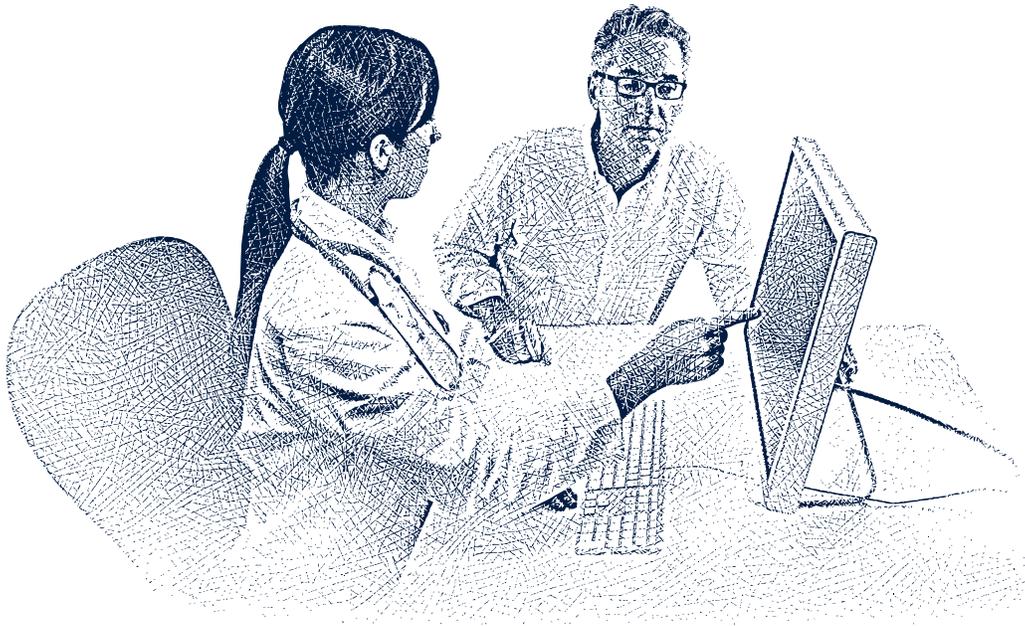


**Lesson Plan**

# **Health Records Privacy in California**



***Seminar Lesson Plan and Class Activity***

***A Consumer Action Educational Module***  
***[www.consumer-action.org/modules](http://www.consumer-action.org/modules)***

*Consumer Action created this brochure under a grant from the Rose Foundation. Consumer Action empowers low- to moderate-income and limited-English-speaking consumers nationwide to financially prosper through education and advocacy. © Consumer Action 2013*

# ***Health Records Privacy in California***

## **Seminar Lesson Plan and Class Activity**

### **Lesson purpose:**

To make participants aware of the transition from paper to electronic health records and the benefits and risks that come with digital patient files; inform them of their health information privacy rights in California; and educate them on when and how their health records can be used and disclosed—with and without their permission—and what steps they can take to protect their privacy.

### **Learning objectives:**

By the end of the lesson, participants will understand:

- the benefits and risks that come with the move from paper to electronic health records;
- the basics of HIPAA (the main federal law that governs how patient information is collected, used and disclosed) and additional protections under California law;
- when patient information can be used and disclosed with and without written permission;
- what rights and opportunities patients have for restricting the use or disclosure of their health information;
- how to inspect, obtain and correct their own health records;
- how to recognize medical identity theft and what steps to take if they are a victim of fraud or a data breach;
- what steps to take if their privacy rights have been violated; and
- where to find more information about health information technology and patient privacy rights.

### **Lesson duration:**

3 hours (including a 15-minute break)

### **Materials:**

For instructor:

- *Health Records Privacy in California* fact sheet (brochure)
- *Health Records Privacy in California* backgrounder (Q&A)
- Visual teaching aid (PowerPoint presentation with instructor's notes)
- Lesson plan (pages 3-12)
- Health records privacy case studies (pages 13-14)
- Health records privacy case studies answer key (pages 15-16)
- Note-taking guide (pages 17-21)
- Note-taking guide answer key (pages 22-27)
- Training evaluation form (page 28)
- Wallet card

Instructor will also need:

- a computer and projector for the PowerPoint presentation; and

- an easel and pad or a whiteboard, and markers.
- OPTIONAL: The PowerPoint slides also can be printed on transparent sheets for use with an overhead projector.

For participants:

- *Health Records Privacy in California* fact sheet (brochure)
- Health records privacy case studies (2 pages)
- Note-taking guide (5 pages)
- Training evaluation form (1 page)
- Wallet card

OPTIONAL:

- *Health Records Privacy in California* backgrounder (Q&A)
- Printout of the PowerPoint presentation

**Lesson outline:**

- Welcome and training overview (10 minutes)
- Electronic health records (10 min)
- Health information privacy laws (15 min)
- Use and disclosure of health records (20 min)
- Health records privacy rights (20 min)
- Access to health records (15 min)
- BREAK (15 min)
- Medical and prescription reporting agencies (10 min)
- Data breaches, medical identity theft and fraud (15 min)
- When your rights have been violated (10 min)
- ACTIVITY: Case studies (20 min)
- Resources (5 min)
- Questions and answers (10 min)
- Wrap-up and evaluation (5 min)

Consumer Action developed this training under a grant from the Rose Foundation.

