



AMOPPORTUNITIES

Clinical Placement Terms and Conditions

Definitions:

Practice of Medicine: The practice of medicine amounts to a regulatory body's allowance of practitioner to make decisions to care for or treat their patients. Each state's regulatory body determines the exact definition of the practice of medicine. Other definitions include: Advertising or representing in any manner that one is authorized to practice medicine and surgery; any offer or attempt to prescribe, order, give, or administer any drug, treatment, medicine, or surgery for the use of any other person except as otherwise authorized by law; any offer or attempt, except as otherwise authorized by law, to prevent, diagnose, correct, or treat in any manner or by any means, any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any person.

Unlicensed Practice of Medicine: Engaging in practicing medicine without appropriate state licensure to do so. Regulations vary from state to state and it is the sole responsibility of the visitor, as well as the AMO partnered institution and attending physician to familiarize themselves with such activity, to not engage in such activity, or assist in any engagement of such activity.

Clinical Experience: Structured and supervised learning experiences administered by U.S licensed physicians and institutions. During the Clinical Experience, physician sponsors may employ licensed Nurse Practitioners, Physician Assistants, or other licensed professionals who participate in licensed care of their patients. Students may be assigned to these professionals for a partial duration of their clinical experience, while still remaining under the direct supervision of a U.S physician. AMO and partnered physicians/institutions do not offer any educational credit or credit toward licensure. These experiences are for vocational experience and professional learning only.

Hands-On: This Clinical Experience designation refers to patient focused clinical exposure. Visitors will engage in some form of patient interaction that is not considered the practice of medicine, such as recording patient histories, while adhering to all HIPAA and Joint Commission regulations and state regulatory guidelines regarding patient interaction. "Hands-On" does not and should not imply to one that they are free to function, as would a licensed physician in any capacity. It is the sole responsibility of each medical student and graduate at all times to not engage himself or herself in the practice of medicine, or represent themselves as a licensed physician or professional. Engaging in these activities is considered a felony criminal offense in most states.

Observership: A structured and supervised Clinical Experience without direct patient interaction. This type of Clinical Experience offers visitors exposure to the U.S medical system while limiting the visitor to strictly observation of the practice of medicine. Visitor has no effect on the administration of care or physician's practice of medicine. Visitor must still maintain all patient privacy regulations in accordance with the HIPAA and joint commission regulations and policies.

Disclaimer: AMOopportunities, Inc. ("AMO") is an organization whose mission is to assist international medical students and graduates with acculturation to the U.S medical system. We are mindful of certain state and regulatory policies that may prohibit us from offering you our services in certain geographical regions. It is the visitor's responsibility to identify the state or states that you would like to enroll in residency and ultimately practice medicine in and apply to the correct type of AMO partnered program that serves your end goals. It is the visitor's duty to comply and stay up to date with individual state medical board laws, residency requirements, hospital policies, and HIPAA/Joint Commission regulations and policies. AMO strives in good faith to keep our members up to date with shifts in policy as they are enacted.

Notice to Visitors: Accepted healthcare students and graduates, hereafter collectively called “Visitors”, are often enthusiastic regarding their new clinical opportunity. Often, they may be tempted to, by their supervisor or otherwise, engage in patient care. This situation can result in a felony criminal act, which could jeopardize your medical career. Even being accused of this crime may result in serious difficulties obtaining a license, residency training, or malpractice insurance. As a visitor, you are solely responsible for maintaining compliance with all federal, state, and local rules, laws, and regulations. In order to maintain compliance with these laws, you must adhere to the two following regulations:

1. **You must not engage in the “Practice of Medicine” as you are not licensed to do so.** Anyone who introduces themselves as a physician, professor, specialist, or appends to their name the title of Dr. or M.D, is representing that he or she is a physician, or a professional that, for a fee, can diagnose and or treat disease, injury, or deformity. Therefore, it is **Very Important** that you refrain from calling yourself these titles or designation during your program as this could be considered “Unlicensed Practice of Medicine”, a crime prosecutable by law.
2. **Patient Confidentiality is legally binding.** You must not discuss patient information with your friends, colleagues, or anyone who is not authorized to be involved in that patient’s care. By participating in this program, you agree that you have familiarized yourself with HIPAA rules and regulations, and will not transmit any protected information to unauthorized parties, including AMOopportunities, Inc. You shall agree to HIPAA confidentiality agreements put forward by the hospital and AMOopportunities as **Exhibit B.**

