



# **Protecting Civil Rights Town Hall: Know Your Rights & Responsibilities**

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# Who We Are

As the Department's civil rights and health privacy rights law enforcement agency, OCR investigates complaints, enforces rights, and promulgates regulations, develops policy and provides technical assistance and public education to ensure understanding of and compliance with non-discrimination and health information privacy laws.

# What We Do

- Ensure that privacy practices of several million health care providers, plans, and clearinghouses adhere to Federal Privacy requirements under the Health Insurance Portability and Accountability Act (HIPAA)
- Ensure that more than 500,000 recipients of Federal financial assistance comply with nation's civil rights laws
- Enforce Federal Health Care Provider Conscience Rights
- Annually resolve 10,000+ citizen complaints alleging discrimination or a violation of HIPAA
- Annual certify 2,000+ new Medicare applications for compliance with the nation's civil rights laws

# How We Do Our Work

- Education and engagement
- Policy and program support
  - Regulations
  - Policy and guidance
  - Technical assistance
- Enforcement portfolio
  - Compliance reviews
  - Complaint investigations
  - Resolution activities (violation letters of finding, settlement agreements, enforcement proceedings)

**ENSURING EQUAL ACCESS TO  
HEALTH AND HUMAN SERVICES**

# Ensuring Equal Access to Health and Human Services

- Enforce federal laws and regulations that prohibit discrimination, including health care provider conscience rights, on the basis of race, color, national origin, disability, age and in certain circumstances sex and religion
- Enforce Federal law and regulation that prohibit discrimination on the basis of disability in health care and social service programs of state and local governments

# Improving Language Access Matters

- More than 25 million persons are limited English proficient<sup>1</sup>
- Nearly 61 million people speak a language other than English at home (20.3% of the population)<sup>2</sup>
- More than 80% of hospitals, general internists, and Federally qualified health clinics treat LEP patients frequently<sup>3</sup>

<sup>1</sup>: Pandya Chhandasi, Jeanne Batalova & Margie McHugh, Migration Policy Institute, *Limited English Proficient Individuals in the United States: Number, Share, Growth, and Linguistic Diversity*, 2011

<sup>2</sup>: U.S. Census Bureau, American Community Survey, 2011

<sup>3</sup>: Health Research and Education Trust, Hospital Language Services for patients with Limited English Proficiency, Results from a National Survey, 2006

# Lack of Meaningful Access Impacts Health

- Consequences for limited English proficient individuals:
  - Denial of needed benefits
  - Delay in delivery
  - Wrong benefits or services
  - Ineffective or less effective services
- Consequences for health care providers:
  - Inferior quality
  - Potential liability
  - Increased costs and inefficiencies

# Risks of Relying on Family and Friends

- The individual may:
  - Not be proficient in complex terminology
  - Fail to possess the necessary skills and ethical training to interpret
  - Not be emotionally mature enough to handle sensitive personal information being conveyed (especially children)
  - Un/intentionally omit or alter critical information
- The patient or consumer may choose to withhold or alter important personal information to avoid family and friends (especially children) being exposed to their private and confidential information
- Relying on family and friends raises serious privacy issues with HIPAA

# Protecting Individuals with Disabilities From Discrimination

- OCR enforcement authority
  - Section 504 of the Rehabilitation Act of 1973
  - Section 508 of the Rehabilitation Act of 1973
  - Title II of the Americans with Disabilities Act
- OCR investigates complaints alleging a violation of these laws and has conducted enforcement activities resulting in positive change for individuals.

# Section 1557 of the Affordable Care Act

- OCR also enforces Section 1557 of the Affordable Care Act, which, among other things, prohibits discrimination on the basis of race, color, national origin, sex, disability, or age in any health program or activity receiving federal financial assistance.
- To help raise awareness about consumer rights and nondiscrimination compliance under the Affordable Care Act, OCR continues its outreach education through stakeholder meetings with providers, community organizations and civil rights organizations, and disseminates information through its website and listserv.

