



22 HIPAA HARMS

August 21, 2018, is the 22nd anniversary of HIPAA, the law that eliminated patient privacy rights. On August 21, 1996, President Bill Clinton signed into law “The Health Insurance Portability and Accountability Act” (HIPAA). In 2003, the “HIPAA privacy rule” (permissive data-disclosure rule) went into effect. To show how little privacy you have, we have a list of 22 ways HIPAA harms you.

HIPAA HARM # 1: HIPAA permits your health records, tests, diagnoses, and doctor’s notes to be shared between physicians and hospitals without your knowledge, making it nearly impossible to get a truly unbiased second opinion. (§164.506)

HIPAA HARM # 2: HIPAA permits scientists, researchers, and Big Data to use your medical and genetic information for research without your knowledge or consent. (§164.512)

HIPAA HARM # 3: HIPAA permits health plans and the government to access private health information without patient consent for many different purposes. (§164.512)

HIPAA HARM # 4: HIPAA permits 2.2 million entities (including 1.5 million business associates) to access your medical record information if the entity holding your information decides to share it. (*Federal Register*, Vol. 75, No. 134, July 14, 2010 (see pages 40872, 40906, 40907, 40911))

HIPAA HARM # 5: HIPAA permits disclosure of your private health information for many different purposes having NOTHING to do with your treatment. (§164.512 / “health care operations”)

HIPAA HARM # 6: HIPAA does not allow you to restrict access to your health information. HIPAA allows you to request restrictions, but the clinic or hospital is not obligated to honor your request. (§164.520)

HIPAA HARM # 7: HIPAA permits information sharing to push “one-size-fits-all” diagnostic tests and treatment procedures. Physicians that refuse to follow these government-standardized protocols can be penalized. (§164.506 / *Quality Measurement, PQRS, MIPS*)

HIPAA HARM # 8: Did you know, as a result of >50,000 public comments, HIPAA originally required patient consent for sharing data for treatment, payment, and health care operations (TPO)? In 2001, the industry successfully lobbied to eliminate consent. (*HIPAA Proposed Rule, 2002 – Federal Register/Vol. 67, No. 59*)

HIPAA HARM # 9: Hospitals can contact and share patient information with organ procurement companies without the consent of you or your dying loved one. The company can review medical records and come to your hospital room without warning to seek organ donation—unless a state law prohibits it. (§164.512)

HIPAA HARM # 10: “You can’t force a covered entity to give your data to someone you choose, and you can’t stop them from giving it to someone they choose.” – David Brailer, former National Health IT Coordinator, *Healthcare IT News*, May 1, 2015

HIPAA HARM # 11: Patient information can be shared for “public health activities,” “health oversight activities,” “judicial and administrative proceedings,” law enforcement purposes,” and “research” without your consent—unless a state law prohibits it. (§164.512)

HIPAA HARM # 12: HEALTH DATA SHARING BEFORE HIPAA
<https://thedatamap.org/map1997/index.html>

HIPAA HARM # 13: HEALTH DATA SHARING AFTER HIPAA

<https://thedatamap.org/maps.html>

HIPAA HARM # 14: Because it's called a "privacy rule," most state legislators think HIPAA protects privacy, so with few exceptions (MN, FL, GA, IA), they don't enact STRONGER (real) medical privacy laws, as permitted by HIPAA. (§160.202)

HIPAA HARM # 15: Clinics and hospitals are not required to give you an accounting of the disclosures of your information if it was shared for payment, treatment, health care operations (a nearly 400-word list of business activities)—unless state law requires it. (§164.528)

HIPAA HARM # 16: Patient data that is "deidentified" under the HIPAA deidentification standard or provided as a "limited data set" could be reidentified, according to the U.S. Dept. of Health and Human Services. (§164.528)

HIPAA HARM # 17: The federal HIPAA Administrative Simplification Regulation is 115 pages long and contains over 67,000 words – yet "consent" is only mentioned 17 times, and rarely about data-sharing.

<https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/administrative/combined/hipaa-simplification-201303.pdf>

HIPAA HARM # 18: "HIPAA is often described as a privacy rule. It is not. In fact, HIPAA is a disclosure regulation, and it has effectively dismantled the longstanding moral and legal tradition of patient confidentiality." – Dr. Richard Sobel, Associate, Du Bois Institute, Harvard University

HIPAA HARM # 19: HIPAA allows research without patient consent. A 2008 survey found: "Only 1% of respondents were willing to allow researchers to use their personal information without their consent... Thirty-eight percent wanted the right to consent to or refuse each use, while 13% would not allow research use under any circumstances." – Wendy K. Mariner, JD, LLM, MPH, Boston University

<https://scholarship.law.upenn.edu/jcl/vol18/iss3/6/>

HIPAA HARM # 20:

A 2010 Black Book survey of 12,900 consumers found that 87% of patients were unwilling to divulge all their medical information and 89% reported withholding information during visits with their provider.

<https://www.healthcare-informatics.com/news-item/cybersecurity/survey-patients-distrust-health-it-due-privacy-security-concerns>

HIPAA HARM # 21: Refusing or choosing to sign the HIPAA Notice of Privacy Practices form has no impact on permitted data-sharing under HIPAA, AND you cannot be refused treatment for refusing to sign.

<https://www.hhs.gov/hipaa/for-individuals/notice-privacy-practices/index.html>

HIPAA HARM # 22: CCHF's nationwide campaign asks patients to NOT sign the HIPAA form or the Notice of Privacy Practices acknowledgement statement. Exercise this right to help CCHF end the false narrative that signing the HIPAA form protects your privacy – it does NOT.

<http://www.cchfreedom.org/issue.php/37>

Action Opportunity: On this, the 22nd anniversary of HIPAA, one of the largest deceptions ever foisted on the American people, ask your STATE legislator to pass a real medical privacy law as permitted by HIPAA, and ask your member of Congress and the Trump administration to restore patient consent rights eliminated by the federal HIPAA no-privacy rule.

And when you refuse to sign the HIPAA form, tell us how it went at HIPAAhurtme.com