Introductions

AMOpportunities, Inc. (“AMO”) is Delaware Corporation formed to offer logistics and consulting services to international professionals and independent U.S medical professionals/institutions, AMO currently maintains an Internet database of affiliated physicians and institutions looking to connect with international visitors. Visitors create online presences (accounts) and enter personal, non-financial information in this database in order to connect with aforementioned physicians and institutions; or, Visitors alternatively contact AMO directly by electronic mail to be put in touch with the partnered physicians and institutions. By entering their information into the database, Visitor shall allow AMO to use their email account, name, and academic or professional affiliation for quality assurance and referral information for prospective visitors. AMO does not provide medical education of any type. AMO is not a licensed medical institution. AMO offers a consulting service to international professionals and trainees, connecting them to independent programs offered by physicians and institutions that follow a framework of responsibilities and regulations listed in Exhibit A. AMO does not offer medical advice, or diagnosis on any medical issue, concern, or ailment.

WHEREAS, You (“VISITOR”), Representing yourself as the account you have created on the AMO Database, or via electronic mail, desires to participate in one or more U.S Clinical Experiences (USCE) offered by independent physicians and institutions with the intention of acculturating yourself to the practice of medicine in the United States; and

WHEREAS, AMOpportunities, Inc. (“AMO”) currently facilitates visitor placements in such Clinical Experiences, designed, supervised, and provided by independent physicians and institutions known as “Hands On” and “Observership” Clinical Experiences (“Clinical Experience”); **NOW THEREFORE,** the parties agree to the following terms and conditions:

1. **Placement.** Visitor agrees to participate in one or more Clinical Experience(s) they select on the AMO platform offered and supervised by an independent physician if accepted by AMO, Coordinated through the AMO database system and website on the dates indicated on the AMO platform in the city and state indicated on the program listing on the AMO Platform. Physicians will provide at least 20 hours of experience per week. Visitor may choose to receive a signed evaluation form filled out from their physician supervisor at the midpoint and end of their program. Visitor is responsible for obtaining evaluation from physician. AMO, upon request, may provide a letter of completion. Visitor may request to switch to another Clinical Experience placement, however AMO shall have the sole

discretion to approve this switch and charge a switch fee of no less than \$300 dollars. If the physician is unable to provide this placement, AMO shall use best efforts to find a replacement program willing to offer a Clinical Experience of the type selected by Visitor on the platform (either Observership or Hands-On). Visitor understands and acknowledges that AMO does not guarantee the replacement program will be in the same specialty, clinic, or city as the original program placement. Physician is the sole developer of all curriculum within AMO's safety rules. AMO does not perform any education or training services, and is solely a placement consultation service for international healthcare professionals and independently provided Clinical Experiences.

2. **Payment.** Visitor shall pay AMO a sum of the total program price listed for any Clinical Experience that they select on the website. **A reservation fee specific to each program is due immediately upon placement to secure visitor's placement and engage AMO support services.** This fee is refundable subject **only** to **Section 3 ("Refund Policy")**, and alternatively can be used as a voucher for another subject to **Section 4 ("Voucher")**. AMO must receive full payment as determined by the program listing on the website no less than 45 days before program start date. **Failure to make full timely payment shall result in loss of placement and reservation fee, or an additional late fee of no less than \$200 USD to be determined at AMO's sole discretion. Visitor understands that AMO shall not provide access to Physician's clinical experience until full payment has been made.** AMO reserves the right to terminate this contract, reject fees and visitors for purposes of patient safety, privacy, and practice professionalism to be determined at AMO's sole discretion, at which time any reservation or program fees paid to AMO are subject to terms of Section 3, 4, and 5 of this agreement.

3. **Refund Policy.** **When selecting a program on the AMO website, that program's refund policy, listed on the program description shall control.** In instances where a program does not have a specific refund policy, the AMO general policy listed here shall control. Issuance of any partial or full refund under this article will terminate and rescind the entirety of this agreement. Neither parties will be bound to provide any goods or services. Notwithstanding the reservation fee refund criteria below, **Visitor understands that a full refund will only be granted if and only if all the following criteria are met:**
 - a) AMO is unable to provide **any** clinical opportunity with any AMO affiliated doctor.
 - b) Visitor successfully obtains a B-1/B-2 visa with AMO and physician endorsement.