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## **Instructor's Notes:**

This training module consists of a fact sheet/brochure (*Health Records Privacy in California: Protecting your privacy as patient records go digital*); a backgrounder, written in question-and-answer format; a lesson plan that includes a note-taking guide and instructor's key and a set of case studies with answer key; and a PowerPoint presentation. It was created by the national non-profit organization Consumer Action with funding from the Rose Foundation to be used by non-profit organizations providing consumer education in their communities.

Before conducting the training, familiarize yourself with the fact sheet, the backgrounder, the lesson plan (including the note-taking guide and case studies), and the PowerPoint visual teaching aid.

The PowerPoint presentation contains notes for each slide (appearing below the slide when in Normal view or Notes Page view). These notes offer detailed information about the items appearing on the slide. Additional key points may be inserted into the lesson plan. The lesson plan includes indicators so you will know which slide corresponds to each part of the lesson, and when to move to the next one.

*Why Adults Learn*, a PowerPoint training for educators, provides tips for teaching adults and diverse audiences—it will be helpful to you even if you have taught similar courses before. The slide deck is available at the Consumer Action website ([http://www.consumer-action.org/outreach/articles/why\\_adults\\_learn/](http://www.consumer-action.org/outreach/articles/why_adults_learn/)).

### **Welcome and training overview (10 minutes)**

➔ **SLIDE #1** (onscreen as participants arrive; direct participants who arrive early to begin reading the fact sheet)

**Welcome** participants and introduce yourself.

If you have a small group, you can ask individuals to introduce themselves (or, if time permits, ask them to pair off with someone seated near them and then introduce each other to the group) and tell you what they hope to get out of the training. In a larger group, invite volunteers to share their expectations. On your whiteboard or easel pad, jot down some of the specific things participants mention. You can come back to this at the end of the class to make sure you've covered these points. (This activity is designed to serve as a brief icebreaker. It will also give you an idea what participants' expectations and needs are.)

**Review** the contents of participants' packets. Ask the class to take a look inside their packets and make sure they have all the materials needed.

**Introduce** the note-taking guide. Give participants a moment or two to look it over. Explain that each segment of the training will provide the information needed to fill in the items. By the end of the class, the note-taking guide will be complete.

➔ **SLIDE #2**

**Present** the learning objectives of the training (also listed on the first page of this lesson plan).

### **Electronic health records (10 min)**

**Learning objective:** Understand the types of information patient records contain and where it comes from, and the benefits and risks of health information technology.

### ➔SLIDE #3

**Introduction:** The information in our health records is some of the most personal and comprehensive information collected about us. It's important to understand exactly what information our records contain and how it's collected so that we can make decisions about how it should be used, disclosed and protected. As the move from paper files to digital medical records continues, it's also important to be aware of both the benefits and the potential risks of electronic file sharing.

**Go over** items on slide per slide notes.

*See the "Electronic health records" section of the FAQ/backgrounder and the "Health information technology" and "New privacy risks" sections of the brochure for more detailed information.*

#### **Key points:**

- Your health records contain a lot of sensitive data, including identifying information, insurance/payment information, and the entire range of medical information.
- Patients themselves are a source of some of the information in their health records (through forms they fill out), meaning that you have some limited amount of control over some of what goes into your records.
- Though paper and electronic (digital) records may seem very different, the information they contain and how that information can be used and disclosed is the same regardless of format.

### ➔SLIDE #4

**Go over** items on slide per slide notes.

#### **Key points:**

- The key components of health information technology are electronic (digital) health records and the systems that allow those records to be stored, accessed and shared.
- There are a number of significant potential benefits of health IT and electronic records.
- There is also the risk of data breach, which is the same risk that other sorts of electronic consumer files face, but there is more—and more sensitive—personal data at risk in health records than in other types of consumer records.

#### **Questions to generate discussion:**

- Do you know if your own health records are in electronic, or digital, format...or are they still paper? Does the format matter to you? Why, or why not?
- What do you think the most important potential benefit of health information technology (electronic health records and electronic records exchange) is?

### **Health information privacy laws (15 min)**

**Learning objective:** Be aware of the main federal and California laws that govern how patient information is collected, used and disclosed, and understand who and what type of patient information they apply to.

## ➔SLIDE #5

**Introduction:** Over the years, many safeguards have been put in place to prevent unauthorized access to patient information, including some that address recent changes in how personal health records are collected, managed and shared. These federal and state laws work together to give California residents a variety of rights regarding the use and disclosure of their health information. But the rules don't apply to all types of information or all individuals and entities.

*See the "Patient privacy laws" section of the FAQ/backgrounder for more detailed information.*

**Go over** items on slide per slide notes.

### **Key points:**

- There are strong laws in place to protect the privacy of patients' personally identifiable health information (information that can be linked to a specific person).
- When one law is stronger than the other one (federal vs state), the law that gives the patient more rights or greater protection is the one that must be followed.
- Not all individuals and entities that want to obtain your health records are governed by these laws—those that aren't are not required to be as careful with your personal information as those that are. Be particularly cautious when someone who is not subject to HIPAA or CMIA wants to collect, use or receive your health information.

