

In Crisis? Five Important Facts Increase Communication with Your Loved One's Care Team

Fact 1: Patient consent to share health information with caregivers

Usually, caregivers must have their loved one's permission before a doctor can talk with them. However, HIPAA does not require consent to be a physical signature. Instead, doctors can talk with families if the patient gives permission any of these ways:

Signed consent:

The patient could sign a release-of-information form provided by the doctor's office or hospital.

Verbal consent:

When asked, the patient could say it is fine for a doctor to talk with their caregivers.

Implied consent:

A doctor could say that he or she wants to speak to the patient's caregivers. Or, doctor might talk with a patient while family is in the room. As long as the patient does NOT object, a doctor could safely assume that it is fine to talk with the caregivers.

Fact 2: Exceptions – Where consent is not needed

Three circumstances allow doctors to talk with caregivers *without the patient's permission*. These are called "exceptions."

Emergency

The patient is deemed to be in a psychiatric emergency. In that case, the patient is usually in the Emergency Department or the Psychiatric Emergency Department.

Incapacitation

The patient is considered *not* capable of make a decision for themselves. For instance, psychosis, extreme intoxication, drug overdose, or unconsciousness are all conditions that would make this true.

Threat of Harm

The patient poses a threat of harm to themselves or others.

Fact 3: Allowed, not required

In the three exceptions above, doctors are *allowed* to talk with caregivers. However, they are never *required* to. Because of that, do everything you can to show the doctor that talking with you will benefit your loved one.

Fact 4: One-way information

On the other hand, caregivers can *always* give a doctor information about their loved ones. Thankfully, nothing in HIPAA says you cannot provide this "one-way information." Equally important, there is nothing in HIPAA that says that a doctor cannot listen to a caregiver.

Fact 5: Confidentiality for caregiver

A doctor is *not supposed* to share information received from a caregiver with the patient *if* two conditions are met.

- The caregiver asks the doctor to keep the communication confidential **AND**
- The doctor promises not to tell the patient they spoke to the caregiver.