Disclosing Medical Information to Law Enforcement Officials

WENDY S. CEDOZ, J.D., RN —
CHIEF LEGAL OFFICER/GENERAL COUNSEL
GENESIS HEALTHCARE SYSTEM

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Overview

• PART I – BRIEF REVIEW: HIPAA, STATE AND FEDERAL LAWS RELATED TO PROVIDERS USE AND DISCLOSURE OF MEDICAL INFORMATION.

• PART 2 - RESPONDING TO LAW ENFORCEMENT REQUESTS FOR PHI WHILE PROTECTING PATIENTS, YOUR ORGANIZATION AND COMPLYING WITH GOVERNING LAWS.

• Goal - CREATE COLLECTIVE STANDARDS WITH LAW ENFORCEMENT TO ACHIEVE MUTUAL GOALS.
Avoid a knee jerk reaction…to automatically say yes
PART 1

HIPAA & CONFIDENTIALITY IN THE HEALTHCARE SETTING
HIPAA Overview

• The Health Insurance Portability and Accountability Act of 1996 (i.e. the original HIPAA, 42 USC 1320d to 1320d-8)

• Privacy and Security rules are 45 CFR Parts 160 and 164
  o The Privacy Rule –related to privacy of PHI
  o The Security Rule -security required for covered entities to assure confidentiality, integrity, and availability of electronic PHI.
HIPAA (not HIPPA)

“No, it’s not a female Hippopotamus, anyone else know?”
HIPAA – Overall Issues

• Privacy Rule impacts all segments of the organization that have access to Protected Health Information (PHI);
• PHI is defined very broadly to include oral and written information, not just electronic;
• Specific patient notice and authorization requirements;
• Patient rights to access, request amendment, receive an accounting of disclosures and restrict transfer of information to insurer if self-paid;
• More stringent state law often still applies.
What is Covered (or not covered)

We abide by HIPAA laws to protect your privacy.

Then explain these hospital gowns.
What is Covered

• “A Covered Entity may not use or disclose an individual’s protected health information, except as otherwise permitted or required.”

• Protected Health Information (PHI):
  o Individually identifiable health information that has been transmitted or maintained in any form or medium (electronic, paper, oral).
  o See list of 18 elements considered to be PHI.
What is Covered

If any of the following are included, it’s still PHI:

1. Names
2. All geographic subdivisions smaller than a state, including street address, city, county, and some zip code information
3. All elements of dates (except year) for dates directly related to an individual, including dates of birth, admission, discharge, and death
4. Telephone numbers
5. Fax numbers
6. E-mail addresses
7. Social security numbers
8. Medical record numbers
9. Health plan beneficiary numbers
10. Account numbers
11. Certificate/license numbers
12. Vehicle identifiers and serial numbers, including license plate numbers
13. Device identifiers and serial numbers
14. Web Universal Locators (URLs)
15. Internet Protocol (IP) address numbers
16. Biometric identifiers, including finger and voice prints
17. Full face photographic images and any comparable images
18. AND - Any other unique identifying number, characteristic, or code
CONFIDENTIAL

March 15, 2017

FAX: 740

Geriatric Hospital
Att:
2951 Maple Avenue
Zanesville, OH 43701

ATTN: RECORDS

We are conducting a diligent search on the individual named below. Please supply us with any information that you may have on this person, pursuant to Florida Statutes Sections 39.503 and 39.803. Florida law requires the Department to make attempts to determine the whereabouts of the below named individual. This information is necessary for forthcoming court proceedings.

Florida Statutes Sections 39.503(7) and 39.803(7), provide that if an agency is contacted by the Department, or their contracted service provider, requesting information regarding the location of a parent or prospective parent, the agency shall release the requested information to the Department without the need for a subpoena or court order. Florida law further requires that state, county, and local agencies to cooperate, assist, and provide information to the Department as will enable it to fulfill its responsibilities per Fla. Stat. Sec. 39.0014. Please complete the attached form and contact me at (352) 807-1936 ext. 6457 or fax 352-807-6471.

