



Your Rights to Access and Make Changes to Your Medical Records

You may be wondering about how your sensitive medical information is kept safe. There are certain laws that prevent doctors and medical professionals from sharing your medical information. HIPAA (Health Insurance Portability and Accountability Act) is a federal law passed in 1996 that provides data privacy and security guidelines for protecting medical information. This handout gives an overview of the privacy rules under HIPAA, and information about your options if your medical records include information that you do not agree with.

How is my health information protected?

The HIPAA Privacy Rule gives individuals rights over their protected health information and sets limits on who can look at and receive an individual's health information. The Privacy Rule gives you, with few exceptions, the right to inspect, review, and receive a copy of your medical records and billing records that are held by health plans and healthcare providers (such as hospitals). The Privacy Rule applies to all forms of protected health information, whether electronic, written, or oral. Only covered entities, such as health plans, hospitals and other healthcare providers, and healthcare clearinghouses¹ have to comply with these rules. Other entities, such as employers, fall under different rules of confidentiality.

Your health information generally cannot be used or shared without your written permission.

Unless you grant permission, your healthcare provider cannot:

- give your medical information to other people, including your employer;
- use or share your information for marketing or advertising purposes; or
- share private notes about your healthcare.

When can my doctor share my medical information without my permission?

Generally, your private health information is protected under the HIPAA Privacy Rule, but state or federal law provides some limited circumstances where your information may be shared without your permission. The Privacy Rule does not apply where a state or federal law authorizes doctors or medical professionals to make certain disclosures of information, such as under a subpoena or court-ordered disclosure. One example where this occurs is when a court requires a person's medical record containing genetic information in order to determine the paternity of a child.

Who else can access my medical records?

- Doctors, nurses, and hospitals may need to share your information with other medical professionals and facilities involved in your care to ensure that you are getting the proper treatment and medication, and that none of those treatments conflict with each other.

¹ A Healthcare Clearinghouse is a public or private company that either processes or oversees the processing of health information received from another entity, such as for billing purposes.



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- Insurance companies may request your medical information to verify claims.
- Government agencies may request medical records to verify claims made through Social Security, state disability, and workers' compensation.
- Other situations may exist if they have been mandated by laws within your state.

Can I access my own medical records?

Yes. Health insurers and providers who are covered under HIPAA must recognize that you have the right to:

- ask to see your medical records and receive a copy of your medical records;
- get a notice that tells you how your health information might be used and shared;
- decide whether to give permission to share your medical information for certain purposes such as marketing; and
- if your health information was shared, receive a report detailing when and why your health information was shared and for what purposes.

How can I find my medical records?

First, you should think about which medical records you need. If you need your dental records, start by contacting your dentist's office. If you are looking for information relating to your general health, you should start by contact your family doctor, or your primary care physician.

Do I have to pay for a copy of my medical records?

A provider can charge you for the "reasonable costs" of copying and mailing your medical records. HIPAA does not set out rules for what those reasonable costs can be. Instead, most states have passed laws that determine how much a health provider can reasonably charge for your medical records. For example, in California, a doctor can charge 25 cents per page plus a reasonable clerical fee. For diagnostic films, such as an x-ray, MRI, CT and PET scans, you can be charged the actual cost of copying the films. State laws vary, so it is best to consult with your healthcare provider or visit the following website to learn more about any fees you may be charged for accessing your medical records: <https://www.nosscr.org/state-medical-records-payment-rates>.

A healthcare provider cannot refuse to give you a copy of your medical records simply because you have not paid the provider for services you have received. A healthcare provider also may not charge you a fee for searching for or retrieving your records.

How long will it take to receive my medical records?

Generally, when you request to see your medical records, the physician or healthcare professional has a maximum of 30 days to provide you access. However, the time limit may be shorter based on state law. For example, In California, the time limit is 15 days. The amount of time it takes can also vary by how you make the request. For example, if your healthcare professional has digital copies of your medical records available and does not need to find archived copies and copy and mail them to you, this may speed up this process.

What can I do if I see a mistake in my medical records? Can I have those records changed?

If you see something in your medical records that is not accurate, you can ask the provider who made the error to make corrections.

You cannot have information *taken out* of your medical records. When you need to correct an error in your medical records, the original information will not be removed, but instead, an “addendum” will be placed in your medical file. The process by which you can add amendments to your medical records may vary, so it is best to consult with your healthcare provider. Generally, you will need to write a letter to your healthcare provider requesting a change to your medical records. Be sure to include:

- Your name;
- Social security number;
- Date of birth;
- Address;
- Phone number;
- Email address (if applicable);
- The records you are requesting to correct;
- The dates that the medical services were provided to you; and
- How you would like to receive your records (email, fax, pick up at the office, etc.).

What if the provider refuses to make the correction?