# Resurrection Health Care (RHC)

- Complainant alleged that RHC, a group of six Chicago hospitals with 2000 beds, failed to provide language assistance services to Spanish and Polish speaking patients. The complaint was resolved in March 2012.
- RHC took the following corrective actions:
  - Appointed a language assistance coordinator
  - Implemented a revised language assistance policy
  - Trained 37 employees to become proficient in medical interpretation
  - Contracted with an interpreter registry for medical interpretation back-up capability
  - Established comprehensive staff training (including language assessment and how to obtain emergency interpreters)
  - Certified its ability to translate vital documents using via Language, Care Notes, and i-Med software

# University of Pittsburgh Medical Center

- Complainants alleged that UPMC, a nonprofit with 20 hospitals, violated provisions of Title VI, when it decided to close UPMC Braddock Hospital
- Public response focused on the closure's impact on access to health care for African-American Braddock residents often dependant on public transportation
- In the resolution agreement (2010), UPMC agreed to:
  - Establish new outpatient and urgent care facilities in Braddock
  - Provide door-to-door transportation from Braddock to new outpatient and urgent care facilities, as well as UPMC McKeesport Hospital
  - Annually conduct six local community health screening programs
  - Designate a patient ombudsperson to assist Braddock residents seeking access to health care

# Genesis HealthCare

- Complainant alleged that Genesis, one of the nation's largest providers of senior care, violated Section 504 of the Rehabilitation Act of 1973, when it failed to provide a qualified interpreter to a resident at one of its skilled nursing facilities.
- Genesis operates more than 400 skilled nursing centers and assisted/senior living communities across 29 states.
- In the settlement agreement (2013), Genesis agreed to:
  - Require all of its facilities nationwide to implement the terms
  - Form an auxiliary aids and services hotline
  - Create an advisory committee to provide guidance and direction on how to best communicate with the deaf and hard of hearing community
  - Designate a monitor to conduct a self-assessment and obtain feedback from deaf and hard of hearing individuals and advocates
  - Conduct outreach to promote awareness of hearing impairments and services that are available for deaf and hard of hearing individuals
  - Pay monetary penalties for noncompliance with the agreement

# **HIGH IMPACT INITIATIVES**

# Advancing Effective Communication in Critical Access Hospitals (CAH)

(Compliance Review Initiative)

- CAHs play an important role in delivering health care to limited English proficient (LEP) populations in rural and isolated areas.
- In FY 2012, OCR initiated a multi-state compliance review to support ten CAHs in the provision of comprehensive language assistance services.
- OCR has expanded the Initiative to the 45 states served by the CAH program. As a result, CAHs have:
  - Conducted needs assessments to determine the frequently encountered languages in their service areas
  - Implemented policies to ensure translation of vital documents
  - Posted signs that oral interpreters are available free of charge
  - Conducted employee training in the provision of culturally and linguistically appropriate services
  - Incorporated primary language data in patients' electronic health records

# A Medical School Curriculum - Stopping Discrimination Before It Starts

- Partnership between OCR, Stanford Medical School and National Consortium for Multicultural Education (funded by NIH)
  - Developed a curriculum for medical students on Title VI, health disparities, and culturally and linguistically appropriate care: "Stopping Discrimination Before It Starts"
  - Presented at six medical schools, Association of American Medical Colleges (AAMC), Health Resources and Services Administration, Office of Minority Health, and the National Conference of Area Health Education Centers (AHECs)
  - Incorporated into 4<sup>th</sup> year course at Emory/Univ. of Colorado
- Take Aways
  - Collaboration with Stanford provided medical experts to discuss health disparities data, medical ethics, and the role physicians can play as public policy leaders
  - Peer-reviewed and published by AAMC, <https://www.mededportal.org/publication/7740>



<http://www.youtube.com/watch?v=JY1I5s8ED5c>

Visit the HHS OCR YouTube channel at [youtube.com/user/USGovHHSOCR](https://www.youtube.com/user/USGovHHSOCR)

**KEEPING HEALTH  
INFORMATION PRIVATE**

# Health Information Privacy

- The Office for Civil Rights enforces the HIPAA Privacy Rule, which protects the privacy of individually identifiable health information; the HIPAA Security Rule, which sets national standards for the security of electronic protected health information; and the confidentiality provisions of the Patient Safety Rule, which protect identifiable information being used to analyze patient safety events and improve patient safety.
- By enforcing the Privacy and Security Rules, OCR helps to protect the privacy of your health information held by health insurers and certain health care providers and health insurers.
- OCR also enforces the confidentiality provisions of the Patient Safety Act and Rule.

