



Lutheran Services in America  
*Together we can*

# Q&A

*Questions and Answers for Pastors*

## The Intersections of HIPAA and Pastoral Care

### **What is HIPAA?**

HIPAA stands for the Health Insurance Portability and Accountability Act of 1996. The original goal behind the HIPAA legislation was to ensure that insurance coverage could be maintained as a person moved from one employer to another employer. Other elements were added to the legislation as it moved through Congress. These additions included the standardization of electronic formats for the transmission of different health care transactions; the security of electronic health information and electronic signatures; and the privacy of patients' identifiable information. The privacy standards have had the greatest impact on the provision of pastoral care.

The privacy standards of HIPAA went into effect on April 14, 2003. In practical language, the privacy regulations have established:

- when and under what circumstances health care providers can share information internally and externally,
- how the health care provider must inform the patient about its privacy policies, and
- how an individual can authorize or prohibit some specific uses of personal health information.

**I was able to provide better pastoral care when I could see the entire patient list. I could then see**

**the names of my neighbors and acquaintances as well as parishioners. Can't we still see the complete patient list?**

Many pastors were accustomed to receiving generous amounts of information about congregation members in the hospital or nursing home. HIPAA has required significant changes to these informal communication arrangements. Now, clergy may have access to limited information as long as the patient has not objected. In some settings they are offered a list of all individuals of their denomination. In general, visiting pastors may be provided with a patient's name, location in the facility, condition in general terms, and religious affiliation.

**Every facility has different rules about privacy and how they are implementing the HIPAA regulations. Why can't the rules and protocols be the same in each health care facility?**

All health care facilities must comply with the HIPAA Privacy Standards, but the regulations permit organizations to create their own policies and procedures so long as they comply with the regulations. Compliance has required substantial changes in each health care community and most have customized their approaches to fit their special contexts. It will be a valuable investment of a small amount of time to learn about the policies and procedures of the various facilities. The greater your

understanding, the better you can work with health care providers and can assist parishioners in providing information to you. Below are a few suggestions to consider:

- Talk with the health care facility about privacy procedures. The HIPAA regulations require that each health care facility appoint a person to serve as the privacy officer to implement and monitor the organization's compliance with protecting patients' identifiable health information. Specific questions about procedures may be directed via e-mail or letter. The chaplain in the health care facility may be another good resource.
- Become familiar with the protocols the hospital uses in determining how patients are listed in the facility directory.
- Learn what general information the hospital will and won't share with pastors. An awareness of this may reduce the level of frustration experienced by both the pastor and the staff of the health care facility. It is helpful to learn how best to ask for information from staff members. For example, ask "In which room is Mrs. Olson?" instead of, "Is Mrs. Olson here," or "was Mrs. Olson admitted?"
- Know what identification system is used by the hospital. Many health care facilities have a system established for how they will share information with family or other authorized individuals. For example, at admission, a patient is sometimes given an identification code. The patient shares the code with family members and others and it is therefore considered to be an informal approval by the patient to have information shared.
- Be aware of the facility's protocols for wearing clear identification.
- Remind members of the congregation to provide notification to the church office or pastor when admissions occur.

### **Some say that it is a HIPAA violation to offer prayers of intercession for individuals in the hospital. Is that true?**

Whether naming someone in intercessory prayers is a HIPAA violation depends on how the information was obtained and what information is shared. If an employee of the hospital learns of a hospitalization during work and shares this information with a pastor or other congregation members, the hospital employee (and thus the hospital) has violated HIPAA. However, if a parish pastor visits a congregation member in a nursing home and adds that individual to the prayers the following Sunday, there has been no HIPAA violation. As always, it is important to use good judgment in limiting the information that is shared in the prayer. The best

practice would be to have the patient's permission for the sharing of any specific information, and the family's permission if the patient is unable to provide permission.

### **What is the difference between the employed hospital chaplain and the visiting clergy? The hospital chaplain seems to have a lot more information and access to information and won't share this information with visiting pastors.**

The HIPAA regulations speak directly to this issue. An employed chaplain of a health care provider may, by hospital policies and procedures, be considered a health care professional and therefore be considered part of the health care team who is considered to have "need to know" access to patient's and resident's protected health information. By definition, a visiting pastor is not considered to be a health care professional of the health care facility.

This is not to say that visiting clergy are not a vital part of a patient's life and care. However, the regulations clearly mandate the specifics of the protection of identifiable information. In adhering to these regulations, the facility must monitor and enforce the protection of and appropriate use of patient information. The health care facility must distinguish between the health care professionals, for whom they must monitor and enforce the regulations, and others who fall outside the scope of facility control.

### **What information does HIPAA say can be shared with visiting pastors?**

According to the regulations, specific information may be shared with visiting pastors so long as the patient has been told about the use of this information and has not objected. The information that may be maintained and shared with clergy includes the name of the individual, his or her location in the facility, health condition expressed in general terms, and religious affiliation.

### **What can I do to engage the cooperation of parishioners in providing pastoral care?**

As a person deals with illness or injury, recovers from surgery, or faces a difficult prognosis or chronic situation, medical professionals, friends and family, health care facility chaplains and parish pastors all have an important role to play in God's work of healing. New privacy regulations require more intentional communication to make this happen. Providing education to parishioners about HIPAA and the need to reach out to connect pastors with those who need pastoral care can help to make communication a shared responsibility.

*For more information visit [www.lutherservices.org](http://www.lutherservices.org).*