Name: [redacted]
DOS: [redacted]
SS #: [redacted]
Last known address: [redacted]

I don't need her medical records. My request is specifically for her last known address that the hospital has on file.

Please note that any information you provide us is privileged and confidential. Thank you for your assistance in this important matter.

Sincerely,

[redacted]

Administrative Assistant

Case Management Agency 3300 SW 34th Ave, Suite 101, Ocala, FL 34474
Minimum Information Necessary

• Exceptions:
  o Treatment purposes
  o Individual patient requests or authorization
  o Required by Law or DHHS for compliance
HIPAA

• Taking ‘minimum necessary’ too far?
The HIPAA-Compliant Authorization

- General rule for Authorizations – Covered Entity may not use or disclose PHI for any reason (other than TPO or where exception applies) without a valid Authorization containing:
  - Six core elements
    1. Specificity
    2. Identity
    3. Identity of recipient
    4. Purpose (“at request of the individual”)
    5. Expiration date or event
    6. Signature of patient/ personal representative
  - Three required statements
    1. Individual has the right to revoke Authorization, followed by either a description of exceptions to the right to revoke and how to exercise the right, or a reference to the CE’s NPP if exceptions and revocation instructions are included in the NPP.
    2. CE may not condition treatment, payment, enrollment on whether the individual signs the Authorization if the exceptions do not apply (some limited exceptions)
    3. The potential for information disclosed pursuant to the Authorization to be re-disclosed by the recipient and no longer be protected by the Privacy Rule.
What providers feel like:
HIPAA & State Laws

• Limited Preemption of State Law
  o If state laws is “contrary” to the Rule
    • “Contrary” if impossible to comply with both
  o State law can be more stringent (with limited exceptions)
    • “More Stringent” if use or disclosure is prohibited or restricted where it would be permitted under the Privacy Rule
  o Examples - state laws requiring written consent to disclose PHI regarding HIV/AIDS, genetic, mental health or substance abuse.

• NOTE: Health Care Provider should create a list of all disclosures required or permitted by State law to know what fits within 45 CFR 164.512.
Turk v Oiler lessons:

• Grand jury subpoena seeking medical records of a patient during investigation of a weapons charge;
• Complaints of invasion of privacy and civil rights violations based on release of info requested;
• Court held that HIPAA disclosure for law enforcement purpose exception was not a defense because Ohio law does not make an exception to the physician-patient privilege for grand jury subpoenas.

• **THEREFORE:** even if compliant with federal HIPAA, must comply with Ohio Physician/Patient privilege requirements as they are more stringent.
Ohio Privacy and Disclosure Statutes

Statutes:

**ORC 2317.02(B)** - Physician-patient Privilege. *Expressly defines a privileged communication to include the medical record.*

**ORC 2317.422** – Authentication of Medical Record at Trial

**ORC 3701.243** – Disclosure of HIV Test Results or Diagnosis

**ORC 5122.31** – Disclosure of Psychiatric Treatment Information

**ORC 3793.13** – Disclosure of Alcohol and Drug Treatment Information

**42 USC 290dd-2** – Confidentiality of Records of Substance Abuse Treatment

**ORC 3701.74** – Hospital to Prepare Finalized Medical Record

**ORC 3701.741** – Maximum Fees for Copies of Medical Records

**ORC 119.09** – Authority of Administrative Agencies

**ORC 149.43** - Public Records. *Medical records are exempted from definition of public records. Medical records are not subject to access under “public records” law.*
Ohio Physician/Patient Privileged Communications

- ORC 2317.02 Privileged communications summary:
  - The following persons shall not testify in certain respects:
    - (B) A physician or a dentist concerning a communication made to the physician or dentist by a patient...
  - "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to…..diagnose, treat, prescribe, or act for a patient.

- **CHANGES EFFECTIVE 4/6/2017**: Modified to include and apply equally to a "advanced practice registered nurse," as defined in ORC 4723.01.
Ohio Physician/Patient Privileged Communications

• Ohio recognizes the breach of physician-patient confidentiality as a tort.