## ➔SLIDE #6

**Go over** items on slide per slide notes.

### **Key points:**

- Providers, hospitals, health plans, etc. must give you a Notice of Privacy Practices upon your first visit, post a copy where it can be easily seen, and provide copies upon request. The Notice discloses how a covered entity (health care provider, hospital, etc.) can use and disclose your health information and tells you how you can exercise your health privacy rights.
- Your signature on the Notice is just proof of receipt. It does not give or waive any rights, and health care providers can use and disclose your information for treatment, payment and health care operations without it. You do not have to sign the form if you don't want to—you can't be denied access to health services because you don't sign.

### **Questions to generate discussion:**

- Why do you think laws governing health information privacy were/are necessary?
- Do you recall receiving the Notice of Privacy Practices during a doctor or hospital visit? Did you read it? Were you asked to sign it? Would you hesitate to sign the NPP? Why or why not?

## **Use and disclosure of health records (20 min)**

**Learning objective:** Understand when your health information can be used and disclosed with and without your written permission, and be aware of the rights and opportunities you have for restricting those uses and disclosures.

## ➔SLIDE #7

**Introduction:** There are a variety of situations when your health information can be used and disclosed without your permission. Other times, your written permission is required. It's important to understand when you have control over who has access to your health records and when you don't.

*See the "Use and disclosure of health records" section of the FAQ/backgrounder for more detailed information.*

**Go over** items on slide per slide notes.

## ➔SLIDE #8

**Go over** items on slide per slide notes.

### **Key points:**

- Covered entities (health care providers, health plans, those who pay for your care, etc.) can use and disclose your health information as needed, *without* your written permission, for treatment, payment and health care operations (things like auditing, fundraising, resolving complaints and evaluating quality of care). The law also allows a number of other uses and disclosures that don't require your permission.
- Because the law already allows so many different uses of your information without your permission, you should read forms that ask for your authorization or consent for additional uses and disclosures very carefully.
- The law significantly limits the use or disclosure of patient information for marketing purposes without the patient's written permission, though there are some "loopholes."
- Health care providers should disclose to non-health care third parties only the minimum information needed for the particular purpose—not your entire health record. If you have concerns, ask your provider how it ensures that only the necessary information is disclosed.

## ➔SLIDE #9

**Go over** items on slide per slide notes.

### **Key points:**

- Health information organizations (HIOs) are required by law to have certain safeguards, such as encryption (making them unreadable to unauthorized viewers) and passcodes, in place to protect patient information.
- While most providers who use an HIO will ask for your consent, they are not required to. Consenting to having your health records accessed or exchanged through an HIO does not mean you are giving permission for different or additional uses and disclosures of your information—these remain the same regardless of whether your records are sent electronically, by fax or in the U.S. mail. Even if you do not consent to having your information exchanged through an HIO, your provider is not required to stop maintaining your records in digital format.
- While withholding your consent for electronic sharing through an HIO would mean that one less entity would have access to your electronic health records and, presumably, the odds of your information being "breached" would be reduced, it also would mean that your health

information would not be immediately available to providers who don't routinely treat you and already have your information in their own files. (However, your "opt out" could be ignored in a medical emergency or public health crisis.)

**Questions to generate discussion:**

- When do you think it's okay for your health information to be used or disclosed *without* your permission? When do you think your permission should be required?
- Have you ever been surprised that someone was able to use or disclose your health information without your permission?

**Health records privacy rights (20 min)**

**Learning objective:** Understand your health records privacy rights and the steps you can take to help keep you information private.

**➔SLIDE #10**

**Introduction:** Federal and state laws give you a number of rights related to how your health records are protected, used and disclosed. While these rights are automatic, some of them require an action on your part to take advantage of the protections they offer. Being aware of these additional steps will help you keep your health information as private and protected as possible.

*See the "Use and disclosure of health records" section of the FAQ/backgrounder and the "Limit who sees your information" and "Protecting your medical privacy" sections of the brochure for more detailed information.*

**Go over** items on slide per slide notes.

**➔SLIDE #11**

**Go over** items on slide per slide notes (continued from slide #10).

**➔SLIDE #12**

**Go over** items on slide per slide notes.

**Key points:**

- While the law gives you certain automatic protections—for example, requiring electronically transmitted patient information to be encrypted or requiring your signed permission before your information can be used for most marketing purposes—you'll need to take some action to exercise certain other rights (such being contacted in the way you prefer or getting an accounting of disclosures). This requires you to be both aware and proactive.
- While you don't have control of all uses and disclosures of your health records, you always have the right to ask questions, to withhold your authorization, and to change your mind.
- Giving information to anyone that is not a covered entity under federal or California law (California covers some additional entities that HIPAA does not) means your information may not be protected in the ways you'd expect.

