

# HEALTH PRIVACY:

# Know Your Rights



As of April 14, 2003, federal law provides some privacy protections for your medical records and gives you the right to see your own records. **In order to protect your personal medical records,** you need to know what protections and rights you have and what you can do if you

believe they have been violated. The information in this brochure is an overview of those rights and protections. See the back of this brochure for resources that offer additional, more detailed information.

**The rights and protections** described inside apply throughout the United States. However, some states have their own laws that offer health care consumers stronger privacy protections and rights.

--> **Overviews of state laws available at [www.healthprivacy.org](http://www.healthprivacy.org).**

## Your Rights and Protections

### ► Notice

When you seek treatment from a health care provider or apply to a health plan for benefits, the provider or plan must give you a "Notice of Information Practices" that states your privacy rights and explains how they intend to use and disclose your health information. They are required to make a "good faith effort" to get you to acknowledge that you have received this notice by obtaining your signature. However, your signature is not required.

### ► Access

You have the right to see, copy, and supplement your own medical records.

Copies of your records must be supplied to you within 30

days of your request. The holder of the records is allowed to charge you a reasonable fee for copying your records.

### ► Security

Health care providers, plans, and "information clearing-houses" that collect, share and store your health information must have appropriate technical and administrative safeguards in place to protect your information.

### ► Limits on Employers

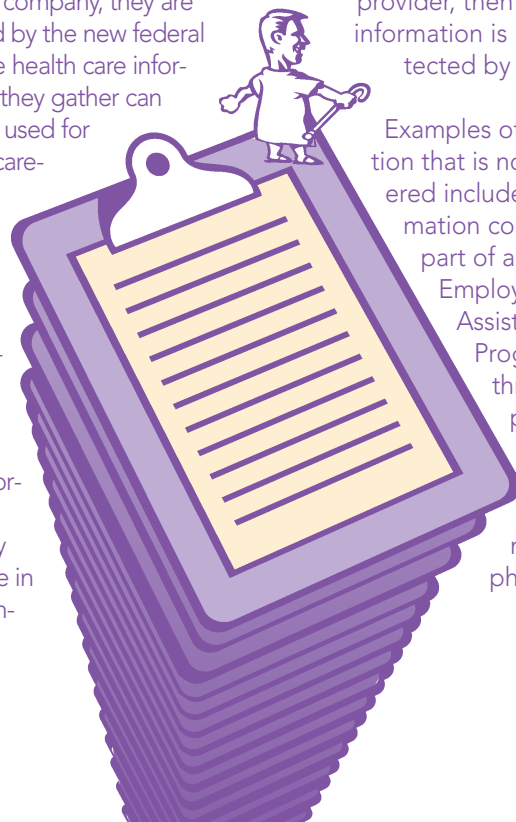
Health care providers and health plans are barred from disclosing your identifiable health information to your employer.

In various circumstances, some employers also gather health-related information on their

own. In those cases when the employer is acting in the capacity of a health plan or care provider, as in the case of a self-insured company, they are covered by the new federal law. The health care information they gather can only be used for health-care-related functions and they are prohibited from sharing that information with any one else in the company.

However, if an employer gathers personal health information, but is not acting as a health plan or health care provider, then the information is not protected by the law.

Examples of information that is not covered includes information collected as part of an Employee Assistance Program or through a pre- or post-employment physicals.



### ▶ **Psychotherapy Notes**

Mental health providers can refuse to disclose psychotherapy notes to health plans without first obtaining a patient's voluntary authorization. Health plans may not condition the delivery of benefits or enroll-

ment on obtaining an authorization from an individual.

### ▶ **Hospital Directories**

You have the right to opt-out of having your name and health status publicly available in a hospital's directory.

You may also limit the hospital from sharing medical information with family members.

### ▶ **Law Enforcement**

In most cases, law enforcement officials must present some form of legal

process—warrant, subpoena, summons—before a health care provider or health plan can disclose your health information to them.

## When Your Rights and Protections are Violated

If you believe that your health privacy rights or protections have been violated, there are several actions you can take:

### ▶ **Contact a privacy officer**

Every health care provider and health plan covered by the federal health privacy law must appoint someone on their staff as a privacy officer. If you experience a problem related to the privacy of your medical records or access to them, you might want to contact this individual in an effort to resolve the problem.

### ▶ **File a federal complaint**

You may also choose to file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights, the federal agency charged with enforcing the federal health privacy law. This office has the authority to impose civil and criminal penalties if they find a violation of the law. Your complaint must be filed within 180 days of the incident.

The complaint process is outlined at [www.healthprivacy.org](http://www.healthprivacy.org). A standard complaint form is also available on the website.

You can also go directly to [www.hhs.gov/ocr/hipaa/](http://www.hhs.gov/ocr/hipaa/). Please be sure to send copies of your complaint to the Health Privacy Project, so that complaints and follow-up can be monitored.

### ▶ **Seek state-level recourse**

There are officials in your state who may be willing to help you address violations of the federal privacy law and additional state privacy laws. Among those likely to help are your state attorney general [[www.naag.org](http://www.naag.org)], your state insurance commissioner [[www.naic.org](http://www.naic.org)], and a state

medical board [[www.fsmb.org](http://www.fsmb.org)]. See the websites to find your state's officials.

### ▶ **Lawsuits**

You do NOT have the right to sue a health care provider or health plan for a violation of the federal privacy law, but a documented violation of the federal law may strengthen a privacy case you bring in state court.



## Information Resources

Health Privacy Project  
[www.healthprivacy.org](http://www.healthprivacy.org)

HHS Office for Civil Rights  
[www.hhs.gov/ocr/hipaa/](http://www.hhs.gov/ocr/hipaa/)

**HEALTH  
PRIVACY  
PROJECT**

*Founded in 1997, the Health Privacy Project is dedicated to raising public awareness of the importance of ensuring health privacy in order to improve health care access and quality, both on an individual and a community level. Originally a part of the Institute for Health Care Research and Policy at Georgetown University, the Project is currently an independent, nonprofit 501(c)(3) organization.*

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