Refund of **one half** of the initial reservation fee shall be granted only if the following criteria are met:

- c) Visitor is eligible for the B-1/B-2 visa and applies for the visa without knowledge of any personal issue, eligibility issue, or personal connection that would lead to a visa denial.
 - d) After attending their Visa interview and presenting AMO's Invitation letter, Visitor's visa application is denied, and visitor uploads or emails to AMO at Success@amopportunities.org proof of this rejection and all documentation received from the consulate.
4. **Voucher.** **When selecting a program on the AMO website, that program's refund and cancellation policy, listed on the program description shall control.** If there is no refund or cancellation policy listed on the program description, the general policies here shall control. In cases where a visitor wishes to cancel of the program more than **60 days before program start date**, AMO may refund the reservation fee in the form of a voucher to be used as credit toward any AMO program and any additional funds as USD or voucher credit depending on visitor's choice. If visitor cancels less than 60 days before a start date, no voucher, nor monetary refund shall be provided. Notwithstanding the 60-day limit, AMO shall have the discretion to offer the voucher credit subject to a late transfer fee of no less than five hundred (\$500) USD.

- 5. Missed Time Refund.** A refund based on the formula (program workdays missed/program workdays total) will be granted if and only if physician and or department has failed to provide the Clinical Experience for a duration materially less than the program's normal work schedule **AND** AMO fails to find a substitute physician for the rest of their clinical program.
- 6. Services Provided.** Visitor understands that AMO will provide them with services limited to the following articles upon completed enrollment:
- a) Make all necessary arrangements to ensure the physician provides the Clinical Experience, and fulfill the conditions listed in section I.
 - b) Provide housing resources for Visitor to choose from and reserve from third parties.
 - c) Support and invitation letter for a B1/B2 Visa, if requested.
 - d) AMO "Coach" Support – a dedicated support agent to be a direct resource and guide for Visitor before, during, and after their Clinical Experience
- 7. Services Explicitly Not Provided and Incidental Costs.** Visitor acknowledges that he or she is responsible for all other fees, costs, charges and expenses connected or in consequence of visitor's participation in the Clinical Experience, including but not limited to: transportation to and from the United States, housing costs, meals, local transportation, medical care, and other incidentals. Visitor understands that AMO will not provide reimbursement for medical care. **AMO requires that all Visitors obtain travelers medical insurance.**
- 8. Limitation of Liability.** **VISITOR UNDERSTANDS AND AGREES THAT ANY MONETARY REMEDY AS A RESULT OF, OR RELATED TO BREACH OR PERFORMANCE OF THIS CONTRACT WILL NOT EXCEED FEES PAID TO AMO FOR THEIR PROGRAM PLACEMENT.** With respect to claims for breach of contract, neither party nor their parents, affiliates, and subsidiaries shall be responsible to any other party for any incidental, consequential, indirect, exemplary, or punitive damages, nor shall be liable for any loss of profit, loss of business opportunity, nor loss of educational opportunity howsoever caused, including negligence, gross negligence, and strict liability. Visitor understands that they are responsible for knowledge of all federal, state, and local laws and regulations that apply to the location of their stay. AMO Opportunities, Inc. and its members are not liable for any claims, demands, losses, costs, expenses, or damages that may arise when applying for licensure to practice medicine, U.S medical residency entry, placement in clerkships, or any damage(s) or loss caused by, allegedly caused by, connected to, or consequential of any purchase of use of services offered by AMO and AMO partnered clinical programs. Visitor understands that it is their sole responsibility to adhere to all federal, state, and local guidelines for applying for licensure to practice medicine, U.S. medical residency placements, or placement in clerkships. **AMO Clinical Experiences are offered only for the benefit of Visitor's clinical knowledge, and are not intended to confer any credit toward any state licensure requirements, U.S. medical residency placement, or placement in clerkships; AMO expressly disclaims any warranty, and makes no representation that their clinical experience may be used for the particular purpose of credit toward these requirements.**
- 9. Force Majeure**
- a) **"Force Majeure Event"** means the occurrence of:
 - i. an act of war (whether declared or not), hostilities, invasion, act of foreign enemies, terrorism or civil disorder;
 - ii. ionizing radiations, or contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