**Questions to generate discussion:**

- How much control do you feel you have over the privacy of your health records?
- Have you taken the steps to exercise any of the rights we've discussed—such as requesting that you be contacted a certain way, opting out of fundraising messages, or finding out who has seen your information? Why or why not?
- Do you feel comfortable asking questions about the forms you receive, or about how your health records are protected or used?
- Do you think its worth “trading” your personal information for free services such as health-related apps, health screenings and tests, use of an online forum, etc.? Are there ways you can think of to make use of these services while still protecting your privacy? (Ex.: Use a different email address, change your last name, omit certain health details, etc.)

### **Access to health records (15 min)**

**Learning objective:** Understand the rules governing patient access to personal health records, the response time and fee guidelines providers must follow, how to amend your records if necessary, and what your rights are if your request is denied.

#### **➔SLIDE #13**

**Introduction:** You have the right to inspect or get a copy of your health records. You also have rights regarding amending your records if they are incorrect or incomplete. Many patients never have the need to obtain their health records, but it's important to understand the process and your rights in case you do.

*See the “Access to health records” section of the FAQ/backgrounder and the “Your medical records” section of the brochure for more detailed information.*

**Go over** items on slide per slide notes.

#### **Key points:**

- Depending on the format of your records (paper or electronic or summary) and how you choose to access them (on-site inspection or copies), there are specific guidelines providers must follow regarding how much they can charge you, how quickly they have to reply to your request, and in what format they can deliver the records. Being aware of these guidelines before you request access will help you make sure you choose the best options and that the guidelines are met.
- You have some recourse if you are dissatisfied with your provider's response to your request to view, obtain or amend your records. For example, you can add a statement to your record if your provider won't make a change you request; you can get a copy of your records for yourself if your provider will not send them to another provider upon your request; you can file a complaint against a provider who charges too much for access; you may have the right to appeal a decision to deny you access; and you can sue in California Superior Court to protect your rights.
- Some large providers, such as Kaiser Permanente, enable patients to access a portion of their records online at any time. This is not your complete health record, and the information can't be transferred to another provider, but it can save you time

and, in some cases, money if the limited information (appointment and prescription history, lab results, etc.) is sufficient to meet your needs.

**Questions to generate discussion:**

- Have you ever requested access to or a copy of your health records? Did the process go smoothly? Was there a fee?
- Do you think it is reasonable to withhold certain information for certain reasons (e.g., psychotherapy notes that might cause harm)? Why, or why not?

**Break (15 min)**

Announce a 15-minute break. Be prepared to direct participants to restrooms, water fountains, snack machines, etc.

**Medical and prescription reporting agencies (10 min)**

**Learning objective:** Understand what medical and prescription reporting agencies do, how they get information about you, how that information is used, and your rights regarding obtaining and correcting your reports.

**→SLIDE #14**

**Introduction:** Specialty consumer reporting agencies are similar to credit reporting agencies, but they compile very specific information about things other than your credit use or bill payment history. Some of these agencies compile information on your medical and prescription history. Insurance companies then use these reports to evaluate the risk of insuring you. Specialty consumer reporting agencies have to follow very specific rules regarding the information they collect, how it is used, consumer access to reports, and how disputes are handled. Knowing your rights can help you ensure that the information in your reports is timely and accurate and that they are not accessed by third parties without your permission.

*See the “Medical and prescription reporting agencies” section of the FAQ/backgrounder for more detailed information.*

**Go over** items on slide per slide notes.

**Key points:**

- Medical and prescription reports are used by insurance companies to determine your risk class and set premiums when you apply for individual health, life and some other types of insurance coverage. Access to your reports requires your written permission. If you refuse to authorize the insurance company to access your reports, your application may automatically be denied.
- The reports do *not* contain or reflect your medical records.
- You have the right to obtain your report for free every 12 months (if one exists), to dispute information that is out of date or inaccurate, and to have a statement included if you disagree with the results of your dispute.

**Questions to generate discussion:**

- Were you aware that medical and prescription reports existed? Will you request your report? Have you ever requested your credit reports?

### **Data breaches, medical identity theft and fraud (15 min)**

**Learning objective:** Be aware of the potential risks to your health information, how to recognize the signs of medical identity theft and fraud, and your rights and next steps if you become a victim.

#### **➔SLIDE #15**

**Introduction:** Records of any type—paper or electronic, phone bills, credit card statements and health records—have the potential to be stolen or accessed by an unauthorized person and used maliciously. Health records are particularly sensitive because of the breadth of information they contain—everything from your name and birth date to your insurance account number to your health care providers and medical treatments. Despite numerous safeguards required by law to protect your health information, it doesn't hurt to know what you can do to avoid becoming a victim, how to recognize the signs that your information may have been stolen, and what your provider is required to do if your records are breached.

*See the “Data breaches, medical identity theft and fraud” section of the FAQ/backgrounder for more detailed information.*

**Go over** items on slide per slide notes.

#### **➔SLIDE #16**

**Go over** items on slide per slide notes.

#### **Key points:**

- Consumer records and data of any sort and in any format are at some risk of being breached, stolen or used maliciously. Laws are in place to protect your health records, but there are additional steps you can take to protect your personal data—from the credit cards in your wallet or mail box to the financial account passwords in your mobile phone to your insurance number and health information.
- How you deal with a data breach or fraud depends on what parts of your personal information have been accessed.

