



Camera and Video Use in a Covered Entity

Introduction

This paper provides guidance and best practices for the use of cameras and videos within a covered entity. Covered entity (CE) or its business associate (BA) workforce members are responsible for protecting all personally identifiable information (PII) and protected health information (PHI) and complying with federal laws such as the Privacy Act of 1974 and the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Rules. Administrative, technical and physical safeguards should be applied to ensure the confidentiality, integrity, and availability of PII/PHI when dealing with cameras and videos.

For the purposes of this paper, phones with camera capabilities and other photographic or videographic devices should be regarded the same as cameras. In addition, this paper refers to cameras being used in a health care treatment facility where patients are present.

Definitions

Business Associate (BA): A person or entity that performs certain functions or activities that involve the use or disclosure of protected health information on behalf of, or provides services to, a covered entity.

Covered Entity (CE): A health plan or a health care provider who transmits any health information in electronic form in connection with a standard transaction.

Protected Health Information (PHI): Individually identifiable health information transmitted or maintained by electronic or any other form or medium. PHI excludes individually identifiable health information in employment records held by a covered entity in its role as employer.

Disclosure: The release, transfer, provision of access to, or divulging in any other manner of PHI outside the entity holding the information.

Use: With respect to PHI, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

Discussion

Under HIPAA, full face photographic images and any similar images are considered PHI, including images of the individual, relatives, employers, or household members. Patient photographs and similar images must also be excluded from limited data sets.





Discussion (continued)

While the HIPAA Privacy Rule does not specifically address the use of cameras, CEs or BAs are encouraged to establish their own policies and procedures that are consistent with other rules regarding media activities. CEs or BAs should consider the following when creating and establishing in their policies:

- The release of PHI to anyone other than the individual is prohibited, unless otherwise authorized by the HIPAA Privacy Rule or by the individual.
- The physical locations of the CE or BA, if any, where camera or video use is prohibited.
- Authorization should be obtained, when feasible, before capturing patients or personnel on tape, film, or other media.

CEs or BAs cannot regulate the use of cameras beyond their own workforce, and therefore should not be held responsible for disclosure of photographs by visitors or other outside individuals. Consent is not required for personal photos taken by the patient's authorized visitors; however, camera usage within a CE or BA must be consistent with the patient's best interests and should not be disruptive to overall care. A CE's or BAs policy should note that an individual can be asked to discontinue taping or photographing if deemed necessary.

Resources/References

45 CFR 164.512(c), Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule
DoD 6025.18-R, "DoD Health Information Privacy Regulation," January 24, 2003
DoD 8580.02-R, "DoD Health Information Security Regulation," July 12, 2007

