



HIPAA – Individual Right of Access

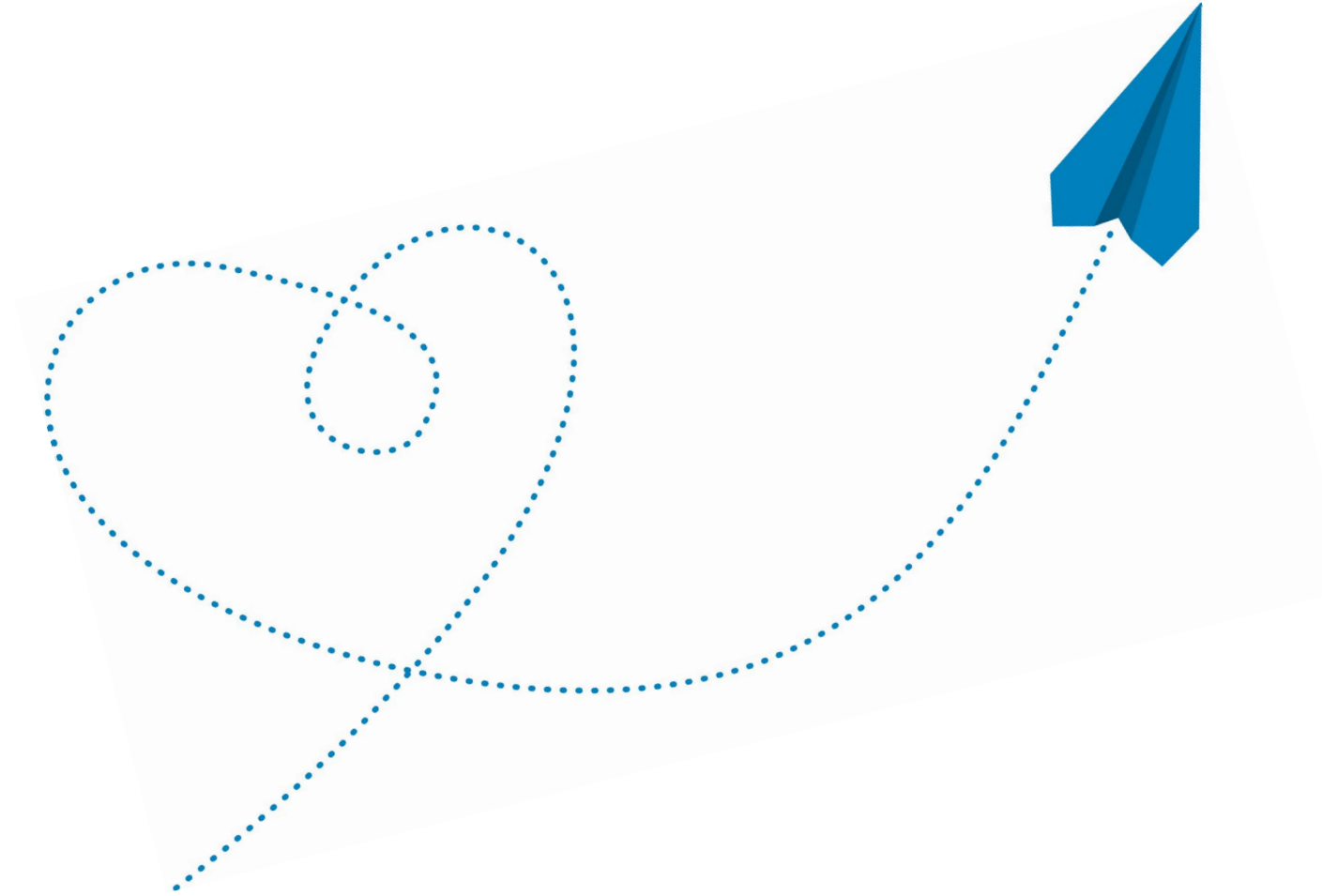


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Today's Journey

- HIPAA 101
- Individual Right of Access
- Q&A/Resources





HIPAA 101



The Health Insurance Portability and Accountability Act (HIPAA) Privacy, Security, and Breach Notification Rules protect the privacy and security of health information and provide individuals with certain rights to their health information.



The **Privacy Rule** sets national standards for when protected health information (PHI) may be used and disclosed.



The **Security Rule** specifies safeguards that covered entities (CE) and their business associates must implement to protect the confidentiality, integrity, and availability of electronic protected health information (ePHI).



The **Breach Notification Rule** requires CEs to notify affected individuals; U.S. Department of Health & Human Services (HHS), Office for Civil Rights (OCR); and, in some cases, the media of a breach of unsecured PHI.



What is PHI?

PHI (Protected Health Information) is any oral, written, or electronic individually identifiable health information relating to the past, present, or future health (including physical or mental) status or condition of an individual that is created, collected, transmitted, or maintained by a HIPAA CE (and their business associates) in relation to the provision of healthcare, payment for healthcare services, or use in healthcare operations.