#### **Questions to generate discussion:**

- Have you ever been notified that you were the victim of a data breach? Were there repercussions? What steps did you take?
- What do you normally do with the insurance statements you receive in the mail? (Toss them aside without looking? Throw them in the trash? Review them carefully and then file or shred them?)
- Do you think you will think differently about signing up for free screenings, apps, online forums, etc. that require you to give personal information first?

### **When your rights have been violated (10 min)**

**Learning objective:** Understand what your options are when your health privacy rights have been violated

## ➔SLIDE #17

**Introduction:** Although there are laws in place to protect health records and medical privacy, there may be a situation when you believe your rights have been violated. When that happens, you have options. Which route you take depends on the type and severity of the violation and how your complaint is treated at the earliest stages.

*See the “When your medical privacy rights are violated” section of the brochure for more detailed information.*

**Go over** items on slide per slide notes.

### **Key points:**

- A single violation may require complaints to multiple entities (for example, your provider, your health plan and two different agencies). Decide whether to escalate based on the response to your initial complaint.
- A lawsuit, while allowed under California law, can be an expensive prospect unless it is handled by a government agency or pro bono (free) by a non-profit that provides legal aid. Contact your state attorney general’s office or your district attorney to discuss.

### **Questions to generate discussion:**

- Have you ever felt that your health privacy rights were violated? How did you handle it? Were you satisfied with the response and outcome? If not, why not?

### **ACTIVITY: Case studies (20 min)**

The case studies give participants an opportunity to apply what they’ve learned today to real-world hypothetical situations.

Have participants remove the *Case Studies* activity from their packets (or pass them out).

Break the class into smaller groups and, depending on the number of groups, assign two or more of the case studies to each. Instruct each group to read their case studies and write down their responses, recommendations and reasoning.

Allow 10 minutes to complete the activity and 10 minutes to go over the answers.

One by one, have each of the groups read their case studies and answers. After each case study is presented, open the floor to the other groups to offer additional or different recommendations. Use the answer key to confirm responses are correct and complete and to offer information that may have been missed.

**Note:** This is a good time to introduce the health records privacy wallet card. Explain that the card is intended to be used when visiting a doctor or hospital, to remind patients of many of the same privacy precautions and rights that were just presented in the case studies.

### **Resources (5 min)**

**Learning objective:** Know where to go to find more information on health records privacy, health information technology and related topics.

➔ **SLIDE #18**

**Introduction:** Introduce some of the available resources that can help consumers understand their health information privacy rights and learn more about how to protect their information. (NOTE: If you can project your computer screen, visit the sites and show participants where they can go to find valuable information.)

*See the “Assistance and information” section of the FAQ/backgrounder for more detailed information.*

**Go over** items on slide per slide notes.

**Questions and answers (10 min)**

**Preparation:** Review the *Health Records Privacy in California* fact sheet and backgrounder (Q&A). The manual is written in Q&A format to help you anticipate frequently asked questions.

Open the floor to questions.

**Wrap-up and evaluation (5 min)**

➔ **SLIDE #19**

Congratulate attendees on their participation in the class. Thank them for joining you today and ask them to fill out the evaluation form and leave it on a table or in a large envelope you provide. If you will be conducting other trainings at a specific future time, announce that now and encourage everyone to attend.

## Health Records Privacy in California: Patient Rights Case Studies

1. You're visiting a doctor because you hurt your knee. In the waiting room, you are given some forms to fill out. One of them asks about your family's health history, including whether any of your close relatives have a mental illness. It also asks whether you drink or smoke, and what prescriptions you take. You are uncomfortable answering these questions. What are your options?

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2. It's your first visit to a new health care provider. The receptionist gives you the Notice of Privacy Practices and asks you to read and sign it. You are unsure about signing the form, but the receptionist says you must. What are your options?

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3. Your doctor's office asks you to sign an authorization form that has no time limit and gives the physician permission to disclose your information for "all valid purposes." You feel that the authorization is too broad. What are your options?

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4. You receive a notice from your primary care physician informing you that the office will be using a health information organization to exchange patient data electronically. You have heard about data breaches and are concerned that someone could access your information without permission. What are your options?

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5. You are seeing a doctor for a medical issue you don't want anyone at home or work to be aware of. What are your options for making sure your family members and co-workers don't find out?

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6. You have requested that your provider not disclose information about your prescription history to other health care providers. You recently visited a specialist who mentioned one of the prescriptions you are taking. Have your rights been violated?

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7. You have started receiving messages from your health care provider regarding new treatments and classes the provider is offering for breast cancer patients (you are one), and requests for donations to pay for a new breast cancer treatment center. You don't want to receive these messages anymore. What are your options?

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8. You have just begun treatment for active TB (tuberculosis), a contagious disease, when you set out on a previously planned cross-country bus trip. Your physician finds out about the trip shortly after you leave and notifies your state's public health department. Is this a violation of your privacy?

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9. You have requested that your current doctor transfer a copy of your health records to a new health care provider you have chosen. Your current doctor has asked you to put your request in writing, sign an authorization form and pay a fee, but three weeks later the new doctor still hasn't received the records. You suspect it might be because you have an outstanding bill with the old doctor. Has your doctor followed procedure, and is she within her rights? What are your options now?

