

Accessing Family Members Health Records



WASHINGTON
**Medical
Commission**
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Christine Blake, Public Member

Most providers are familiar with the HIPAA violation incurred when a family member's or friend's medical record is accessed without prior approval. "Snooping" is when a medical record is intentionally and inappropriately accessed without a work-related, patient relationship, reason. This type of breach also occurs with celebrities, politicians or any other public figure. The penalty for snooping into a medical record can lead up to termination of employment, as well as being reported to your licensing bureau. As the treating provider, directly involved with the patient's care and treatment, the following is appropriate:

- Access protected health information (PHI) related to your involvement in the care and treatment of the patient.
- Share PHI only with the treatment team.
- Do not share information, including the fact that your family member or acquaintance is a patient, with anyone that is not part of the treatment team.

If you are not directly involved in a family member's or acquaintance's treatment:

- Do not share incidental knowledge, which includes room location and diagnosis with anyone.
- Do not access the record, even out of concern for the patient.
- Do not stop by to visit the patient unless the patient has agreed ahead of time that you are allowed to visit.
- Do not ask anyone involved in the patient's care and treatment for any information.

The electronic medical record has put information at our fingertips, which makes it somewhat easier for documentation purposes. At the same time it also makes it easier to access a medical record. Physicians may also feel free to access a medical record once their care and treatment of that patient has been completed. For example, a physician may treat a patient for a traumatic episode, complete their treatment and documentation, and then access the record again to perhaps confirm that the appropriate care was rendered. While this may not seem like a violation, it may still contravene privacy rules in some instances.

Physicians are often called upon to review a medical record as part of an ongoing peer review assessment. Review of this type is not considered a breach when tasked as a reviewer; however, once that review has been completed, no further access is required unless there is additional review required as part of the initial required review process.

In closing, from the American Medical Association website:

As practices and health care organizations become increasingly digitized, physicians must be aware of HIPAA's Administrative Simplification provisions—and particularly the Privacy, Security and Breach Notification requirements—that protect the confidentiality of their patients' medical information. Physicians need to understand these rules and participate in a formal compliance plan designed to ensure all the requirements are met, including state requirements that go above and beyond federal mandates.

Reach out to your medical staff leadership and administration of your healthcare facilities for education on HIPAA and what role you as a provider play in your practice. Hospitals have learning modules in place that should be available for your review. Your CME Department can provide education on HIPAA. Your medical staff legal counsel can also be an excellent resource.

May Commission Meeting Update:

The WMC moved and voted to hold all meetings for the public access virtually (either on-line or by phone) until the emergency status for COVID was concluded. When the emergency status ends, the WMC will return to providing an in-person option for the public to attend.

The WMC voted on updates to four documents:

- Informed Consent and Shared Decision Making Policy was updated. The portion of the document with the most substantive was regarding "special considerations for surgery and invasive procedures." The update was adopted by vote of all attending commissioners.
- Medical Professionalism Policy was updated. The biggest change was an addition of state laws that restrict medical professionals from having romantic or sexual relationships with past patients. The update was adopted by vote of all attending commissioners
- Practitioner Health guidance document was updated. The update was adopted by vote of all attending commissioners.
- Ownership of Clinics by Physician Assistants Guidance document was updated. The update was adopted by vote of all attending commissioners.