- iii. pressure waves from devices travelling at supersonic speeds or damage caused by any aircraft or similar device;
 - iv. a strike or strikes or other industrial action or blockade or embargo or any other form of civil disturbance (whether lawful or not), in each case affecting on a general basis the industry related to the affected Services and which is not attributable to any unreasonable action or inaction on the part of the Company or any of its Subcontractors or suppliers and the settlement of which is beyond the reasonable control of all such persons;
 - v. specific incidents of exceptional adverse weather conditions in excess of those required to be designed for in this Agreement which are materially worse than those encountered in the relevant places at the relevant time of year during the twenty (20) years prior to the Effective Date;
 - vi. tempest, earthquake or any other natural disaster of overwhelming proportions; pollution of water sources resulting from any plane crashing into any area;
 - vii. discontinuation of electricity supply, not covered by the agreement concluded with any 3d party; or
 - viii. other unforeseeable circumstances beyond the control of the Parties against which it would have been unreasonable for the affected party to take precautions and which the affected party cannot avoid even by using its best efforts, which in each case directly causes either party to be unable to comply with all or a material part of its obligations under this Agreement;
- b) Neither Party shall be in breach of its obligations under this Agreement (other than payment obligations) or incur any liability to the other Party for any losses or damages of any nature whatsoever incurred or suffered by that other (otherwise than under any express indemnity in this Agreement) if and to the extent that it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure Event except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure Event had not occurred (in which case this Clause shall not apply to that extent).
- c) As soon as reasonably practicable following the date of commencement of a Force Majeure Event, and within a reasonable time following the date of termination of a Force Majeure Event, any Party invoking it shall submit to the other Party reasonable proof of the nature of the Force Majeure Event and of its effect upon the performance of the Party's obligations under this Agreement.
- d) The Company shall, and shall procure that its Subcontractors shall, at all times take all reasonable steps within their respective powers and consistent with Good Operating Practices (but without incurring unreasonable additional costs) to:
- i. prevent Force Majeure Events affecting the performance of the Company's obligations under this Agreement;
 - ii. mitigate the effect of any Force Majeure Event; and
 - iii. comply with its obligations under this Agreement.
- b) The Parties shall consult together in relation to the above matters following the occurrence of a Force Majeure Event.

10. Housing. Visitor shall be the sole signatory on any housing lease/rental contract, pay all associated and consequential costs, and be solely responsible for maintaining compliance with all of the terms and conditions of their particular lease/rental contract, including but not limited to: paying

security deposits, and purchasing renters insurance. Visitor shall indemnify AMO from any fees, damages, and legal or contractual claims or disputes that may arise between Visitor and their landlord during the course of their clinical program. Visitor must comply with any 3d party agreements necessary to maintain legal compliance with any local, state, or federal regulations.

11. Visa and Stay in the United States. Visitor is solely responsible for maintaining strict compliance with any and all federal and state visa terms and regulations during their stay in the United States. **AMO is not responsible if Visitor fails acquire an appropriate Visa in time for the commencement of their program.** If Visitor is unable to timely obtain a Visa, AMO will make a reasonable attempt to reschedule a Program placement without payment of another fee. But in no event will a refund be made except under the conditions in Section III. If visitor fails to comply with the terms of the Visa, or the terms of this contract used to sponsor their visa, AMO will notify the state department of the visitor's non-compliance, and this contract will be terminated.

- a) **Visitor Behavior During Stay/Visa.** Visitor shall adhere to all federal, state, or city laws, as well as U.S visa regulations during their program. Visitor understands that they are responsible for knowledge of all federal, state, and local laws and regulations. As a facilitative service, AMO has no physical or controlling locus in the student's program area or hospital; therefore, visitor is **solely responsible** for their actions during the program, and their compliance with U.S visa regulations.

12. Visitor Clinical Responsibilities and Regulations. Visitor shall maintain strict compliance with all applicable institutional clinical, university, and physician directions, regulations and protocol for the Clinical Experience as well as the responsibilities and regulations shown in Exhibit A. The visitor shall pay all fees associated with these regulations.