• If conflict exists, health care provider may oppose the disclosure altogether (object or motion to quash) or require court-order, signed by a judicial officer.
Exceptions to Ohio Privileged Communications

• WAIVER –
  o May be waived if the patient puts their physical or mental health into issue in a civil claim ORC § 2317.02(B)(1)(a)(iii), submitting 180-day letter that puts their physical or mental health into issue § 2317.02(B)(3); by consent § 2317.02(B)(1)(a)(I)
  o May be waived by violating criminal statute (see ORC § 2151.421 Reporting child abuse or neglect).
  o Once the privilege is waived by the patient, a patient cannot limit the waiver.

• PUBLIC HEALTH INTEREST –
  o A physician may make disclosures without patient authorization where disclosure is necessary to protect or further countervailing interests, such as public health. Biddle v. Warren Gen. Hosp., 715 N.E.2d 518, 524 (Ohio 1999).

• OTHER EXCEPTIONS –
  o Records of drug and alcohol tests relevant to the criminal offense in question.
  o Criminal action against a practitioner
  o Other Mandatory Reporting Statutes
PART 2

DISCLOSURES OF PHI TO LAW ENFORCEMENT
Permitted Disclosures for Public Interest and Law Enforcement

45 CFR 164.512 Uses and disclosures for which an authorization or opportunity to agree or object is not required.

(a) required by law (must meet requirements of c, e and f to be considered ‘required by law’)
(b) public health activities
(c) victims of abuse, neglect or domestic violence
(d) health oversight activities
(e) judicial and administrative proceedings
(f) law enforcement purposes
(h) To avert a serious threat to health or safety
(k)(2) National Security and intelligence activities
(k)(5) Correctional institutions and other law enforcement custodial situations
Permitted Disclosure: (a) Required by Law

(1) A covered entity *may* use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

(2) A covered entity must meet the requirements described in paragraph (c) *(victims of abuse/crime)*, (e) *(judicial/admin proceeding)*, or (f) *(law enforcement purposes)* of this section for uses or disclosures required by law.
Permitted Disclosure: (b) Public Health Activities

Covered entities may disclose PHI to:

1. public health authorities authorized by law to collect or receive such information for preventing or controlling disease, injury, or disability;
2. public health or other government authorities authorized to receive reports of child abuse and neglect;
3. entities subject to FDA regulation regarding FDA regulated products or activities for purposes such as adverse event reporting, tracking of products, recalls, and post-marketing surveillance;
4. individuals who may have contracted or been exposed to a communicable disease when notification is authorized by law; and
5. employers, regarding employees, when requested by employers, for information concerning a work-related illness or injury or workplace related medical surveillance to comply with OHSA, the Mine Safety and Health Administration (MHSA), or similar state law.
Permitted Disclosure: (c) Victims of abuse, neglect or domestic violence*

Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii), a covered entity may disclose protected health information about an individual whom it reasonably believes is a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:

(i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;

(ii) If the individual agrees to the disclosure; or

(iii) To the extent the disclosure is expressly authorized (but not required) by statute or regulation and: (A) The covered entity believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or (B) If the individual is unable to agree because of incapacity and the recipient represents that immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting.

* summarized
Obligation to Inform Victim?

- The covered entity reporting a victim of abuse, neglect or domestic violence must promptly inform (orally) the individual that the report of abuse, neglect or domestic violence has been made, unless:
  - The CE believes informing the individual would place the individual at risk of serious harm; OR
  - The CE would be informing a personal rep they believe is responsible and informing such person would not be in the best interest of the individual.
Permitted Disclosure: (d) Health Oversight Activities

- A covered entity may disclose protected health information to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:
  - The health care system;
  - Government benefit programs for which health information is relevant to beneficiary eligibility;
  - Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or
  - Entities subject to civil rights laws for which health information is necessary for determining compliance.
Permitted Disclosure: (e) Judicial and Administrative Proceedings (Criminal and Civil)

- PHI is permitted to be disclosed in the course of a judicial/administrative proceeding in response to:
  - an order of a court or administrative tribunal - order must be specific;
  - a subpoena, discovery request, or other lawful process, not accompanied by a court order, if the CE receives ‘satisfactory assurances’ from the party seeking the information.
Adequate Assurances’ Required If Request Not Accompanied By A Court Order Signed By A Judicial Officer

- A CE must receive satisfactory assurances regarding notice to the individual or a qualified protective order.