# Keeping Health Information Private

- HIPAA Privacy and Security Compliance Program
- Covered entities must provide notice of breaches
- OCR opens a review of all breach reports involving 500 or more individuals
- Enforcement of health information privacy
  - OCR can take enforcement actions against entities for HIPAA Privacy and Security Rule violations
  - OCR can impose civil money penalties and enter into resolution agreements

# Privacy and Security: Are You Building a Culture of Compliance?

Important elements of a compliance program:

- Employee training and review
- Vigilant implementation of policies and procedures
- Regular internal audits
- Prompt action plan to respond to incidents
- Risk analysis and ongoing risk management

# Major 2012 Enforcement Actions

- BCBS Tennessee (\$1.5M)
  - E-PHI stored on servers stolen from deactivated data center after construction/relocation to new facility
  - Reevaluate threats/vulnerabilities to e-PHI caused by changing operational environment and manage risk
- Phoenix Cardiac Surgery (\$100K)
  - E-PHI disclosed through Internet when provider used third party application hosted in the cloud
  - Business associate agreements required when sharing data with cloud computing service providers
- Alaska DHSS (\$1.7M)
  - Portable storage device stolen from personal vehicle symptomatic of widespread failure to implement program-wide information security safeguards
  - Risk analysis to identify location and safeguards for PHI, training and controls for portal devices

# Major Enforcement Actions of 2012

- Massachusetts Eye and Ear Institute (\$1.5M)
  - Stolen personal laptop of physician using device as desktop substitute
  - Covered entity had not implemented a program to mitigate identified risks to e-PHI
  - Encrypt data stored on end-user devices
- Hospice of Northern Idaho (\$50K)
  - Breach affecting 400 individuals when laptop stolen
  - Provider had not conducted a risk assessment or taken other measures to safeguard e-PHI as required by Security Rule
  - Implement security measures to safeguard e-PHI

# Downloadable Materials

[www.healthit.gov/mobiledevices](http://www.healthit.gov/mobiledevices)

- Fact sheets
- Posters
- Brochures

**HealthIT.gov** Mobile Devices: Know the **RISKS**. Take the **STEPS**. **PROTECT & SECURE** Health Information. Find out more at [HealthIT.gov/mobiledevices](http://HealthIT.gov/mobiledevices)

### 10 tips to protect and secure health information when using a mobile device.

- 1 Use a password or other user authentication
- 2 Install and enable encryption
- 3 Install and activate remote wiping or remote disabling
- 4 Do not install or use file sharing applications
- 5 Install and enable a firewall
- 6 Install security software and keep it up to date
- 7 Research mobile applications before downloading
- 8 Always keep your device in your possession
- 9 Use adequate security to send or receive health information over public Wi-Fi networks
- 10 Delete all stored health information before discarding the mobile device

**Managing Mobile Devices in Your Health Care Organization**

Health care providers and professionals are using mobile devices in their work. Covered entities must comply with HIPAA Privacy and Security rules to protect and secure health information, even when using mobile devices. As a leader within your organization, you are responsible for developing and implementing mobile device procedures and policies that will protect the health information patients entrust to you.

Here are five steps your organization can take to help manage mobile devices in your health care setting:

1. Decide whether mobile devices will be used to access, receive, transmit, or store patients' health information or be used as part of your organization's internal network or systems, such as an electronic health record system. Understand the risks to your organization before you decide to allow the use of mobile devices.
2. Consider the risks when using mobile devices to transmit the health information your organization holds. Conduct a risk analysis to identify threats and vulnerabilities. If you are a solo provider, you may conduct the risk analysis yourself. If you work for a large provider, the organization may conduct it.
3. Identify a mobile device risk management strategy, including privacy and security safeguards. A risk management strategy will help your organization develop and implement mobile device safeguards to:
4. Develop, document, and implement your organization's mobile device policies and procedures to safeguard health information. The topics to consider when developing mobile device policies and procedures are:
  - Mobile device management
  - Using your own device
  - Restrictions on mobile device use
  - Security or configuration settings for mobile devices
5. Conduct mobile device privacy and security awareness training for providers and professionals.

Know the **RISKS**. Take the **STEPS**. **PROTECT & SECURE** Health Information. Visit [HealthIT.gov/mobiledevices](http://HealthIT.gov/mobiledevices)

Mobile Devices: Know the **RISKS**. Take the **STEPS**. **PROTECT and SECURE** Health Information.

**Is your information protected?** Mobile devices are easily lost or stolen. Avoid losing or disclosing patient health information. Keep your mobile device with you. Learn more at [HealthIT.gov/mobiledevices](http://HealthIT.gov/mobiledevices).

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**Be a team player.** Understand and follow your organization's mobile device policy and procedures. *It's your responsibility.* Visit [HealthIT.gov/mobiledevices](http://HealthIT.gov/mobiledevices)

Mobile Devices: Know the **RISKS**. Take the **STEPS**. **PROTECT and SECURE** Health Information.

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# Questions?

OCR website [www.HHS.gov/OCR](http://www.HHS.gov/OCR)

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