

HIPAA: What Mothers and Families Need to Know

HIPAA FACTS and FAMILY RIGHTS

Section 164.510(b)(3) of the HIPAA Privacy Rule.

▪ The Clinician decides:

“HIPAA expressly defers to the professional judgment of health professionals in making determinations about the nature and severity of the threat to health or safety posed by a patient.”

If there is THREATENED HARM, IMMINENT THREAT OR DANGER to oneself or others, including:

- The inability to make health care decisions
- Psychosis
- Incompetent to Stand Trial (IST)
- Imminent Homelessness

- **“Clinicians may disclose necessary protected health information (PHI) to anyone who is in a position to prevent or lessen threatened harm,**

including family, friends, caregivers, and law enforcement, without a patient’s permission.”

- **“Clinicians may listen to or review medical history provided by family or other caregivers ... so the health care provider can factor that information into the patient’s care.”**

Keep a record of the organization, person you gave it to, and the date.

<https://www.hhs.gov/hipaa/for-professionals/special-topics/mental-health/index.html>

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HIPAA was written to protect people, not to isolate them.

HIPAA allows and supports family involvement, especially when safety, capacity, or recovery is at stake.

Families cannot violate HIPAA: It applies to entities such as doctors, clinicians, hospitals, clinics, and health plans.

What HIPAA allows

- Clinicians may always listen to families, with or without patient consent.
- Families may share observations, history, warning signs, and safety concerns at any time.
- Clinicians may use professional judgment when a patient lacks decision-making capacity.
- Clinicians may communicate with family to prevent serious and imminent harm.
- Clinicians may explain diagnoses, symptoms, and warning signs in general terms even without consent.

What HIPAA does not require clinicians to:

- Refuse to hear from families
- Cut families off when consent forms expire
- Discharge someone without contacting family when contact information is known

California’s Confidentiality of Medical Information Act (CMIA) is consistent with and more protective than HIPAA. CMIA allows disclosure when a clinician, in good faith, believes it is necessary to prevent or lessen a serious and imminent threat to health or safety, and made to someone who can help prevent harm, including family members, without patient consent.

THIS MATTERS because Family involvement reduces relapse and rehospitalization, helps prevent homelessness and lowers burnout for clinicians.

“Family intervention reduced relapse and hospital admission rates.” Cambridge University Press

“When families take an active part in treatment decisions, consumer outcomes are better.” NAMI.org

Remember: HIPAA allows clinicians to listen, use judgment, and work with families when safety and recovery are at stake.

HIPAA FOR CLINICIANS: <https://www.hhs.gov/sites/default/files/hipaa-helps-prevent-harm.pdf>

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