HIPAA Bill of Rights

Right #1 I can give the care team information.

Even when a provider cannot disclose protected health information to you, HIPAA does not prevent the provider from listening to information you provide about the patient's health and well-being. [1]

> Say: "I understand you may not be able to give me information. I need you to hear information that may be important to their care."

Right #2 I can ask what you're allowed to discuss with me.

When a patient agrees, does not object, or circumstances reasonably indicate that they do not object, a provider may share information directly relevant to that family member or caregiver's involvement in care. [2,3]

> Say: "I understand there may be limits. What are you permitted to discuss with me?"

Right #3 We can clarify who the patient wants involved.

Patients can tell providers that they want a family member, caregiver, friend, or other person involved in their care.

Ask the patient and care team to clarify:

- Who should be involved in communication
- What information may be discussed
- Whether an authorization or other documentation would be helpful
- How these preferences should be recorded for future encounters

Do not wait for a crisis to establish this communication plan.

Educational resource only; not legal advice. HIPAA establishes federal privacy protections, but state law, other federal laws, professional ethics, the patient's wishes, facility policies, and the specific circumstances may impose additional requirements or restrictions.

Planning and safety

Right #4 Incapacity does not automatically end family communication.

If a patient is not present or is unable to agree or object because of incapacity or emergency circumstances, HIPAA permits a provider to use professional judgment to determine whether sharing relevant information with someone involved in the patient's care is in the patient's best interest. [2,4]

> Ask: "Has a determination been made about whether communication with me is in the patient's best interest under these circumstances?"

Right #5 Safety concerns should be clearly communicated.

If you believe there is a serious safety concern, say so directly and specifically.

HIPAA permits certain disclosures when a provider believes there is a serious and imminent threat to the health or safety of the patient or others and disclosure can help lessen that threat, subject to applicable law and professional standards. [1,4]

> Say: "I am concerned about safety, and I need to explain specifically what I have observed."

Key federal sources

U.S. Department of Health & Human Services (HHS), Office for Civil Rights

[1] Family members sharing concerns about an adult patient with mental illness
https://www.hhs.gov/hipaa/for-professionals/faq/what-options-do-family-members-adult-patient-mental-illness-have-if-they-are-concerned-about.html

[2] Communicating with family, friends, or others involved in a patient's care
https://www.hhs.gov/hipaa/for-professionals/faq/does-hipaa-allow-a-health-care-provider-to-communicate-with-a-patients-family-friends-or-other-persons-who-are-involved-in-the-patient-care.html

[3] Discussing an adult patient's mental health information with family
https://www.hhs.gov/hipaa/for-professionals/faq/health-care-provider-permitted-discuss-adult-patients-mental-health-information-patients.html

[4] When a patient is not present or is incapacitated
https://www.hhs.gov/hipaa/for-professionals/faq/may-a-health-care-provider-share-information-if-the-patient-is-not-present/index.html

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