- a) Visitor is responsible for obtaining all necessary immunizations prior to the beginning of their program. If Visitor is infected with a blood borne pathogen, including but not limited to, Hepatitis B, Hepatitis C, and Human Immunodeficiency Virus, must disclose their condition to AMO, as well as their placed program at the time this document is signed. AMO reserves the right to restrict visitors that may transmit Blood Borne Pathogens from situations that may place others at risk.
- b) Visitor is responsible for maintaining HIPAA certification and adhering to all patient privacy and HIPAA regulations, and agrees to comply with AMO's HIPAA training and agreement attached to this document as **Exhibit B**
- c) Visitor shall maintain strict compliance with applicable state law regarding medical practices. Visitor shall not perform any unlicensed practice of medicine in any way or form as defined by the state regulatory body of that program's location.
- d) Visitor assents to their removal from and barrier of entry to the clinical site if Physician or Institution so chooses at any time. Visitor will not be refunded if removal and barring so occurs. If physician or institution so requires, visitor will fund and obtain a domestic criminal background check no less than 45 days before their clinical start date.
- e) Visitor will provide all paperwork and documentation required by the institution that they have been placed into. Visitor is responsible for inquiring as to what documentation is required to participate in their clinical program.
- f) Visitor shall grant AMO an unlimited commercial license to use any photos submitted to AMO or posted online in any form or context.

13. Malpractice or Other Liability Claims. Visitor shall purchase and maintain in full effect, during the duration of this Agreement, personal health insurance coverage. Visitor shall purchase and maintain in full effect during the term of this Agreement, professional and general liability insurances of no less than \$1,000,000 per occurrence, and \$3,000,000 aggregate, written to their respective standing as either a medical student or graduate, for injury and damage to persons or property resulting from the negligent acts or omissions, or willful misconduct that under this Agreement against claims, demands, losses, costs, expenses, and damage to persons or property arising out of or in connection with Visitor's Clinical Experience. Visitor is responsible for obtaining the correct type of visiting medical liability insurance. Subject to applicable state law, neither Visitor nor AMO shall be liable for the consequences, whether bodily injury or property damage, occasioned by an act, omission, or neglect chargeable to the other party. Visitor Shall Indemnify and hold AMO harmless from any liability, loss, or damage they may suffer as a result of claims, demands, costs, or judgments against them arising out of the activities to be carried out pursuant to the obligations of this agreement. Visitor understands that AMO is a logistical service, matching independent doctors and institutions offering programs with visiting vocational trainees, and does not participate in the practice of medicine of any form. **Visitor is solely responsible for reserving a placement for which they are eligible under state law and federal visa restrictions. Visitor explicitly disclaims AMO from any liability regarding reservation of a program for which they are ineligible.**

14. Severability, Waiver, and Completion. In any case where an article of this contract may be held unenforceable, all other articles, chapters, and passages of this compact will remain valid, and binding. A waiver of any provision of this agreement shall not operate as a waiver of any rights under this contract. At the terminus of the Clinical Experience, this contract and agreement will be considered completed.

15. Termination. The visitor understands and agrees that AMO has the right to terminate and void the entirety of this agreement, while providing no refund of program fee or reservation fee, under any the following conditions:

- a) The visitor attempts to contact or contacts an AMO partnered physician regarding their program without first contacting and obtaining explicit consent from an AMO Representative.
- b) The visitor enters the clinic, hospital, or speaks with hospital administration without first obtaining explicit consent of an AMO representative via phone or electronic mail.
- c) The visitor violates any terms of their B-1 Visa obtained under the condition that they would be participating in an AMO affiliated Program.
- d) Visitor fails to comply with any hospital protocols, bylaws, or regulations; including but not limited to activities such as: immunizations, HIPAA protocol, and volunteer service regulations.
- e) Visitor breaks any federal, state, or local law while participating in the program.
- f) Physician decides to terminate the program for any reason during the duration of the program.
- g) Visitor fails to provide any documents requested by Physician or AMO prior to 30 days before their program start date.
- h) Visitor refuses to leave premises when so ordered by institution, physician, or administrator.
- i) Visitor fails to inform AMO and partnered program of any transmissible blood borne pathogen they are infected with.
- j) Visitor signs up for any program they are ineligible for under U.S. federal visa restrictions or state law.
- k) Visitor behaves in an unprofessional matter such that a disturbance is caused affecting patient safety, patient privacy, a host physician's practice, or hospital operation.

