

HIPAA & Vaccination Clinic Volunteers

KIRSTEN LELOUDIS, JD, MPH, NC DIVISION OF PUBLIC HEALTH

JILL D. MOORE, JD, MPH, UNC SCHOOL OF GOVERNMENT

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Volunteers: Key Considerations

Who are your volunteers?

Where do they come from?

How are they classified under HIPAA?

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Who Are Your Volunteers? And Where Do They Come From?

Clinical v. non-clinical

- Non-clinical staff
- Clinical: EO 116 temporarily waived NC licensure requirements for health care personnel licensed in another state, territory, or jurisdiction

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How Are Your Volunteers Classified Under HIPAA?

HIPAA Workforce
Member

Business
Associate (BA)

Other Volunteers
(Not workforce,
not a BA)

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How Are Your Volunteers Classified Under HIPAA? (cont.)

A member of the HIPAA “workforce”

- Can include: **employees, volunteers, trainees, and others**
- Performing work for a covered entity (CE) or business associate (BA)
- Their conduct in the performance of that work is **under the direct control** of the CE or BA
- Does not matter if they are **paid or unpaid**



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How Are Your Volunteers Classified Under HIPAA? (cont.)

A “business associate”

- Not part of your CE’s HIPAA workforce- but could be part of another CE’s workforce
- Can be an individual or an entity
- Must perform certain functions or services on behalf of a CE that involve use/disclosure of protected health information (PHI) or are otherwise regulated by HIPAA
 - E.g., data analysis, billing, IT, legal services
- Must have an agreement in place memorializing BA relationship

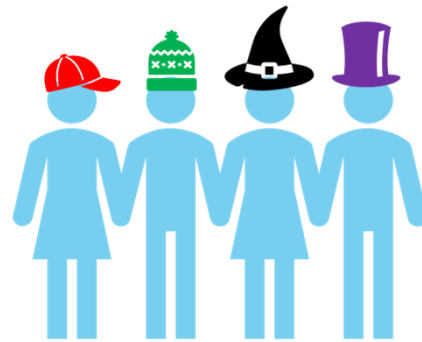


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How Are Your Volunteers Classified Under HIPAA? (cont.)

Other types of volunteers

- Not part of your HIPAA workforce because they aren't **under the direct control** of your CE or your BA when they're performing their volunteer work



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Volunteers: HIPAA and Other Common Issues

Training
Confidentiality agreements
Breaches and sanctions
Business associate agreements

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Training: What Does HIPAA Require?

HIPAA Workforce Member	Business Associate (BA)	Other Volunteers (Not workforce, not a BA)
Training required under HIPAA	Training not required under HIPAA (but may be a good idea)	Training not required under HIPAA

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The Pre-Trained Volunteer

- Some volunteers may come to you with HIPAA training
 - Could elect to accept documentation of recent HIPAA training
 - Considerations: documentation, quality of the training, recentness
 - These volunteers still need supplemental training on your CE's policies and procedures + information about volunteers' assigned worksite or assigned roles

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Training for Business Associates

- HIPAA training not *required*
 - But CEs can be BAs of other CEs- in which case, your BA may have already required its workers to complete training
- Even if not required, training may still be a good idea
- Could include reference to training in your business associate agreement (BAA)



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Training for Other Volunteers

- Not working under direct control of any covered entity or BA
- HIPAA training is not *required*
 - **Note:** these volunteers should not be assigned roles where they are required or expected to hear, read, or otherwise access or encounter PHI
 - Even if these volunteers complete your HIPAA training or someone else's, that does not create a lawful basis for them to access PHI (because they are not part of your CE's workforce or your BA)
 - May place limitations on what types of work these volunteers can do



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Overview of HIPAA Training Requirements

Who: Workforce members, including volunteers

When: Within a reasonable period of time after joining the workforce

What: Relevant aspects of –

- HIPAA Privacy Rule
- HIPAA Security Rule
- HIPAA Breach Notification Rule

Proof: Training must be documented, but the form of documentation is not prescribed

45 C.F.R. 164.530(b); 164.308(a)(5)

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Volunteer Training Fundamentals

Volunteers must not share PHI about vaccination clinic patients except as necessary to carry out the volunteer role

Paper and electronic records must be stored and disposed of securely

If volunteer role includes access to electronic devices, volunteers must be trained in applicable security procedures, such as password protection, device lockdown/shutdown, etc.

