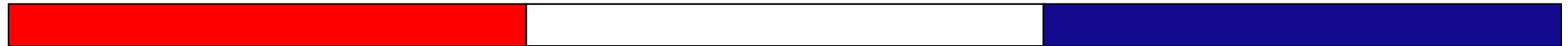


HIPAA Privacy and Security for Line Leadership



TMA Privacy Office



HEALTH AFFAIRS



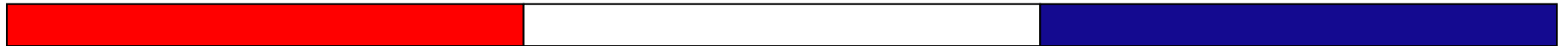
TRICARE
Management
Activity

HIPAA Privacy and Security for Line Leadership

Agenda





- Differences between the HIPAA Privacy Rule, the HIPAA Security Rule, and the DoD Health Information Privacy Regulation
- Advantages of HIPAA Privacy and Security compliance
- Responsibilities of the Military Treatment Facilities' (MTFs) leadership
- When the DoD regulations are preempted by State law
- When PHI can be disclosed to a Commander

HIPAA Privacy and Security Rules & Privacy Regulation



HIPAA Privacy and Security Rules & Privacy Regulation

Who is a Covered Entity?

<u>HIPAA ENTITY</u>		<u>Military Health System (MHS) ENTITY</u>
Providers who use a covered transaction		MTFs, DTFs, Clinics and Individual Providers
Health plans		TRICARE Health Plan
Healthcare clearinghouses		Companies that perform electronic billing on behalf of MTFs
Business associates		Healthcare Services Support Contractors and other contractors (ex. Humana, TriWest, Health Net)

Key Tenants of the HIPAA Privacy Rule

- Patients can control the privacy of their health information
- Sets limits on uses and disclosure of health information that is Protected Health Information (PHI)
- Ensures protection of PHI
- Establishes accountability and penalties

- Balances public responsibility with protections
- Preserves strong state laws
- Allows Outside the Continental United States (OCONUS) MTFs to incorporate law from other countries

Key Tenants of the HIPAA Security Rule

- Ensures the confidentiality, integrity, and availability of electronic PHI
- Protects against
 - Reasonably anticipated threats or hazards
 - Unauthorized uses or disclosures

- Requires reasonable and appropriate administrative, physical, and technical safeguards based on the results of an organizational risk assessment
- Technologically neutral to allow for flexibility and change over time

DoD HIPAA Privacy Regulation Exceptions

(1 of 2)

- State law preempts HIPAA and the DoD regulation 6025.18R when the privacy of health information is more stringent than the HHS HIPAA Privacy Rule and the DOD Regulation
- Preemptions to DoD regulations include reporting:
 - Disease or injury
 - Child or domestic abuse or neglect
 - Birth
 - Death
 - Public health activities, including surveillance, investigation, or intervention

DoD HIPAA Privacy Regulation Exceptions

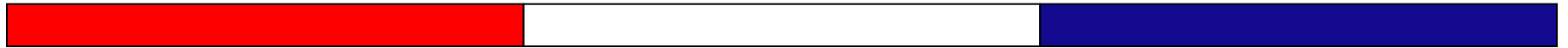
(2 of 2)

- When state laws allow a minor to access care for healthcare related to the areas below without parental knowledge, HIPAA requires we protect this health information from disclosure to the parent unless the minor signs an authorization to do so
 - Mental Health treatment
 - Substance abuse treatment
 - Family planning services



DoD 6025.18R C87.3

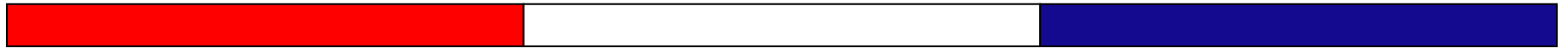
HIPAA Compliance



Compliance

- Promotes adherence to state and Federal requirements and DoD regulations for privacy and security of health information
- Provides senior management with guidance on compliance to ensure protection of PHI
- Effective program implementation supports a more efficient and effective program
 - In system design
 - Policies and procedures
 - Education and training
 - Resources
- Protects your own PHI

