



## Topic Brief: Medical Record Privacy

**Date:** 2/24/2022

**Nomination Number:** 0969

**Purpose:** This document summarizes the information addressing a nomination submitted on February 24<sup>th</sup> 2022, through the Effective Health Care Website. This information was used to inform the Evidence-based Practice Center (EPC) Program decisions about whether to produce an evidence report on the topic, and if so, what type of evidence report would be most suitable.

**Issue:** The nominator feels that patients do not have control over what is and is not included in their health records, and that patients may refrain from sharing certain health information with their providers if they know that it will be documented in their health records.

**Findings:** The EPC program will not develop an evidence review, as this nomination is a request for policy change, which is outside of the scope of the program.

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### Background

In 1996, a federal law called the Health Insurance Portability and Accountability Act (HIPAA) was established to protect patients' health information from being disclosed without consent. The HIPAA Privacy Rule, issued by the Department of Health and Human Services, is meant to ensure that patient health information use and disclosures are limited, without impeding health care and public health.<sup>1</sup> The law provides the patient rights over their health information and sets limits on who may access it. This applies to all forms of protected health information, including electronic, written, and oral information. The Security Rule additionally requires security for electronic health information.

Entities required to follow these laws include health plans, health care providers, and health care clearinghouses, and exclude parties such as life insurers and employers. The information protected includes medical records, and conversations between providers about treatment, and is protected through measures such as safeguards to protect health information, procedures to limit who can view and access health information, and training programs for employees that have contact with health information.<sup>2</sup>

Those who have access to health information may use it for activities such as treatment and care coordination, and to protect the public's health. This information may not be shared with employers, or used for marketing or advertising. Upon request, health insurers and providers must provide patients with health records, inform the patient of how the health information can be used and shared, and report on how and why health information was shared.<sup>2</sup> Patients may also request that any missing or incomplete information in their file be corrected.<sup>3</sup> If a patient thinks their privacy is not being protected or their health information rights are being denied,

they can file a complaint with the Department of Health and Human Services, Office for Civil Rights.<sup>4</sup>

## Related Resources

We identified additional information in the course of our assessment that might be useful. We found a 2021 Cochrane systematic review that concluded that providing patients access to their electronic health records compared to usual care has uncertain effects on a range of patient, patient-provider, and health resource consumption outcomes, including patient satisfaction and health-related quality of life.<sup>5</sup> While this does not address the issue of the patient having control over the contents of their health record, it presents information on the adjacent issue of the effects of the patient knowing what is contained in their health records.

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## References

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2. HIPAA for Individuals. U.S. Department of Health & Human Services. doi: <https://www.hhs.gov/hipaa/for-individuals/guidance-materials-for-consumers/index.html>.
3. Your Health Information Privacy Rights. Department of Health and Human Services, Office for Civil Rights. doi: [https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/consumers/consumer\\_rights.pdf](https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/consumers/consumer_rights.pdf).
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**Conflict of Interest:** None of the investigators have any affiliations or financial involvement that conflicts with the material presented in this report.

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