Volunteers should know whom to contact if they have questions or concerns about PHI management

Volunteers should not take personal photos or video/audio recordings of the clinic

Volunteers who violate HIPAA policies/procedures must be sanctioned

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Privacy Rule: Key Points for Volunteers



Definition of protected health information (PHI)

- Individually identifiable information that pertains to health status or health care
- Includes information about vaccinations

Sharing PHI within the clinic

- Volunteers and employees may share PHI with each other, but the sharing should be limited to the amount of PHI that is necessary to accomplish the purpose
- Volunteers should cooperate with the entity's "reasonable safeguards"—steps taken to guard against PHI being seen or heard by others

Sharing PHI outside of the clinic

- Volunteers should not share PHI with anyone outside the clinic, unless it's part of their volunteer role or they are directed by to do so by the entity operating the clinic

Social media and other social sharing

- Volunteers must not take photos or make audio or video recordings of a vaccination clinic for their personal use
- Volunteers must not share information about vaccination clinic patients on social media

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Security Rule: Key Points for Volunteers

Volunteers must comply with policies and procedures for keeping paper and electronic information secure

Depending on the volunteer's role, this may include training in matters such as:

- Password management
- Protecting devices against malware
- Securing devices when not in use
- Management and disposal of papers containing PHI

Volunteers must not access paper or electronic records except as required by their volunteer role

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Breach Notification Rule: Key Points for Volunteers

Definition of breach (simplified)

- A breach is a use or disclosure of PHI that is not allowed by HIPAA

Volunteers' duties if known or suspected breach:

- Notify the appropriate clinic personnel
- Cooperate with breach investigation

Sanctions

- Volunteers who cause a breach must be sanctioned in accordance with the entity's sanctions policies

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How should you train volunteers?

Options

- Brief written document plus oral instructions
- Use existing online training resources
 - AHEC training developed specifically for COVID-19 vaccination clinics: <https://www.charlotteahec.org/continuing-professional-development/event.cfm?eventid=65572>
- Use the HIPAA training that you use for your employees

Include any information that is specific to your clinic, especially:

- Security policies/procedures for volunteers working with paper or electronic PHI
- Local contact person for HIPAA questions/concerns
- Role-specific information for your clinic



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Documentation of Training

Volunteer training must be documented

Documentation must be paper or electronic but no particular form is required

- Common forms: certificates, logs

At a minimum, documentation should include:

- Name of person trained
- Date and time of training
- Title or brief description of training

Covered entity should retain a copy of the training materials used



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Confidentiality Agreements

HIPAA Workforce Member

Business Associate (BA)

Other Volunteers
(Not workforce, not a BA)

Not required, but may be a good idea

Not required, but may be a good idea

Not required, but may be a good idea

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Confidentiality Agreements (cont.)

Not required under HIPAA, but helpful way to document volunteers' acknowledgement and acceptance of requirements related to their work

- Can be used for your workforce, your BAs, and other volunteers
 - Other volunteers (non-workforce, non-BA) are not required to comply with HIPAA but a confidentiality agreement may still help ensure protection of patient privacy
- A good place to remind volunteers of other laws that may apply
 - For example, NCGS 130A-143, North Carolina's communicable disease confidentiality statute, applies to information about an individual who has or may have a reportable disease
 - COVID-19, a novel coronavirus, is reportable in North Carolina
 - Vaccine eligibility screening questions may elicit information that is protected under this law

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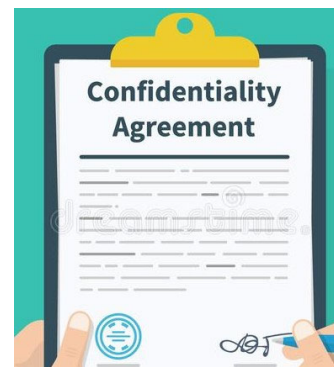
Confidentiality Agreements: Common Elements

Name of covered entity

Statements that the volunteer:

- Understands patient information is confidential and protected by state and federal law
- Agrees to complete required training
- Understands and agrees to abide by covered entity's policies and procedures to protect privacy and security of patient information
- Will not take personal photos or recordings of vaccination clinic
- Will not share information about vaccination clinic patients on social media
- Will promptly report known or suspected violations of privacy or security policies and will cooperate with breach investigations
- Has read and understands the statement

Volunteer's name, signature, and date



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HIPAA Breaches and Sanctions

HIPAA Workforce Member	Business Associate (BA)	Other Volunteers (Not workforce, not a BA)
CE can be liable for breaches its workforce causes; must have sanctions policy	BA can be liable for breaches, but also uses of PHI not permitted under the BAA and not required by law	Ideally no breaches because should not be accessing PHI

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HIPAA Breaches and Sanctions (cont.)

According to HIPAA, who can be held responsible for breaches?

- CE can be held responsible for breaches caused by its workforce
 - *This includes your volunteers that are part of your workforce!*
- BAs can be held responsible for breaches caused by the BA and its workers, as well as uses of PHI that are not permitted by the business associate agreement (BAA) or required by law
- Ideally, your other volunteers will not cause breaches because they should not have access to or be in possession of PHI

Sanctions and other consequences

- Covered entities are required to have policies for sanctioning workforce members who violate HIPAA policies or procedures
- Business associate agreement (BAA) should also outline consequences for BAs that cause a breach of PHI
- Sanctions can vary to reflect the severity of the situation (e.g., verbal correction, re-training, dismissal)

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Business Associate Agreements (BAAs): What Does HIPAA Require?



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Business Associate Agreements (BAAs): When Does HIPAA Require One? (cont.)



HIPAA requires documentation of BA relationship

- Often called “business associate agreements” (BAAs)
- Must include certain elements set forth in the HIPAA Privacy Rule
- HHS provides an example BAA on its website

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Questions?