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10. You've filed a complaint with your health plan because your doctor has refused to let you see your health records. When your doctor found out about your complaint, he told you he would no longer be able to keep you as a patient. Is he within his rights? What are your options now?

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## Health Records Privacy in California: Patient Rights Case Studies

### Answer Key

1. You do not have to answer all questions that appear on standard forms if you don't want to. You can skip questions that are not relevant to the reason for your visit. If the doctor feels the answers are necessary (for example, to know whether there may be a negative interaction with a medication she wants to prescribe), she can ask you directly during the appointment.

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2. While the law requires your doctor, hospital, or other health care provider to ask you to acknowledge in writing that you received the Notice of Privacy Practices, it does not *require* you to sign the acknowledgement. However, some medical office personnel mistakenly believe that your signature is mandatory and may even tell you you can't see a doctor if you don't sign. That is incorrect.

If you choose not to sign, you may end up in an argument trying to defend your position. If you sign, do not worry that you are authorizing any additional use or disclosure of your medical information: Your rights are the same whether you sign or not.

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3. You could choose not to sign the authorization form. You are allowed to refuse to share your information with any third party that doesn't have an automatic right to your information under the law. Providers are not allowed to refuse to treat patients who won't sign authorization forms. If anyone tells you that you must sign the form or leave, ask for a written explanation so that you can follow up later. (One exception to this rule is a research study that provides treatment and requires written authorization from all participants.)

Another option is to amend the form by crossing out language you don't agree with and writing in your restrictions. If you do this, initial your changes.

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4. If the doctor asks for your consent, you have the option to say "yes" or "no" to sharing your information through an HIO. If you say "yes," you are *not* giving permission for different or additional uses and disclosures of your information—these remain the same regardless of whether your records are sent electronically, by fax or in the U.S. mail. You can't be denied medical care or insurance or otherwise penalized because you say "no" to electronic sharing of your information when given the choice.

HIOs are required to use certain security measures to protect patient information, such as encryption and passcode protection. Even if your information is not exchanged electronically, your provider is not required to stop maintaining your records in digital (electronic) format.

5. You have the right to choose how your health care providers contact you. Make a written request that you be contacted in the way you prefer (for example, at your cell phone number instead of your home or work phone numbers, or by email instead of postal mail). You can also keep your health plan from being notified of your treatment if you request such a restriction and pay your medical bills out of your own pocket.

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6. Maybe. Patients have the right to ask providers to restrict how their medical information is disclosed for the purposes of treatment, payment and healthcare operations, but providers are not required to agree to the request. However, if the provider does agree, then he or she must observe the restriction. In this case, whether your rights were violated depends on whether your health care provider agreed to your restriction.

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7. In California, your information can be used for marketing *without* your authorization if the marketing message concerns your health plan's services, benefits or more cost-effective products; if the message is tailored to you and tells you about other treatment options; or if the sender is not paid for delivering the message. In this case, you should "unsubscribe" from email messages if you are given that option. Otherwise, contact your health care provider directly to request that you be removed from the mailing and/or call list.

Under HIPAA, fundraising is considered a health care operation. As such, a covered entity is allowed to use some of your basic information (such as name, address and appointment dates), but not your treatment information, to fundraise without your permission. In this case, it may seem suspicious that you are receiving fundraising messages for a breast cancer treatment center when you have been undergoing cancer treatments yourself, but the hospital may be sending the message to its entire mailing list, or to all patients that meet a certain demographic, such as "female" or between certain ages or in a certain geographic area. A fundraising communication must allow you to opt out of future fundraising communications. However, the fundraiser only has to use "reasonable efforts" to comply with your request.

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8. No. Providers are required to report certain communicable diseases to state health agencies even if the patient doesn't want the information reported and has not signed an authorization to release their medical information.

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9. Doctors are within their rights to ask you to put your request in writing and to pay a reasonable fee (though not all providers charge for transferring patient records), and they must obtain your signed authorization before releasing your information. However, providers are not required to transfer records, and there is no time limit for transferring patient records or penalty for failure to do so.

Health care providers are prohibited from withholding patient records because of unpaid bills. Ask your provider if this is the reason for the delay. If it is, you can file a complaint with the health plan or hospital that the doctor works for, or with the California Medical Board.

In the meantime, you could request a copy of your records for yourself. There may be a charge for this, but the doctor has to get the copy to you within 15 days. You can then provide a copy of your records to anyone you choose.

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10. Under the law, a covered entity cannot retaliate against you if you complain. If you want to continue seeing this doctor, you can cite the law and see what his response is. Otherwise, you can find a new doctor (your current doctor should provide you with one or more referrals) and escalate your complaint to the appropriate federal and/or state agencies.

# Health Records Privacy Note-taking Guide

## Electronic health records

Health records contain three categories of information:

① \_\_\_\_\_ ② \_\_\_\_\_ ③ \_\_\_\_\_

Three potential benefits of electronic health records:

 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

 The biggest potential risk associated with electronic health records:

\_\_\_\_\_

► The information health records contain, and how that information can be used and disclosed, is the same regardless of format (paper vs electronic).