Your provider can refuse your request to make an amendment to your records only if the provider believes that your records are complete and accurate, or if they did not make the original medical record. If your provider denies your request for one of these reasons, they must give you this denial in writing, and must also outline a procedure for you to file a complaint. The complaint you file is a written statement you give to your provider, which includes the reasons why you disagree with your medical records. The provider must then attach your written statement to your medical records and keep the statement as part of your records. You may also file a complaint with your state’s medical board if you are unhappy with your medical provider’s actions.

Is the health information I have shared at work protected under HIPAA?

The Privacy Rule does not protect your employment records, even if they are health-related. If you have given your employer medical information in order to request medical leave or reasonable accommodations, your employer is required to keep your records confidential under the Americans with Disabilities Act (ADA), state fair employment laws, and Family and Medical Leave Act (FMLA). Employers are not covered entities under HIPAA.

However, if you work for a health insurance provider or a covered healthcare provider, similarly:

- The Privacy Rule *does not* protect your *employment* records, but
- The Privacy Rule *does* protect your medical or health plan records if you are a *patient* of the provider or a member of the health plan.

Is my employer allowed to ask to see my medical records?

Your employer is allowed to ask you for a doctor’s note or other health related information if it is necessary for sick leave, workers’ compensation, wellness programs, or reasonable accommodations, as determined by federal and state law. If your employer directly asks your health insurance company or healthcare provider for your medical information, your provider or health insurance cannot give your employer the information without your authorization, unless other laws require the provider or health insurer to do so. Generally, the HIPAA Privacy Rule prohibits your healthcare provider from sharing confidential information, while other laws like the

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ADA and FMLA prohibit your employer from contacting your healthcare provider for medical information directly.

Can my family get access to my medical records or medical information?

Under the Privacy Rule, a healthcare professional or provider is not allowed to share your medical information even with your family or friends unless they are your “*personal representative*.” You can name someone to be your personal representative in a signed or written form that you can get from your healthcare professional or provider. Generally, a HIPAA-covered healthcare provider or health plan is required to let your personal representative receive a copy of your protected health information. A covered entity is also allowed to share information with a family member or other person involved in your care or payment for care as long as you do not object.

Most health care providers will give you a form to fill out if there is anyone you want to grant permission to share your medical information with. A doctor can discuss a patient’s treatment in the presence of a friend or family member if the patient asks their friend or family member to be present in the room. A pharmacist may make decisions in the patient’s best interest by allowing a person, other than the patient, to pick up a prescription.

Who has access to my child’s medical records?

The personal representative of a child is typically a parent or guardian. In situations where a custody decree exists, the personal representative of the child will be the parent(s) who can make healthcare decisions under the custody decree. If your child is an adult who is able make decisions for him or herself, under HIPAA, your child would still need to grant you permission in order for you to access his or her medical records. Adults have a right to privacy, even from their parents.

Can I access the medical records of an individual who is deceased?

When someone passes away, the person who is legally authorized by the court or state law to act on behalf of the individual or his or her estate (usually known as the executor) becomes the patient’s personal representative. If you are not the executor, you may have trouble accessing records unless you are covered by another exception to the Privacy Rule. Covered entities may disclose information to family members of a deceased individual if doing so would not go against previously expressed wishes of the deceased individual.

Can debt collection agencies access information about my unpaid medical bills?

Yes, but they are not entitled to detailed information about your medical treatments. Past due debts to doctors and medical providers may be reported to collection agencies and may show up on your credit report. The information that can be shared with collection agencies includes your name, address, birthdate, Social Security number, payment history, and the name of the specific healthcare provider that is owed money.

Can my health information be used by marketers?

Typically, no. But this can depend on the circumstance. If you give explicit permission or take part in free or low-cost health screenings that are typically held at health fairs, shopping malls and pharmacies, then your medical information may be shared for marketing purposes.

RESOURCES

For information about your privacy rights under HIPAA:

<https://www.hhs.gov/hipaa/for-individuals/guidance-materials-for-consumers/index.html>

https://www.healthit.gov/sites/default/files/YourHealthInformationYourRights_Infographic-Web.pdf

https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/consumers/consumer_rights.pdf

<https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/consumers/privacy-security-electronic-records.pdf>

Understanding the HIPAA Privacy Notice:

<https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/consumers/understanding-hipaa-notice.pdf>

For information on how to access to your medical records:

<https://www.hhs.gov/hipaa/for-individuals/medical-records/index.html>

For information about employers and health information in the workplace:

<https://www.hhs.gov/hipaa/for-individuals/employers-health-information-workplace/index.html>

For information on filing a complaint for violation of HIPAA:

<https://www.hhs.gov/hipaa/filing-a-complaint/complaint-process/index.html>

What to expect from the complaint process:

<https://www.hhs.gov/hipaa/filing-a-complaint/what-to-expect/index.html>

Sharing health information with family and friends:

<https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/consumers/sharing-family-friends.pdf>

For information about naming personal representatives:

<https://www.hhs.gov/hipaa/for-individuals/family-members-friends/index.html>

<https://www.hhs.gov/hipaa/for-individuals/personal-representatives/index.html>

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