16. Applicable Laws, Merger and Warrants. The contractual laws of Illinois shall govern this agreement. This Agreement contains the entire agreement of the parties, and there are no other promises, covenants, or conditions in any other agreement, whether oral or written. AMO EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR ARISING FROM COURSE OF DEALING. ALL SERVICES AND MATERIALS ARE PROVIDED “AS IS”

17. Dispute Resolution. AMO and Visitor agree that any dispute between the parties arising out of, or relating to, this agreement, or the breach thereof, shall be resolved by binding arbitration between the parties. This includes but is not limited to any claims regarding services provided by either party, fees rendered to either party, or whether either party, under this agreement or otherwise, has acted improperly, negligently, incompetently, or in breach of contract.

- a) AMO and Visitor Understand and acknowledge that, by agreeing to binding arbitration, it waives and thereby eliminates the right to submit the dispute for determination by a court and thereby also waives the right to a jury trial. AMO and Visitor acknowledge that the grounds for appeal of an arbitration award are very limited compared to a court judgment or jury verdict.
- b) Arbitration shall be in accordance with the rules promulgated by the American Arbitration Association at the time of dispute. The dispute will be resolved by a single arbitrator to be selected by the parties in Chicago, IL.

Exhibit A

Clinical Visitor Regulations and Responsibilities

Observer/“Hands On” Clinical Experience Regulations and Responsibilities.

1. Follow the instructions of the physician and don't spend time in the clinic, hospital or private practice unless scheduled and approved by the physician or staff.
2. Do not conduct physical examinations, treatments or diagnoses of any patient.
3. Receive a letter of recommendation if the doctor believes the visitor has displayed sufficient knowledge and skills to warrant one.
4. Accept no compensation.
5. Meet patients after obtaining their verbal consent to allow observation of the clinical interaction. Introduce yourself as a student, and do not in any way shape or form introduce yourself as a physician, doctor, M.D, or other applicable professional title. It is your responsibility to introduce yourself as a non-physician rotator to the patient.
6. Follow the rules and regulations of the hospital, clinic or private practice at all times.
7. Adhere to Health Insurance Portability and Accountability Act (HIPAA) regulations.
8. Participate in any prerequisite training (e.g., HIPAA) at the hospital, clinic or private practice.
9. Pay for actual costs of administrative or prerequisite items (ECFMG certification, passport, immunizations, etc.).
10. Participate in activities (clinical tutorials, ward rounds and clinic visits), and observe procedures and operations under the supervision of the physician.
11. Observe the use of electronic medical information systems, health records, laboratory and radiology reports, etc., if available, and familiarize yourself with patient data entry and access.
12. Research the general structure and organization of the U.S. health care system, as well as private sector and government payers.
13. Review clinical articles, posters and publications per the discretion of your physician.
14. Arrange your own transportation and meals.
15. Record program hours and confirm your schedule and responsibilities with your physician

“Hands On” Clinical Experience Only Regulations and Responsibilities

Visitors participating in the “Hands On” U.S Clinical Experience must not, in any way or form, participate or aid in the unlicensed practice of medicine. The definition of “practicing medicine” varies from state to state. **It is the visitor’s responsibility to determine what activities are not considered the practice of medicine, and adhere to those activities only. You must not perform any invasive exams or procedures, with or without the use of medicine.** You may follow your attending, assist with simple physical exams and the taking of medical histories, as well as case presentation.

Visitors that wish to participate in a “hands on” clinical experience must follow all statutory guidelines listed in the Observer and “Hands-On” regulations as well as work towards the **ACGME** core competencies necessary for all successful residents.

Exhibit B

HIPAA Training and Agreement for AMO Opportunities

The HIPAA training is for AMO Visitors. This information will acquaint Visitors with the requirements for privacy under HIPAA (Health Insurance Portability and Accountability Act), effective as of April 14, 2003.

Overview of HIPAA requirements:

- Insurance portability – ensures that individuals moving from one health plan to another will have continuity of coverage and will not be denied coverage under pre-existing condition clauses
- Accountability – significantly increases the federal government’s fraud enforcement authority in many different areas
- Administrative simplification – making sure health care organizations and providers protect their patients’ privacy and the confidentiality of protect health information (PHI)

Rule Components of HIPAA – The privacy regulation protects an individual’s right to control access and disclosure of his or her protected, individually identifiable health information. The security regulation, meanwhile, requires organizations to control the means by which this information remains confidential.