MTF Leadership Responsibilities



MTF Leadership Responsibilities (1 of 2)

- Each DoD medical facility or Covered Entity (CE) must:
 - Appoint a HIPAA Privacy Officer (HPO) and HIPAA Security Officer (HSO) in writing
 - Support HIPAA Privacy and Security awareness training
 - Implement a compliance program with compliance oversight responsibilities
 - Conduct Risk /Gap Analysis
 - Disseminate information
 - Form Compliance teams, where necessary
 - Be the HIPAA Advocate

MTF Leadership Responsibilities (2 of 2)

- Support integration of HIPAA Privacy and Security
- Act as Liaison with other commands about HIPAA issues
- Review policies and procedures to ensure organizational continuity

HIPAA Privacy and Security for Line Leadership

Roles and Responsibilities

<i>MHS</i>	<i>TMA</i>	<i>MTF</i>
Health Affairs – Establish and maintain policy & oversight	Integrate policy into MHS Implementation Plan	Implement HIPAA requirements within Direct Care System
	Provide HIPAA compliance guidance and tools	Designate HPO and HSO to train workforce to protect privacy
	Oversee implementation of HIPAA Rules for Contracted Networks in their Region	Assess compliance using TMA tools
	Maintain a “Foot in Both Camps” to ensure Regional HIPAA Compliance	Implement DoD Health Information Privacy Regulation
	MHS-wide Notice of Privacy Practices (NOPP)	Identify and brief responsibilities of communities of interest

HIPAA Privacy Officers' Roles and Responsibilities

- Be the MTF's initial Point of Contact for all HIPAA Privacy issues and concerns
- Monitor compliance with HIPAA training requirements
- Ensure adherence to MHS policies and procedures at the MTF level

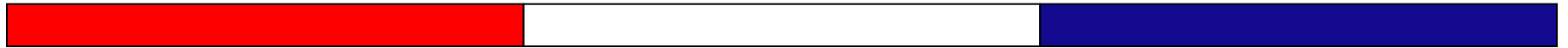
- Investigate patient privacy complaints
- Develop MTF specific policies and procedures
- Implement methods to track disclosures of PHI
- Chair HIPAA Compliance teams

HIPAA Security Officers' Roles and Responsibilities

- Oversee compliance with HIPAA Security Rule
- Establish policies and procedures to manage electronic PHI/PII
- Monitor compliance with HIPAA training requirements

- Develop HIPAA Security MTF specific policies and procedures
- Ensure sanction policies are consistently applied for failure to comply with ePHI security and breaches

