

References

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- ¹ CDC. Module 7: Confidentiality in tuberculosis control. *Self-Study Modules on Tuberculosis* 1999:4.
 - ² CDC. Module 7: Confidentiality in tuberculosis control. *Self-Study Modules on Tuberculosis* 1999:4.
 - ³ CDC. HIPAA privacy rule and public health: Guidance from CDC and the U.S. Department of Health and Human Services. *MMWR* 2003;52(S-2):1.
 - ⁴ CDC. HIPAA privacy rule and public health: Guidance from CDC and the U.S. Department of Health and Human Services. *MMWR* 2003;52(S-2):3.
 - ⁵ CDC. HIPAA privacy rule and public health: Guidance from CDC and the U.S. Department of Health and Human Services. *MMWR* 2003;52(S-2):8.