

Tighten the Bolts of Your ROI Processes

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Release of information (ROI) has become a complex area for health information management (HIM) professionals. ROI staff and HIM management now must question and dissect every line on a request prior to release. Because of this, a quick reminder on some of the complex ROI risks is appropriate for all HIM professionals. The following will shed some light on a handful of ROI topics that are necessary to understand if one is to ensure the safety of protected health information (PHI).

In addition, it would be helpful for HIM professionals to review several AHIMA tools and resources available in the AHIMA HIM Body of Knowledge on the topic, including AHIMA's Release of Information Toolkit, articles on the designated record set, the legal health record, law enforcement disclosure, and articles discussing best practices in HIM employee training.

The Release of Information Toolkit, provided by AHIMA in the HIM Body of Knowledge available at [ahima.org](https://www.ahima.org), is available free to members and can help even a ROI novice become skilled in compliant workflow processes and management. The ROI Toolkit provides a framework for facilities to use when working to meet federal and state-wide compliance with ROI-centered HIPAA regulations.¹

The toolkit is a great reference guide for the beginner as well as the experienced HIM professional, and provides definitions of common terms along with examples of the types of information requests most often received. It contains guidelines for workflow, information on charging options for ROI services, management practices, as well as information on legal regulations. This toolkit should be used to provide training to all employees within the ROI department, as it recommends best practices for the release of PHI.

Designated Record Set versus Legal Health Record

Questions often arise about the difference between the designated record set (DRS) and the legal health record (LHR). The designated record set is what an individual has a right to access and request under the HIPAA regulation. According to the ROI Toolkit, "The HIPAA Privacy Rule requires that organizations identify their designated record set, which is defined as a group of records maintained by or for a covered entity that is:

1. The medical records and billing records about individuals maintained by or for a covered healthcare provider
2. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan
3. Used, in whole or part, by or for the covered entity to make decisions about individuals"²

With the definition of the designated record set in mind, the organization must identify the content and data sets specific to their facility. Once the necessary information for the designated record set has been determined, it is required that this information and content be defined and documented within organizational policies.

The legal health record is very similar and is considered a subset of the designated record set. It is defined as: "The business record generated at or for a healthcare organization. It is the record that would be released upon receipt of a request. The legal health record is the officially declared record of healthcare services provided to an individual delivered by a provider. The legal health record's purpose is to serve as the official business record of services performed by the entity for regulatory and disclosure purposes."³

The legal health record remains discoverable in an evidentiary hearing. "It must support decisions made in a patient's care and is legal testimony regarding the patient's illness, injury, response to treatment, and caregiver decisions."⁴

When defining the contents of the legal health record, it is necessary for a multidisciplinary team to create an organizational policy that lists the specific data elements to be collected. This team should be comprised of staff representatives from HIM,

IT, risk management, medical staff, and legal counsel. The legal health record includes any data that is individually identifiable, in any medium that it is collected, that documents healthcare services and status. It does not contain administrative or aggregate data.⁵ The content should be clearly defined and periodically reviewed to ensure that staff discloses information in the same format, which is taken directly from the legal health record policy.

Information Releases to Law Enforcement Tricky

Law enforcement releases continue to be a complex area for ROI due to the patchwork between state laws and HIPAA. Releasing personal health information to law enforcement has changed drastically since HIPAA was enacted in 2003. The changes allow an individual more control over their personal health information. Releasing information to law enforcement does contain some exceptions, and allows for the information to be released if the following requirements are met, according to the ROI Toolkit:

1. Release is mandatory to report injuries such as a gunshot or stab wounds
2. Response to judicial officer by subpoena, court order, warrant, summons, or investigative demand
3. For locating a suspect, fugitive, witness, or missing person if the victim cannot consent due to an emergency and when it would affect the investigation
4. If a person has died due to a criminal act
5. If the PHI is evidence of criminal conduct
6. If the release helps avert a serious threat to the health and safety of the public
7. To provide medical care to those in custody at a correctional facility or to protect the health and safety of employees and others⁶

In the ROI Toolkit, AHIMA provides several recommended practices to assist with disclosing PHI to law enforcement. Entities should create a detailed policy and procedure on disclosing information to law enforcement agencies and educate staff on disclosure of such information, including strict adherence policies. Make sure the ROI consent form is compliant with law enforcement requirements.⁷ Also remember that the HIPAA Privacy Rule requires releases to law enforcement be tracked in an accounting of disclosures. These disclosures must be made available to the patient going back six years before the date of the patient's request.

ROI Training Best Practices

When creating a ROI training program for new staff members, a pre-test may be given to assess the level of knowledge the new employee has regarding release of information practices and regulations. After gauging their knowledge and conducting training tailored to their understanding, the session can be followed with a post-test to ensure the training program has met the desired goals. New staff members can be given examples of proper and improper authorization requests to determine validity. It may also be necessary to conduct audits of new staff members' work periodically during the first three months of employment to ensure the privacy and security of all health information is remaining intact.

Additionally an organization's HIM and billing staff members should be educated on HIPAA and ROI policies and procedures. This training may also extend to other members of the workforce and even an organization's business associates. A thorough training program should occur when new employees are hired, as well as semi-annual competency quizzes taken by all staff. If policies and procedures are updated, it will be necessary to provide communication about the updates to staff members. The organization should appoint a knowledgeable staff member to handle these communications and updates. As part of the overall HIPAA education program at a facility, it could be helpful to place posters throughout the organization that contain information about HIPAA privacy and proper ROI procedures. All of these steps can help to safeguard patient health information.

ROI does not have to be an area of high risk for the organization. When staff is fully informed with written guidelines that are easy to access, the wrongful disclosure of patient health information can be safely avoided. With the help of AHIMA's Release of Information Toolkit and some quick reminders about tricky areas, an organization can be sure the nuts and bolts of their ROI processes are tightened and can thus perform their daily business operations with the privacy and safety of the patient in mind.

Notes

1. AHIMA. "[Release of Information Toolkit](#)." May 2013.
2. Ibid.
3. AHIMA. "Fundamentals of the Legal Health Record and Designated Record Set." *Journal of AHIMA* 82, no. 2 (February 2011): expanded online version.
4. Ibid.
5. Ibid.
6. AHIMA. "Release of Information Toolkit." May 2013.
7. Ibid.

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Article citation:

Cacciatore, Victoria; Downing, Katherine. "Tighten the Bolts of Your ROI Processes" *Journal of AHIMA* 85, no.6 (June 2014): 48-49.

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