How HIPAA Applies to Line Leadership



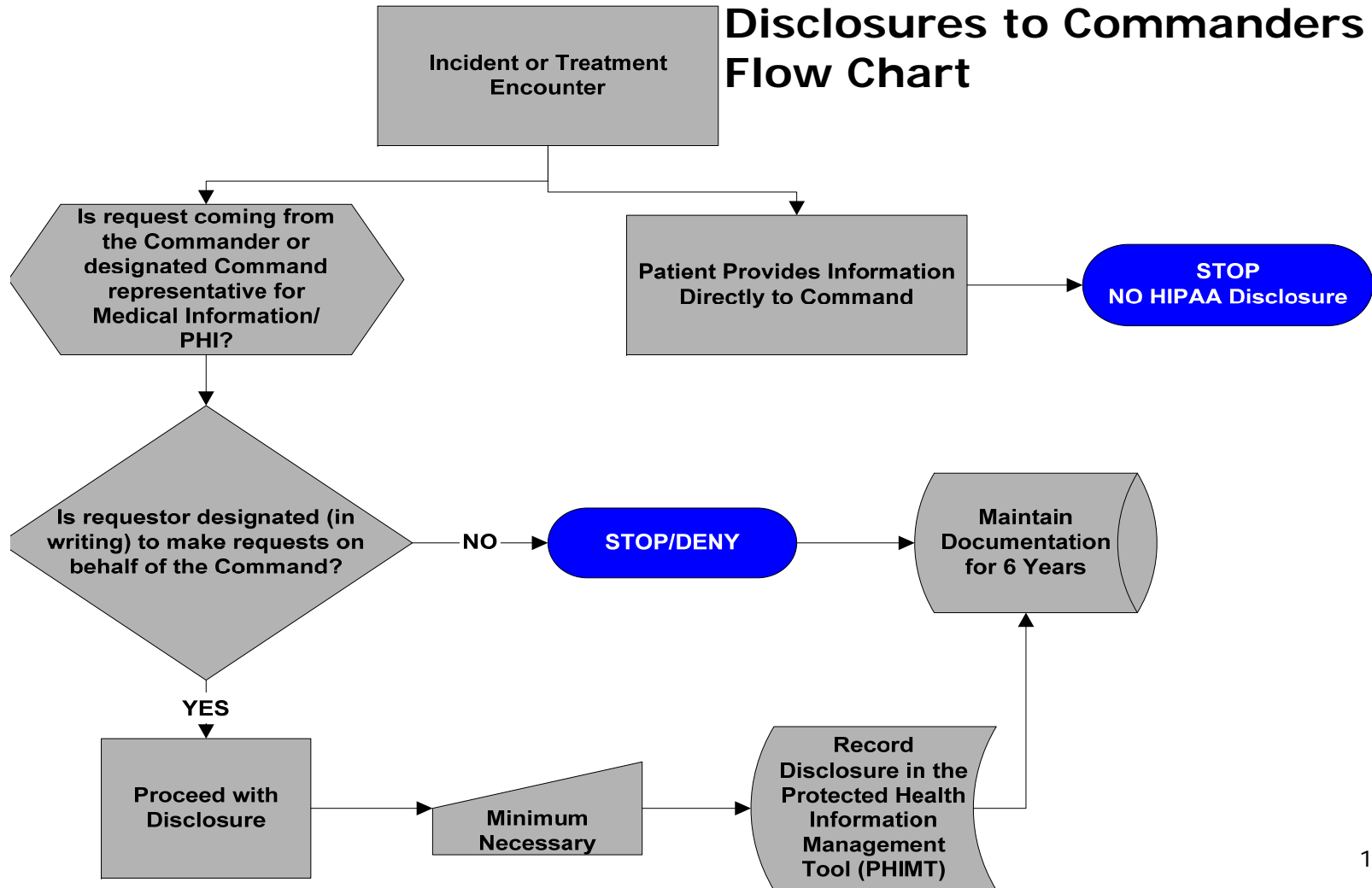
How HIPAA Applies to Line Leadership

(1 of 2)

- DoD Privacy Regulation specifically allows certain exemptions to carry out the military mission (DoD 6025.18R C7.11.1.1)
 - Information can be released to the Commander or to a person that has been designated in writing
 - Information that is released is the minimum necessary to fulfill a request
 - Does not include psychotherapy notes
 - Does not apply to civilians or dependants
 - Applies to foreign service members (DoD 6025.18R C7.11.3)
- Service members PHI may be disclosed to the Department of Veteran Affairs (DVA) to determine eligibility for benefits (DoD 6025.18R C7.11.2, C7.11.7)

How HIPAA Applies to Line Leadership

(2 of 2)



Summary

You should now have a general understanding of:

- The differences between the HIPAA Privacy Rule, the HIPAA Security Rule, and the DoD Health Information Privacy Regulation
- The advantages of HIPAA Privacy and Security compliance
- The responsibilities of the MTFs line leadership in supporting the HPO/HSO
- When the DoD military regulations are preempted by State law
- When PHI can be disclosed to a Commander

Resources

- DoD 6025.18-R, "DoD Health Information Privacy Regulation," January 2003
- DoD 8580.X-R, DoD Health Information Security Regulation (Draft)
- 45 CFR Part 164 HIPAA
- <http://www.tricare.osd.mil/tmaprivacy>
- <http://www.tricare.osd.mil/tmaprivacy/Mailing-List.cfm> to subscribe to the TMA Privacy Office E-News
- Privacymail@tma.osd.mil for subject matter questions