HIPAA

MARYLAND DEPARTMENT OF HEALTH
OFFICE OF INTERNAL CONTROLS AND AUDIT COMPLIANCE

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HIPAA:

- What is HIPAA?
- What is a covered entity?
- What is a business associate?
- What is a breach?
- What is PHI?

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- **What is PHI?**

- *What is Individually Identifiable Health Information* **(IIHI)** anyway?

  - Any information that relates to the past, present, or future physical or mental health or condition of an individual, or provision of health care to an individual; and
  - Any information created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
  - Addresses past, present, or future payment for health care services provided to individuals;
  - Identifies or could be used to identify the individual; and
  - If the information is transmitted or maintained in any form or medium by a covered entity or business associate, it is known as "protected health information" **(PHI)**

HIPAA PHI Identifiers

1. Names;
2. All geographical subdivisions smaller than a State, including street address, city, county, precinct , zip code, and their equivalent geocodes, except for the initial three digits of a zip code, if according to the current publicly available data from the Bureau of the Census: (1) The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and (2) The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.
3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;
4. Phone numbers;
5. Fax numbers ;
6. Electronic mail addresses;
7. Social Security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;

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HIPAA PHI Identifiers

12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers , including finger and voice prints;
17. Full face photographic images and any comparable images; and
18. Any other unique identifying number, characteristic, or code (note this does not mean the unique code assigned by the investigator to code the data)

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Main Rules:

- Security Rule
- Privacy Rule
- Enforcement Rule
- Breach Notification Rule
- Transaction and Code Set Rules

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What is a breach under the HIPAA Breach Notification Rule?

An unauthorized acquisition, access, use, or disclosure of PHI is presumed to be a breach unless the covered entity or business associate, as applicable, demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

- The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- The unauthorized person who used the PHI or to whom the disclosure was made;
- Whether the PHI was actually acquired or viewed; and
- The extent to which the risk to the PHI has been mitigated.

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Covered entities may only use or disclose PHI in the following manner:

- To the individual who is subject of the PHI;
- For treatment, payment or health care operations;
- Incident to a use or disclosure permitted by the Privacy Rule;
- Pursuant to a valid authorization from the individual or his or her personal representative;
- As permitted by an agreement or in situations where HIPAA only requires the covered entity to provide the individual with an opportunity to agree or object;
- For certain fundraising activities permitted by the Privacy Rule;
- In connection with a limited data set;
- For certain underwriting and insurance purposes; and
- As required by law

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No authorization required:

- Public health activities;
- Victims of abuse, neglect or domestic violence;
- Health oversight purposes;
- Judicial and administrative proceedings;
- Law enforcement purposes;
- Decedents (coroners and medical examiners, funeral directors);
- Cadaveric organ, eye, or tissue donation purposes;
- Research purposes;
- Averting a serious threat to health or safety;
- Specialized government functions;
- Workers compensation;
- Treatment, payment, and health care operations;
- As otherwise required by law.

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Areas of Concern:

- Laptops;
- Flash drives;
- Paper files;
- Communications;
- Disposal;
- Cell phones;
- Fax machines;
- PCs;
- Emails;
- Disclosures;
- Mailings; and
- Social media.

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Preventing Breaches:

- Policies;
- Training;
- Monitoring;
- Risk Assessments; and
- Follow up

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HIPAA Civil Penalties:

Violation Category	Each Violation	All Such Violations of an Identical Provision in a Calendar Year
Did Not Know	$100 - $50,000	$1,500,000
Reasonable Cause	$1,000 - $50,000	$1,500,000
Willful Neglect-Corrected	$10,000 - $50,000	$1,500,000
Willful Neglect-Not Corrected	$50,000	$1,500,000

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HIPAA Criminal Penalties:

Violation Category	Each Violation
Knowingly obtain/disclose or with reasonable cause	Up to a 1-year period of incarceration and $50,000 fine
Under false pretenses	Up to a 5-year period of incarceration and $100,000 fine
For personal gain or malicious reasons	Up to a 10-year period of incarceration and $250,000 fine

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Office of Internal Controls & Audit Compliance

For more information on the Maryland Department of Office of Internal Controls and Audit Compliance or to make a report of fraud, waste, abuse, or misconduct please contact:

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