REMINDER



Here are the 18 PHI identifiers

- | | |
|-----------------------------------|--|
| 1. Name | 10. Account # |
| 2. Region (smaller than a state) | 11. Certificate/license # |
| 3. Date | 12. Vehicle identifier/license plate # |
| 4. Phone # | 13. Device ID & Serial # |
| 5. Fax # | 14. Web URL |
| 6. Email address | 15. IP address |
| 7. Social Security # | 16. Fingerprint |
| 8. Medical record # | 17. Full face photo |
| 9. Health insurance beneficiary # | 18. Any other unique ID# or characteristic that could reasonably be associated with the individual |





HIPAA requires us to follow the “Minimum Necessary” standard, which means we must take reasonable steps to limit the use or disclosure of, and requests for, PHI to the minimum necessary to accomplish the intended purpose.





REMINDER



- Only access the minimum necessary amount of PHI needed to get your job done
- Only disclose the minimum PHI when authorized and ensure it is only being disclosed to the appropriate person(s)
- Never share your passwords or credentials, appropriate access is provided depending on role



Individual Right of Access



The Privacy Rule gives individuals important rights with respect to their PHI, including rights to inspect and obtain a copy of their PHI that is within a ***designated record set***.

[45 CFR § 164.524](#)

Designated Record Set - defined as a group of records maintained by or for a CE that comprises the medical records and billing records about individuals maintained by or for a covered health care provider; enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or other records that are used, in whole or in part, by or for the CE to make decisions about individuals.



Individual Right of Access

Timely action is required!

- A CE must act **no later than 30 days** (outer limit) after receipt of request.
- An additional 30-day extension is permitted only once per request, provided that the CE provides the requestor with a written statement (within the first 30 days) of the reasons for the delay and the date by which it will complete its action on the request.

REMINDER





Individual Right of Access...continued

Individuals have the right to be provided access in the form and format requested by the individual (if readily producible), or in readable hard copy/electronic format or another form/format agreed to by the CE and individual.





Individual Right of Access...continued



A CE may require individuals to make their request in writing, providing they inform the individual of this requirement.

- However, **you cannot require the individual to use the CE's form.** You may provide the form as an option, but other forms or written requests are acceptable.



Individual Right of Access...continued

Taking reasonable steps to verify the identify of the individual making the request is required. However, the CE cannot create barriers to, or unreasonably delay, access. The type of verification may depend on how the individual is requesting and/or receiving access.



Individual Right of Access...continued

If an individual's request for access directs the CE to transmit the copy of PHI directly to another person designated by the individual, the CE must provide the copy to the designated person.

- The request must be in writing, signed by the individual, and clearly identify the designated person and where to send the copy.



Individual Right of Access...continued

An individual's personal representative (generally, a person with authority under State law to make health care decisions for the individual) also has the right to access PHI about the individual in a designated record set (as well as to direct the CE to transmit a copy of the PHI to a designated person or entity of the individual's choice), upon request, consistent with the scope of such representation.





Individual Right of Access...continued

Information excluded from the Right of Access includes:

- PHI not part of a designated record set (for example, quality assessment or improvement records, patient safety activity records, business planning, etc.)
- Psychotherapy notes (which are the personal notes of a mental health care provider documenting or analyzing the contents of a counseling session that are maintained separately from the rest of the patient's medical record)
- Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding



Individual Right of Access...continued

A CE must document and retain:

- The designated record sets that are subject to access by individuals
- The titles of persons or offices responsible for receiving and processing requests for access by individuals



Individual Right of Access...continued

A CE may impose a reasonable, cost-based fee for copies of the PHI provided that the fee only includes the cost of:

- Labor for copying the PHI requested, whether in paper or electronic form (i.e., can include photocopying; scanning paper PHI into an electronic format; converting electronic information in one format to the format requested by the individual; transferring electronic PHI from a CE's system to a web-based portal, portable media, email, app, personal health record or other manner of delivery; and/or creating and executing a mailing or email)
- Supplies (for creating the paper copy or electronic media) and postage
- Preparing an explanation or summary of the PHI, if agreed to by the individual





Individual Right of Access...continued

Fees cannot include labor associated with verification, documentation, reviewing the request, searching for and retrieving the PHI, or otherwise preparing responsive information; maintaining systems; recouping capital for data access, storage or infrastructure; ROI outsourcing; or other costs not listed above even if such costs are authorized by State law.

- Please review your associated fee schedule and/or contact your appropriate ROI (Release of Information) contact/resource for questions or additional information.





In 2019, the Office of Civil Rights (OCR) implemented the HIPAA Right of Access Initiative, which further supports patients' rights to timely access to their health records at a reasonable cost.

As an organization, we are committed to ensuring our entire workforce supports all patient rights and compliance under HIPAA.



If you have additional questions or for more in-depth guidance, please

- contact your leader,
- reference our organization or department-specific applicable policies and internal Standard Operating Procedures, or
- reach out to the contacts/resources listed on the next slide.





Contacts/Resources

Banner Health Privacy Office:

- privacy@bannerhealth.com
- 602.747.8157
- [Privacy Intranet Page](#)

Banner Health Centralized Release of Information (CROI) supported locations:

- AZROI@bannerhealth.com; BMGROI@bannerhealth.com; WRROI@bannerhealth.com
- CROI Call Center – 480.412.5600

Banner Medicaid and Medicare Health Plan

BHPCompliance@bannerhealth.com

Support/Questions for locations not supported by CROI:

- BHMedicalRecordsRequestResource@bannerhealth.com