- Can be in the form of written statement and accompanying documentation or CE can make reasonable efforts to notify individual or seek protective order.
Permitted Disclosure:

(f) For Law Enforcement Purposes

PHI is permitted to be disclosed for law enforcement purposes to a law enforcement official if the applicable conditions in (f)(1) through (f)(6) are met.

1. Pursuant to process and as otherwise required by law;
2. Limited information for identification and location purposes;
3. Victims of a crime;
4. Decedents;
5. Crime on premises;
Coroner’s Rights

Franklin County Coroner’s Office

520 King Ave.
Columbus, Ohio 43201
(614) 525-5290 • Fax (614) 525-6002
http://coroner.franklincountyohio.gov

March 20, 2017

Attn: Legal Department
Genesis Hospital
Zanesville, Ohio 43701

Dear Sirs,

We have requested the medical records of the deceased child, date of birth, pursuant to a Muskingum County Coroner’s Office autopsy permit, signed by the county coroner’s designee. The records are necessary for an accurate determination of the cause of death. I am,

Truly yours,

Chief Deputy Coroner
Franklin County Coroner's Office

DATE: 02/10/2017

YOU ARE HEREBY COMMANDED TO SUBPOENA THE FOLLOWING DOCUMENTS, to wit:

Medical Records

From: Genesis Community-Zanesville
(740) 454-3057

Deceased: 
Name: 
Date of Birth: 
Date of Death: 
SSN: 

The death of the above named decedent has come under the jurisdiction of the Office of the Coroner of Franklin County Ohio. To assist us in completing our medicolegal investigation, please forward the documents, in accordance with the Ohio Revised code 313.01 to 313.22 inclusively, by the end of business day, copies of record(s) specified below:

- X-Ray reports
- Consultation Notes
- ER record
- Discharge Summary
- Admission-History/Physical

- EMS report
- Documentation of Disposition: Projectiles
- Lab (specify)
- Operative Notes
- Progress Notes

ANY ITEM(S) LISTED ABOVE MAY BE FURTHER EXPLAINED BELOW:

* Genesis Community Ambulance EMS report please

Coroner / Designate
Permitted Disclosure: (f) For Law Enforcement Purposes

Must be to a ‘law enforcement official’.

A law enforcement official, is defined as "an officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe," who is empowered by law to:

- investigate or conduct an official inquiry into a potential violation of law; or

- prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.
Permitted Disclosure: (f) (1) Pursuant to process and as otherwise required by law

A covered entity may disclose PHI:

(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or

(ii) In compliance with and as limited by the relevant requirements of:

   (A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
   (B) A grand jury subpoena; or
   (C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that certain conditions/constraints are met.
Permitted Disclosure:  
(f) (1) Pursuant to process and as otherwise required by law

• ‘Judicial Officer’
  o Judicial officer is not defined in HIPAA, but is defined in other federal laws
  o An officer of a court usually authorized to determine depositive matters. This can include judges, magistrates and such, but not usually clerks.

• Administrative Requests require greater scrutiny and must meet all of the following constraints:
  o relevant and material to a legitimate law enforcement inquiry;
  o specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
  o for a purpose for which de-identified information could not reasonably be used.
Permitted Disclosure:
(f) (2) Limited information for identification and location purposes;

A CE may disclose PHI in response to a law enforcement official's request for information to identifying or locate a suspect, fugitive, material witness, or missing person, provided that:

(i) The CE may disclose only the following information:

(A) Name and address;
(B) Date and place of birth;
(C) Social security number;
(D) ABO blood type and rh factor;
(E) Type of injury;
(F) Date and time of treatment;
(G) Date and time of death, if applicable; and
(H) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, facial hair, scars, and tattoos.
Permitted Disclosure: (f) (3) Victims of a crime

A CE may disclose PHI to a law enforcement official's request for information about an individual who is or is suspected to be a victim of a crime if:

(i) The individual agrees to the disclosure; or
(ii) The CE is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:

(A) Law Enforcement official represents that information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;
(B) Law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual agrees; and
(C) The disclosure is in the best interests of the individual as determined by the CE, in the exercise of professional judgment.
Permitted Disclosure: (f) (4) Decedents

• A CE may disclose PHI about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the CE has a suspicion that such death may have resulted from criminal conduct.

