



## THE NEXT STEP!

The best way to learn a difficult concept is to learn it well enough to teach it to someone else!

***You have a client who is just being admitted. She has many papers to sign, including the HIPAA documents required by all healthcare providers.***

***She is not sure what it all means and asks you to help explain it to her.***

- On a separate sheet of paper, write a simple paragraph, with just 2 to 3 short sentences describing HIPAA to your client.

***Share your paragraph with your supervisor to make sure it is correct.***

***Ask your supervisor how he/she explains HIPAA to clients in a way that is easy to understand.***

## KNOW THE LAWS, HIPAA AND HITECH

If you've worked in healthcare longer than a minute, you've probably heard of HIPAA (which stands for **H**ealth **I**nsurance **P**ortability and **A**ccountability **A**ct). HIPAA is the law which outlines the privacy rules that protect clients' medical records and information.

This law was developed by the U.S. Department of Health and Human Services and gives clients more control over how their personal medical information is used and to whom it can be given. A client **must** give authorization before any personal medical information can be given out.

### **HIPAA guarantees clients the right to:**

- Privacy.
- Receive a written Notice of Privacy Practices that describes how their information will be used.
- Access and copy their own medical records.
- Fix mistakes or information in their records that is not accurate.
- Request special instructions for how their information is sent to other places.
- Ask for limits on how their information is used and given out.
- Get a list of all non-routine times when their information may be given out.
- Complain about privacy violations to the institution and to the Department of Health and Human Services.

### **The rules cover all forms of client information like:**

- Names
- Social Security numbers
- Addresses and phone numbers
- Fax numbers
- Email addresses
- Medical record numbers
- Dates of birth
- Diagnoses

### **THEN CAME HITECH!**

In 2009, The Department of Health and Human Services introduced The **H**ealth **I**nformation **T**echnology for **E**conomic and **C**linical **H**ealth (HITECH) Act. This Act gives HIPAA more teeth!

HITECH significantly increases the fines that may be issued for violations of the HIPAA rules and encourages quick and decisive action.

Prior to HITECH, fines were limited to \$100 for each violation or \$25,000 for all identical violations. Now there are tiered ranges of fines, with a maximum penalty of \$1.5 million and potential jail time. In addition, individuals who violate privacy laws can no longer claim they "didn't know" a violation occurred.



## EXCEPTIONS TO CONFIDENTIALITY

***Did you know that there are times when you are not required to keep a client's information confidential? Here are some examples of when you should share information:***

- You are caring for a client, Mrs. Adams. A doctor or nurse who has been treating your client asks for information about Mrs. Adams. You are allowed to share information with another health care provider who is treating your client.
- Your client, Mr. Johnson, has bruises that he did not have the day before. He had no injury that you know about, and when you ask him about it, Mr. Johnson gives you a suspicious reason for his injury. If you suspect your client is being abused, you should report it to your supervisor or the authorities.
- You are working in a nursing home caring for Mr. Sanders, a client with dementia. One day Mr. Sanders has an argument with another client and you hear him threaten to hit that client. If a client physically threatens to harm you, himself or anyone else, you should report it to your supervisor.
- Your client, Mrs. Robertson, has been attempting to drive a car when she is unfit to drive. If your client is a danger to others, you should report it to your supervisor.
- You have a client, Mr. Anderson, who is having chest pains. In an emergency, you are allowed to share confidential information about your client with emergency personnel. You should report this to your supervisor and/or follow emergency procedures for your workplace.

## CONFIDENTIALITY AND MINORS

***In most states, children are considered minors until their 18th birthday. In general, while they are minors, their parents have the right to make decisions about their medical care and to be kept informed about their health and well-being. However, there are exceptions. For example, medical information may be withheld from parents:***

- When the parents agree that their child and a health care provider may have a confidential relationship.
- When a health care provider believes that a child may have been abused or neglected.
- When a child has been declared "independent" from his or her parents—either through court proceedings or by getting married.

The laws covering disclosure of information about minors to their parents vary from state to state. If you are unsure about specific laws in your state, check with your supervisor.



# GET OUT!

## THINK OUTSIDE OF THE BOX!

*Working with clients in the home often requires coming up with creative solutions to uncommon problems.*

- **THE PROBLEM:** You are caring for a woman who was just discharged home. During a visit with your new client a neighbor comes to visit.
- The neighbor tells you she has a friend who gets home visits from your agency. After a few minutes you realize you know her friend. She begins to ask questions about the friend's health.
- **WHAT YOU KNOW:** You know HIPAA laws require you to protect confidentiality. But, you feel this friend is just genuinely concerned.
- **GET CREATIVE:** Think of 3 creative replies you could use to (kindly) let this friend know that you are not at liberty to share any clients' personal information.
- **TALK ABOUT IT:** Ask your co-workers how they would solve this problem.