Protecting yourself from liability – Consequences of noncompliance- Failure to comply is not an option. The law provides a range of penalties for noncompliance depending on the context of violation and the offender’s intent.

Privacy and confidentiality:

Patient expectations: The Notice of Privacy Practices – Under HIPAA, the hope is that the educated patients will be able to trust their providers and the organizations in which they work. Organizations covered by HIPAA are required to issue a written Notice of Privacy Practices to patients outlining their privacy practices and patients’ rights. The notice must do the following:

- Inform patients of their rights and how to exercise them
- Explain the organization’s privacy practices
- Inform patients about the organization’s responsibilities under the law
- List all of the uses and disclosures of PHI required or allowed by law
- Explain the process for patients to gain access to their medical records and request amendments to their information

What is confidential information under HIPAA – Personal health histories in the form of paper/electronic records and oral communication.

What makes information “individually-identifiable” – Individually identifiable information is anything that can be used to identify a person, including:

- Names
- Addresses
- Social Security numbers
- Employers
- Names of relatives and employers
- Dates of birth
- Telephone numbers
- Fax numbers
- Email addresses
- Medical record numbers

- Member of account numbers
- Certificate numbers
- Voiceprints
- Fingerprints
- Photographic images
- Codes
- Any other characteristics, such as occupation, that might be unique in certain populations

When can information be released – Health information can be used without patient authorization for the following:

- Public health activities, such as reporting diseases or collecting vital statistics, required under state and federal law
- Health oversight, including civil and criminal proceedings, inspections, and audits
- Law enforcement: Disclosures of patient name, address, birth place and date, Social Security number, blood type, type of injury, date and time of treatment or death, and physical description may be made to law enforcement officials to locate a missing person, suspect, or material witness. Additional disclosures may also be made pursuant to a warrant, subpoena, or order issued by judicial officer
- Research: Disclosure to researchers is permitted, if an institutional review board or privacy board has approved a request for a waiver of the requirement to obtain an individual authorization
- Coroners, medical examiners, and funeral directors
- Government authorities to report domestic violence or neglect as required under other laws
- Organ and tissue procurement organizations

Psychotherapy notes – Psychotherapy notes have much stronger protections because the personal notes of the treating psychotherapist can be damaging if they fall into the wrong hands. HIPAA requires individual authorization to release psychotherapy notes for any reason, including treatment

Who is authorized and how – The minimum necessary standard – Healthcare staff must take a reasonable effort to disclose or use only the minimum amount of PHI necessary to do their jobs. Making minimum necessary determination is a balancing act. Providers must weigh the need to protect patients’ privacy against their reasonable activity to limit the information that is disclosed and still deliver quality care

Who is authorized to see private information – Fellow physicians and providers who are directly involved in the care of the patient can see private medical information. Providers can disclose to consulting physicians or for referrals, but not to people who do not have clinical responsibilities

Practices for protecting confidentiality – Avoid the following practices:

- Leaving a patient’s medical file on the computer screen when you walk away
- Leaving your computer logged into the medical record database
- Leaving handheld dictation devices unattended
- Using passwords that include your name, a pet’s name, or any word in the dictionary – they are easily guessed
- Throwing away paper or computer equipment in an open, unlocked container **Special concerns in HIPAA compliance:**
- Business associates – Physicians cannot disclose PHI to business associates (HIPAA defines business associates as those who perform or assist covered entities, such as a physician’s office or hospital, in performing activities that require the use or disclosure of PHI including claims processing, data analysis, billing and practice management) unless the two parties have a business associate agreement. Each contract must contain a confidentiality clause that holds the associate accountable for protecting private patient information

- Using information for marketing purposes – The privacy regulations permit providers to use patient information in marketing without authorization only in face-to-face encounters or encounters when offering promotional gifts of nominal value. The law forbids releasing information about illness or treatment without authorization
- De-identification – Under HIPAA, your organization may use PHI without patient authorization if the information is first de-identified, meaning information is taken out so that it would be impossible to figure out the identity of the patients. Protected health information may include fragments of data apart from one's name that, when placed together, can identify a person