• Information protected for 50 years following death.
Permitted Disclosure: 
(f) (5) Crime on premises

• A CE may disclose PHI to a law enforcement official protected health information that the CE believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the CE.
Permitted Disclosure: (f) (6) Reporting Crime in Emergencies

A CE providing emergency health care in response to a medical emergency, other than such emergency on the premises of the covered health care provider, may disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

• (A) The commission and nature of a crime;
• (B) The location of such crime or of the victim(s) of such crime; and
• (C) The identity, description, and location of the perpetrator of such crime.
Permitted Disclosure:  
45 CFR 162.512 (k) (2) National security and intelligence activities

- PHI may be disclosed to authorized federal officials who are conducting national security and intelligence activities or providing protective services to the President or other important officials.

- Section 215 of the U.S. Patriot Act allows the FBI Director or his designee to get a court order under the Foreign Intelligence Act to require production of medical records.
Confidentiality of Alcohol and Drug Abuse Patient Records Regulation (42 CFR, Part 2) and HIPAA (45 CFR Parts 160 and 164, Subparts A and E)

- Part 2 was enacted in early 1970s which gave patients a right to confidentiality of patient records (e.g., to avoid stigma with substance abuse which deferred people from seeking medical treatment).

- Substance abuse treatment programs that are subject to HIPAA must comply with the Privacy Rule.

- Substance abuse programs that already comply with Part 2 should not have a difficult time complying with HIPAA since the Privacy Rule parallels many of the requirements of Part 2.
Required Steps Before Disclosure of Information

- The “general rule” regarding disclosure between Part 2 and HIPAA are very different. Substance abuse programs must comply with both rules (assuming the Privacy Rule applies) in the following order:

  **REQUIRED STEPS TO DISCLOSE INFORMATION:**

  1st Under Part 2, information cannot be disclosed unless consent is obtained or an exception applies to the rule that specifically permits the disclosure.

  2nd Programs must then make sure that the disclosure is also permissible under the Privacy Rule.
Prior to any permitted disclosure, a covered entity must:

(i) Verify the identity of a person requesting protected health information and the authority of any such person to have access to protected health information under this subpart, if the identity or any such authority of such person is not known to the covered entity; and

(ii) Obtain any documentation, statements, or representations, whether oral or written, from the person requesting the protected health information when such documentation, statement, or representation is a condition of the disclosure.
(3) The client or patient in an attorney-client or physician-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is a child under eighteen years of age or is a person under twenty-one years of age with a developmental disability or physical impairment.

(b) The attorney or physician knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c) The abuse or neglect does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.
ORC 2921.22 Failure to report a crime or knowledge of a death or burn injury.

ORC 2921.22 requires reporting to law enforcement (or other entities or persons, if specified) related to potential criminal activities:

(A) Felony committed or being committed;
(B) Gunshot or stab wound treated or observed, or any serious physical harm known or having reasonable cause to believe was from an offense of violence;
(C) Discovers the body or acquires the first knowledge of the death of a person (either disclosure to treating health care provider, EMS, law enforcement, or other listed entities);
(D) If received reporting of death based on (C) above, any facts within the person's knowledge that may have a bearing on the investigation of the death;
(E) Certain burn injury (defined in ORC) that is inflicted in a violent, malicious, or criminal manner, must report to applicable local arson, or fire and explosion investigation, bureau, or otherwise to local law enforcement authorities;
(F) Applicable to certain listed health-care or other licensed practitioners, knowledge or reasonable cause to believe that the patient/client is a victim of domestic violence, as defined in ORC 3113. 31 and shall note that knowledge or belief and the basis for it in the patient's or client's records;

NOTE – only sub-part (E) and (F) specifically states that the physician-patient privilege shall not apply; however, pursuant to sub-part (G), a physician would not be liable for breach of the privilege if pursuant to this statute.
ORC 2317.02 & 2317.022 Written statement
requesting release of drug or alcohol test records.

