Leaving Messages for Patients on Answering Machines

The OCR (Office of Civil Rights) published official guidance to the HIPAA privacy rule that addresses frequently asked questions. The question regarding messages left on answering machines is specifically addressed. The guidance states that the Privacy rule "does not prohibit covered entities from leaving messages for patients on their answering machines." However, to "reasonably safeguard" the individual's privacy, the covered entity should "take care to limit the amount of information disclosed on the answering machine." The guidance further explains that the covered entity should consider "leaving only its name and number and other information necessary to confirm an appointment, or ask the individual to call back." The guidance does not further elaborate on this issue. For further information, please contact our office at 305-243-5000.
The HIPAA Privacy Rule permits physicians to disclose protected health information to another health care provider for treatment purposes without patient authorization. This may be done by fax or by other means. Covered entities must have in place reasonable and appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information that is disclosed using a fax machine. Examples of measures that could be reasonable and appropriate in such a situation include following the Policy by using the prescribed cover sheet, the sender confirming that the fax number to be used is in fact the correct one for the other physician’s office, and placing the fax machine in a secure location to prevent unauthorized access to the information. See 45 CFR164.530(c). University's Provider to Provider Form located on the HIPAA website: [https://www.med.miami.edu/hipaa/private/documents/PPRTP.pdf](https://www.med.miami.edu/hipaa/private/documents/PPRTP.pdf)

### Fax Cover Sheets & Procedures

When faxing documents containing any protected health information (including just a patient name) our policy is to use the University prescribed fax cover sheet as it contains legal disclaimer language provided to us by our legal counsel's office. When faxing, the sender is required to call the intended recipient to verify the fax number and advise the individual that you will be faxing the document. This must be done each and every time. Not complying with this procedure constitutes a HIPAA Violation. The following link is for the University's standard fax cover page located on the HIPAA website: [https://www.med.miami.edu/hipaa/private/documents/um_hipaa_fax_cover2.doc](https://www.med.miami.edu/hipaa/private/documents/um_hipaa_fax_cover2.doc)

### Email Disclaimer

All workforce members are required to insert email disclaimer language to their auto signature for all messages containing PHI. The HIPAA Liaisons, in conjunction with their departmental administrators should send a communication to all faculty and staff asking them to insert the required email disclaimer to their auto-signature. Information sent via regular email has no guarantee of confidentiality. Whenever possible, always try to use an encryption mechanism when sending email containing PHI. Always avoid sending highly sensitive information including HIV, Psychotherapy, and other diagnosis information via unencrypted email. Detailed instructions on how to insert this disclaimer are available on the HIPAA website: [https://www.med.miami.edu/hipaa/private/documents/um_hipaa_email_warning.doc](https://www.med.miami.edu/hipaa/private/documents/um_hipaa_email_warning.doc)

### Release of Sensitive Information

**Psychotherapy Notes**

Psychotherapy Notes may only be released pursuant to a legally-sufficient written authorization signed by the patient that specifically authorizes the release of mental health PHI. The release must be authorized by the provider. Psychotherapy Notes/Mental Health Information may only be released when the authorization for release of mental health record is not combined with an authorization for release of any other type of information. If the Psychotherapy Notes contain HIV/Aids information, the release of such information must be on a separate authorization by the patient. Authorizations may not be combined.

**HIV/AIDS Information**

Unless a court order specifically requires the University to disclose HIV/AIDS information concerning an individual, workforce members, contractors, and medical staff providers may disclose HIV test results or the identity of the patient upon whom a test has been performed only with the authorization of the patient, using the standard authorization form.

### subpoena and Authorization Processing Training

It is mandatory that Employees who handle subpoenas and Third Party Authorizations take the online training. The training may be accessed through the NetLearning system: [http://netlearning.miami.edu](http://netlearning.miami.edu)
Survey, Accreditation, etc...

If a department, division, or clinic receives notification of an audit, survey or other activity that requires a third party or oversight organization to have access to our clinical areas, records, etc, it is imperative that the department notify the Office of HIPAA Privacy and Security by phone at 305-243-5000 or by email prior to the scheduled visit. Such activities may require accounting for disclosures, business associate agreements, and even contractual verification prior to allowing such activities to take place. Additionally, there are many compliance efforts that require the coordination of various areas. Please contact the OHPS at 305-243-5000.

Notice of Privacy Practices

Did you Know?

Did you know that it is a requirement of the Federal Regulation that the Notice of Privacy Practice be posted in all clinical patient areas. Covered health care providers that maintain an office or other physical site where they provide health care directly to individuals are required to post the entire Notice in a clear and prominent location. The Privacy Rule, however, does not prescribe any specific format for the posted Notice, just that it include the same information that is distributed directly to the individual. We recommend placing it in a clearly labeled binder on a table in the waiting area. If you’re department needs additional copies for distribution they must be ordered from the prescribed vendor.

Click here to access the order for:
https://www.med.miami.edu/hipaa/private/documents/npporder.pdf

PHI Flows

The Office of HIPAA Privacy and Security is currently reviewing and updating our documentation related to the PHI flows. When a new site of service is established please contact our office as the flows must be updated. We are required by law to maintain the PHI flows.

Frequently Asked Question

Question: Are accreditation organizations business associates of the covered entities they accredit?

Answer: Yes. The HIPAA Privacy Rule explicitly defines organization that accredit covered entities as business associates. Like other business associations, accreditation organizations provide a service to the covered entity which required the sharing of protected health information.

Submit to hipaaprivacy@med.miami.edu

The Office of HIPAA Privacy and Security would like to wish you a safe and happy new year.

For access the latest forms and HIPAA information, please access the Office of HIPAA Privacy and Security website at http://med.miami.edu/hipaa or contact the Office of HIPAA Privacy & Security at:
PAC Building, Room #409 (M-879)
Phone:305-243-5000 Fax: 305-243-7487