TRUE    FALSE

## Health information privacy laws

The four categories of “covered entity” that must comply with HIPAA’s rules:

① \_\_\_\_\_  
② \_\_\_\_\_  
③ \_\_\_\_\_  
④ \_\_\_\_\_

➔ Protected health information (PHI) is information that:

\_\_\_\_\_



The Notice of Privacy Practices tells me:

\_\_\_\_\_ and  
\_\_\_\_\_

### Use and disclosure of patient records

The three routine uses of my health information that do not require my permission:

**1** \_\_\_\_\_ **2** \_\_\_\_\_ **3** \_\_\_\_\_

Two examples of when my information can be disclosed to a third party without my consent:

① \_\_\_\_\_ ② \_\_\_\_\_

Two words that refer to written permission:

~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~

The difference between “opt in” consent and “opt out” consent:

⇒ \_\_\_\_\_

⇐ \_\_\_\_\_

▶ Consenting to have your information exchanged through a health information organization means you (*circle one*) **ARE** / **ARE NOT** giving permission to use and disclose your information in additional or different ways.

👉 A potential drawback to not allowing your health records to be accessed or exchanged through an HIO: \_\_\_\_\_

\_\_\_\_\_

## Health records privacy rights

Three rights you have regarding the privacy of your health records:

- ① \_\_\_\_\_
- ② \_\_\_\_\_
- ③ \_\_\_\_\_

 An “accounting of disclosures” is:

\_\_\_\_\_

\_\_\_\_\_

Two ways I can protect my privacy:

- ▶ \_\_\_\_\_
- ▶ \_\_\_\_\_

Next steps: I plan to do the following to help protect my health information:

- \_\_\_\_\_
- \_\_\_\_\_

## Access to health records

→ You have the right to \_\_\_\_\_ and \_\_\_\_\_ your health records.

If you want your records sent to another provider or elsewhere, you must provide this first:

 \_\_\_\_\_

▶ The entity responsible for investigating general complaints against health care professionals in California:

\_\_\_\_\_

## Medical and prescription reporting agencies

The three main medical and prescription reports are:

**1** \_\_\_\_\_ **2** \_\_\_\_\_ **3** \_\_\_\_\_

 Who uses medical and prescription reports and why?

\_\_\_\_\_

## Data breaches, medical identity theft and fraud

Two examples of how my health information could be breached:

 \_\_\_\_\_  \_\_\_\_\_

California law requires a breach notice to include these elements:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signs of medical identity theft include:

 \_\_\_\_\_

 \_\_\_\_\_

 \_\_\_\_\_

Steps for dealing with a data breach or identity theft might include:

① \_\_\_\_\_

② \_\_\_\_\_

③ \_\_\_\_\_

④ \_\_\_\_\_

Next steps: I will do the following to protect myself from medical identity theft:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## When your rights have been violated

 When your medical privacy rights have been violated, start by filing a complaint directly with:

\_\_\_\_\_

 This agency investigates violations by HIPAA-covered entities or their business associates:

\_\_\_\_\_

► Suing over a HIPAA privacy violation is not an option under (*circle one*) **STATE / FEDERAL** law.

## Resources

Three sources of additional information about health records privacy:

 \_\_\_\_\_

 \_\_\_\_\_

 \_\_\_\_\_

# Health Records Privacy Note-taking Guide

## Answer Key

### Electronic health records

Health records contain three categories of information:

- ① *identifying information* ② *payment/claims information* ③ *medical/treatment information*

Three potential benefits of electronic health records:

-  *nearly instant retrieval of health information*
-  *less duplication of treatment*
-  *fewer errors*
-  *records are less likely to be destroyed, damaged or inaccessible*
-  *patient access to online test results and personal health information*
-  *greater security through encryption, password protection and access tracking*

 The biggest potential risk associated with electronic health records:  
*data breach*

► The information health records contain, and how that information can be used and disclosed, is the same regardless of format (paper vs electronic).

TRUE    FALSE

### Health information privacy laws

The four categories of “covered entity” that must comply with HIPAA’s rules:

- ① *health care providers*
- ② *health plans*
- ③ *health care clearinghouses*
- ④ *business associates of covered entities*

➔ Protected health information (PHI) is information that:

*can be linked to you specifically—it is “individually identifiable”*

 The Notice of Privacy Practices tells me:

*how my information can be used or disclosed and how I can exercise my privacy rights*

## Use and disclosure of patient records

The three routine uses of my health information that do not require my permission:

**1** *treatment*    **2** *payment*    **3** *health care operations*

Two examples of when my information can be disclosed to a third party without my consent:

*law enforcement, public health, to report abuse, neglect or domestic violence, health oversight activities, to communicate with a family member when you can't speak for yourself, legal proceedings/court cases, special gov't functions such as national security, workers' compensation, handling of a workplace illness or injury, some types of research, to identify someone who has died, organ donation, collecting on unpaid medical bills*

Two words that refer to written permission:

 *consent*     *authorization*

The difference between “opt in” consent and “opt out” consent:

⇒ *Under an opt-in consent policy, you are asked to sign a form giving or refusing your permission.*

⇐ *Under an opt-out consent policy, your agreement is automatic unless you, within a certain time, deny permission by submitting a form.*

▶ Consenting to have your information exchanged through a health information organization means you **ARE NOT** giving permission to use and disclose your information in additional or different ways.