ORC 2317.02 (2)(a) and ORC 2317.022 set forth requirements for health care providers to supply to a requesting law enforcement officer certain drug and alcohol test records to law enforcement if the following requirements are met:

- The law enforcement officer submits a Written Statement in accordance with ORC 2317.022.
- The statement must be within the ORC format to ensure all of the following are met:
  - an official criminal investigation has begun,
  - that the requested tests pertain to any test or the results of any test administered to the specified person to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine
  - that the drug/alcohol content is at any time relevant to the criminal offense in question.
- The disclosure is not specifically prohibited by any law of this state or of the United States

If the health care provider does not possess any of the requested records, the provider shall give the officer a written statement that indicates that the provider does not possess any of the requested records.
Q: Patient is a arrested or is a prisoner. Can a CE notify the police of a discharge date?
Q & A

A: Yes, if the police/jail represent either the PHI is necessary for:

- the provision of care to the patient
- administration or maintenance of the jail
- Health/safety of the patient or other inmates/employees

*Note: Minimally Necessary Information*
Q & A

Q: Can A CE provide PHI to law enforcement for a patient they bring to the ED (not arrested) and ask to be called when pt discharged?
Q & A

• A: Officer must attest in writing to the fact that the pt is a suspect, fugitive, material witness or missing person; and

• the reason that they need the info is for the purpose of identifying or locating the suspect.

• If law enforcement not willing to attest, then it is the patients choice whether law enforcement is called.
Q & A

• Q: Police officer calls hospital to ask about a patient by name, patient’s location in the facility and the patient’s general condition. Can the CE release this information?
Q & A

- A: Provided the patient has not opted out of the directory, the officer may be informed of the patient’s location and general condition.
Q & A

• Q: Police are investigating a crime. Police want info for the purpose of identifying or locating a suspect, fugitive, material witness or missing person. What info can be given?

• A: name/address; date and place of birth; SSN; blood type; injury; date and time of treatment; date and time of death; distinguishing characteristics.

• May not disclose: DNA, dental records, samples or analysis of body fluids.
Q & A

Q: Police are investigating a felony. You are aware that a felony was or is being committed. What info can be given?

A: Ohio mandatory reporting for gunshot, stab wounds, burns, serious physical harm believed to be the result of violence.

Other felonies are not required to report as subject to physician-patient privilege (i.e. cocaine discovery).
Q & A

• Q: What if a provider thinks a child or dependent adult is victim of abuse/neglect?

• A: Disclosure required:
  o Child - law enforcement or CPS
  o Elder - County JFS
  o Disabled - law enforcement or county board of developmental disabilities
Q & A

Q: When may a CE release information about a patient who may be a victim of a crime, other than felonies/violence or abuse allegations?

A:
- If the patient agrees;
- the police provide a court order or search warrant;
- All of the following are true:
  - Patient is incapacitated or emergency situation;
  - Patient's representative is not available;
  - CE believes disclosure is in the best interest of the patient.
Q & A

• Q: What if police ask for an interview or photo?
• A: If patient’s condition permits visitors, you must allow the police to see the patient.
• Q: What if the CE believes the patient committed a crime on its premises?

• A: CE may contact police if believes patient has committed a crime or threatens to commit a crime.
Q & A

• Q: What if a provider believes a patient is dangerous to self or others? Can they call law enforcement?

• A: Yes, if all of the following are met:
  o Disclosure necessary to prevent or lessen a serious/imminent threat;
  o Disclosure must be to a person reasonably able to prevent or lessen harm;
  o Disclosure is necessary for law enforcement to identify or apprehend an individual for either:
    • Admitting participation in a violent crime that may have caused harm to a victim;
    • Where it appears that the individual has escaped from custody.
Questions