

Ministry Considerations of HIPAA

Deborah Patterson © 2006

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HIPAA (The Health Insurance Portability and Accountability Act, which was passed by Congress in 1996) speaks to the sharing of private health information between patients, their healthcare providers, and the insurers who reimburse a portion of the cost of the healthcare that has been provided. Written in relation to health insurance, it deals with personal health information shared between health care providers and insurers.

Do HIPAA Regulations Apply to our Congregation?

There is no direct applicability of HIPAA regulations for parish nurses or clergy serving a congregation unless they seek health information from other health providers, such as a doctor's office, or a hospital, or if the parish nurse or clergy person is an employee of one of those entities. Even in that case, the regulations are not onerous, and should not frighten you or discourage you from continuing your health ministries.

As you would assume, normal standards for confidentiality within the nursing profession apply to parish nurses, and all clergy are encouraged to continue their ethical practices related to sharing of private health information as well. The key is simply an understanding that people do not want anyone to share personal information about themselves with others without their permission. That is easily addressed with a few simple steps.

For example, you may wish to place in your church newsletter a statement such as the following:

“In order to protect the privacy of all parishioners, no information about the health status of any parishioner will be sought from another health provider or shared with other individuals by any of the staff members of this congregation without that person’s explicit permission.”

In most cases, you should not share any health information unless you ask for permission. A good rule of thumb is to ask, “May I share this information with the pastor (or the parish nurse, or the person’s son or daughter, etc.)?” Be specific. Ask if the person wants to be remembered in prayer during services, and if they would like their particular health concern mentioned.

Must You Always Have Consent?

If, in your professional judgment, a clergyperson or parish nurse believes it to be in the best interest of the parishioner to inform another member of the clergy, the parish nurse, a family member or a neighbor about a parishioner’s health status, then you may share this information without first obtaining the person’s permission, but be sure to document this decision.

Under HIPAA regulations, you can also release personal health information without the consent of the individual for the following purposes:

- Statutory Mandates
- Hotline calls on behalf of victims of abuse, neglect, or domestic violence. In the case of elder abuse, you have the responsibility under HIPAA to inform the person *for whom* (not against whom) you are making the report, unless you believe that telling them would place them at risk. Be sure to document your call.

- Judicial and administrative proceedings (A parish nurse or clergy person can ask that the Court provide a subpoena for the release of the protected health information if you feel it is in the best interest of the parishioner to withhold it)
- Law enforcement purposes
- Decedents (For two years after death, medical records are overseen by the estate. After that date, release of personal health information does not require authorization)
- Organ and tissue donation after death
- Serious threats to health and safety
- Workers Compensation

Church Health Records

Parish nurses, like all other nurses in professional practice, are required to keep basic documentation on their professional interactions with those to whom they are providing services. Under HIPAA regulations, someone in a parish nurse's care would be able to request a copy of any health information that is kept about them. Most parish nurses would share a copy of this information as a matter of course, and in an appropriate manner.

A parish nurse should probably ask for a dated, signed statement showing that a copy of the record had been requested and shared with the parishioner, and it is advisable to initial each page of the record, as it is copied, so that copies cannot be easily altered.

There may be certain situations, however, when it would be best to deny access. For example, if you are maintaining records in anticipation of litigation, you may deny access to those records. Access may also be denied if it is determined by the patient's physician to be likely to endanger life or safety of the individual or another person. Also, access may be denied if it is requested by a Personal Representative and the patient's physician determines that such access is reasonably likely to cause substantial harm.

Often the question is raised, who owns the records that a parish nurse keeps? In most cases, if the parish nurse is an employee of a health system or other parish nurse program, the records are owned by the employer. If the parish nurse is a direct employee of the church, or an non-stipendiary parish nurse, the records belong to the church.

Records must be kept in a secure, locked cabinet, and inactive records must be stored for at least ten years, even in the parish nurse program at the church should end. Health records for children must be kept until the children reach age 21, and any records involved in litigation should be kept for 21 years. (It is important to note that there has never been a lawsuit for malpractice filed against a parish nurse – anywhere, ever. There is very low risk in parish nursing practice, because this is not “hands-on” nursing practice.)

Privacy in the Office

Under HIPAA regulations, any conversations between a parish nurse and a parishioner that are related to private health information must be held, to the maximum extent possible, in areas that cannot be overheard by others. If the parish nurse office is in a church library, for example, the parish nurse must be able, during her or his office

hours, to have sole use of the room, with the ability to close the door when meeting with people.

Using good ethical standards, the same should hold true for private conversations between clergy and parishioners. Of course, as you know, a window in a church office door is a good thing!

Clergy and parish nurses should have phone lines on which parishioners may leave private messages. If leaving a message on a telephone about a health concern of a parishioner, you can say the name of the person you are calling, and leave your name and number, asking them to call you back.

If a parish nurse or pastor were to send any e-mails or faxes with personal health information (probably rare), that e-mail or fax must state the confidential nature of the contents and have instructions for its retrieval or disposal should the fax or e-mail be misdirected.

Parish nurses may keep health information on a computer at church or home as long as it is protected by a password that allows entry to those files only by the parish nurse. The password also must be changed on a regular basis, and never shared with others. It is advisable that all records be kept at the church, but sometimes this is highly impractical or even impossible for parish nurses. In this case, the same precautions for security of health information should be taken.

Any written materials, such as a calendar, or electronic storage devices, such as a Palm Pilot or Blackberry, that has personal health information recorded must be protected. The health provider (in this case, the parish nurse) is responsible for ensuring that any personal health information remains confidential.

Being There for Your Parishioners

Some things haven't changed at all under these regulations. For example, a nurse or clergyperson (or anyone else the patient designates) would continue to have the right to accompany them on any visit with a provider if that patient requests your presence. The same would hold true for hospital visitation – if the patient wants you there, you have the right to be there. There have been instances of confusion as healthcare providers seek to protect themselves from legal exposure by prohibiting the presence of a parish nurse in healthcare settings, even when her or his presence was requested by the parishioner to help him or her understand the health information being discussed.

The best rule of thumb simply is an ethical sensitivity to another person's privacy. Just because something is legal, doesn't make it ethical. Always ask if you can share information you have been told, and in what ways it can be shared (with the parish nurse or clergy, with a prayer group, with the congregation), and you will be in compliance. The law is no more stringent than good ethical practice, which should be in place in every church at every time.

For a more complete explanation of the standards to protect the privacy of personal health information, please visit the website of the United States Department of Health and Human Services: <http://www.hhs.gov/ocr/hipaa/>