👉 A potential drawback to not allowing your health records to be accessed or exchanged through an HIO: *treatment delays because your health information would not be immediately available to providers who don't already have your information in their own files*

## **Health records privacy rights**

Three rights you have regarding the privacy of your health records:

- ① *withhold or revoke your consent/authorization*
- ② *receive an accounting of disclosures*
- ③ *not receive marketing messages unless you give authorization*
- ④ *opt out of fundraising messages*
- ⑤ *have your provider contact you in your preferred way*
- ⑥ *withhold disclosures from your health plan if you pay out of your own pocket*



An “accounting of disclosures” is:

*a report of how your health information has been shared for purposes other than treatment, payment and health care operations in the previous six years*

Two ways I can protect my privacy:

- ▶ *Don't sign broad or vague authorizations.*
- ▶ *Ask questions or make changes, if necessary.*
- ▶ *Don't answer certain questions unless asked directly by my provider.*
- ▶ *Request a restriction.*
- ▶ *Be careful about giving information to non-covered entities.*

Next steps: I plan to do the following to help protect my health information:

*Open to discussion.*

## **Access to health records**

→ You have the right to *obtain/view* and *amend* your health records.

If you want your records sent to another provider or elsewhere, you must provide this first:

 *your written consent or authorization*

► The entity responsible for investigating general complaints against health care professionals in California:

*California Medical Board*

## **Medical and prescription reporting agencies**

The three main medical and prescription reports are:

**1** *MIB*   **2** *MedPoint*   **3** *IntelliScript*

 Who uses medical and prescription reports and why?

*insurance companies, to evaluate applicant risk*

## **Data breaches, medical identity theft and fraud**

Two examples of how my health information could be breached:

 *employee error*    *insider theft*    *hacking*

California law requires a breach notice to include these elements:

*the date and time of the breach*

*a general description of the incident, and the types of information at risk*

*the toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed a Social Security number or a driver's license or California ID card number*

Signs of medical identity theft include:

 *medical bills for services you have not received*

 *calls from collectors about medical bills you don't recognize*

 *being told you've reached your medical insurance coverage limit even though you shouldn't have*

Steps for dealing with a data breach or identity theft might include:

- ① *filing a police report*
- ② *monitoring your credit reports*
- ③ *using a fraud alert*
- ④ *notifying your creditors, health care providers, health insurance and others*

Next steps: I will do the following to protect myself from medical identity theft:

- keep medical paperwork filed in a safe place*
- shred medical paperwork I don't need to keep*
- review all medical bills and the insurance "explanation of benefits" after each visit or claim*
- contact my health care provider, health plan or insurance company to go over anything that looks inaccurate*
- don't give out my sensitive information in exchange for "free" medical services, tests, drug samples, etc.*

## **When your rights have been violated**

~~✎~~ When your medical privacy rights have been violated, start by filing a complaint directly with:

*your health care provider or health plan*

 This agency investigates violations by HIPAA-covered entities or their business associates:

*U.S. Department of Health and Human Services Office for Civil Rights*

► Suing over a HIPAA privacy violation is not an option under **FEDERAL** law.

## **Resources**

Three sources of additional information about health records privacy:

 *California Attorney General's Office*

- ① *California Office of Health Information Integrity (CalOHII)*
- ① *CalPatientGuide.org*
- ① *Georgetown University's Center on Medical Records Rights and Privacy*
- ① *Medical Board of California*
- ① *Privacy Rights Clearinghouse*

## Training Evaluation: *Health Records Privacy in California*

Please help us improve future presentations by giving us your opinion of today's class.  
Circle the response that best reflects your feelings about each statement:

**1. I have a better understanding of the benefits and risks of electronic health records.**

Strongly agree                      Agree                      Disagree                      Strongly disagree

**2. I understand how my health information can be used and disclosed with and without my permission.**

Strongly agree                      Agree                      Disagree                      Strongly disagree

**3. I'm more familiar with my health records privacy rights and how I can protect my personal information.**

Strongly agree                      Agree                      Disagree                      Strongly disagree

**4. I understand my rights to access or amend my health records.**

Strongly agree                      Agree                      Disagree                      Strongly disagree

**5. I'm better prepared to recognize and avoid medical identity theft.**

Strongly agree                      Agree                      Disagree                      Strongly disagree

**6. I know where to go for more information and assistance on this subject.**

Strongly agree                      Agree                      Disagree                      Strongly disagree

**7. The instructor was well informed.**

Strongly agree                      Agree                      Disagree                      Strongly disagree

**8. The materials I received are easy to read and understand.**

Strongly agree                      Agree                      Disagree                      Strongly disagree

**9. I would like to attend another class like this.**

Strongly agree                      Agree                      Disagree                      Strongly disagree

On a scale of 1 to 10 (10 being the best), how would you rate the training? \_\_\_\_\_

Please let us know how we could improve future trainings (use back, if necessary):

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***Thank you for attending!***