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# Confidentiality

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## CONTENTS

<b>Forms Used in This Section .....</b>	<b>12.2</b>
<b>Introduction.....</b>	<b>12.2</b>
Purpose.....	12.2
Policy .....	12.2
<b>Health Insurance Portability and Accountability Act (HIPAA) .....</b>	<b>12.3</b>
Centers for Disease Control and Prevention guidance on HIPAA.....	12.3
Revised Code of Washington (RCW) .....	12.3
<b>National Guidelines .....</b>	<b>12.4</b>
<b>Resources and References .....</b>	<b>12.5</b>

## Forms Used in this Section

- No Forms are Used in This Section

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# Introduction

## Purpose

Use this section to do the following:

- Determine what information and which records should be treated with confidentiality;
- Identify state policy for maintaining patient confidentiality;
- Take measures to ensure TB patients' confidentiality; and
- Determine when it is permissible to share information for public health reasons.

The protection of private patient information is commonly referred to as confidentiality. Confidentiality involves the protection of information revealed during patient–healthcare worker encounters, including all written or electronic records of these encounters. Confidentiality is an essential issue in many different aspects of tuberculosis (TB) control. Healthcare workers need to be aware of confidentiality issues that are relevant to patient–healthcare worker encounters, as well as to the collection, management, and sharing of information gathered on TB patients.<sup>1</sup>

## Policy

Healthcare workers should keep patient information in confidence and divulge it only with the permission of the patient, except as otherwise allowed by law.<sup>2</sup>



For roles and responsibilities, refer to the “Roles, Responsibilities, and Contact Information” topic in the Introduction section of the manual ([1.16](#)).

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# Health Insurance Portability and Accountability Act (HIPAA)

Confidentiality of patient information has long been a requirement in the healthcare field and now has its own set of regulations, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. The new regulations protect the privacy of certain individually identifiable health data, referred to as protected health information (PHI). PHI is individually identifiable health information that is transmitted or maintained in any form or medium (e.g., electronic, paper, or oral), but excludes certain educational and employment records.

## Centers for Disease Control and Prevention Guidance on HIPAA

The Centers for Disease Control and Prevention (CDC) published the report “HIPAA Privacy Rule and Public Health: Guidance from CDC and the US Department of Health and Human Services” (*MMWR* 2003;52 [S-2]:1–12 at <http://www.cdc.gov/mmwr/preview/mmwrhtml/su5201a1.htm>), to provide guidance in implementing the HIPAA requirements. In this report, the US Department of Health and Human Services (DHHS) recognized the importance of sharing PHI to accomplish essential public health objectives and to meet certain other societal needs (e.g., administration of justice and law enforcement).

Covered entities—which are health plans, healthcare clearinghouses, and healthcare providers who transmit health information in electronic form in connection with certain transactions—are permitted by the Privacy Rule to do the following:

- Share Public Health Information (PHI) for specified public health purposes. For example, covered entities may disclose PHI, without individual authorization, to a public health authority legally authorized to collect or receive the information for the purpose of preventing or controlling disease, injury, or disability.
- Make disclosures that are required by other laws, including laws that require disclosures for public health purposes.<sup>3</sup>

## Revised Code of Washington (RCW)

- RCW 70.02- Medical Records- Health Care Access Information and Disclosure  
<http://apps.leg.wa.gov/RCW/default.aspx?cite=70.02&full=true>
- RCW 42.56 – Public Records  
<http://apps.leg.wa.gov/RCW/default.aspx?cite=42.56&full=true>

# National Guidelines

The following guidelines for protecting tuberculosis (TB) patients' confidentiality are adapted from the National Tuberculosis Controllers Association's (NTCA's) and Centers for Disease Control and Prevention's (CDC's) "Guidelines for the Investigation of Contacts of Persons with Infectious Tuberculosis: Recommendations from the National Tuberculosis Controllers Association and CDC" (*MMWR* 2005;54[No. RR-15]).

**TABLE 1: HOW TO PROTECT CONFIDENTIALITY**

<b>Conducting All Activities</b>	<ul style="list-style-type: none"> <li>• Make every attempt to ensure patient confidentiality.</li> </ul>
<b>Training</b>	<ul style="list-style-type: none"> <li>• Participate in training on maintaining confidentiality and obtaining informed consent in accordance with local/state laws.</li> </ul>
<b>Interviewing Patients</b>	<ul style="list-style-type: none"> <li>• Interview the tuberculosis (TB) patient in a private setting.</li> <li>• Inform the patient about confidentiality rights.</li> <li>• Explain to a human immunodeficiency virus (HIV)-infected patient that HIV status will be kept confidential (<a href="#">WAC 246-101-120</a>).</li> <li>• Consult with the patient to identify boundaries for confidentiality and obtain oral consent for any breaches in confidentiality.</li> <li>• If written consent is required, present the consent form to the patient in an appropriate manner, and retain a copy in the patient's medical record. If consent is refused, the TB program should develop a plan of action.</li> </ul>
<b>Conducting Site Investigations</b>	<ul style="list-style-type: none"> <li>• Plan site investigation procedures in advance of any visit, in consultation with and with the consent of the index patient, if possible.</li> <li>• Obtain agreement to maintain confidentiality from any site personnel who receive information about the identity of the index patient.</li> </ul>
<b>Communicating with the Press</b>	<ul style="list-style-type: none"> <li>• Maintain confidentiality in communications with the press.</li> </ul>
<b>Breaching Confidentiality</b>	<ul style="list-style-type: none"> <li>• Breach confidentiality only with approval of TB Services administrators and with the consent of the TB patient, when possible.</li> </ul>

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# Resources and References

## Resources

- CDC. “HIPAA Privacy Rule and Public Health: Guidance from CDC and the US Department of Health and Human Services” (*MMWR* 2003;52[S-2]). Available at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/su5201a1.htm> .
- CDC. Module 7: “Confidentiality in Tuberculosis Control” (*Self-Study Modules on Tuberculosis*. Division of Tuberculosis Elimination Web site; 1999). Available at: <http://www.cdc.gov/tb/education/ssmodules/module7/ss7contents.htm> .
- United States Department of Health and Human Services. “Health Insurance Portability and Accountability Act of 1996.” (Public Law 104-191 Web site). Available at: <http://www.aspe.hhs.gov/admsimp/pl104191.htm> .
- United States Department of Health and Human Services. “Office for Civil Rights—HIPAA” [Office for Civil Rights Web site]. Available at: <http://www.hhs.gov/ocr/hipaa/> .

## References

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- <sup>1</sup> CDC. Module 7: confidentiality in tuberculosis control. *Self-Study Modules on Tuberculosis* [Division of Tuberculosis Elimination Web site]. 1999:4. Available at: <http://www.cdc.gov/tb/education/ssmodules/module7/ss7contents.htm> . Accessed March 22, 2011 .
  - <sup>2</sup> CDC. Module 7: confidentiality in tuberculosis control. *Self-Study Modules on Tuberculosis* [Division of Tuberculosis Elimination Web site]. 1999:4. Available at: <http://www.cdc.gov/tb/education/ssmodules/module7/ss7contents.htm> . Accessed March 22, 2011 .
  - <sup>3</sup> CDC. HIPAA privacy rule and public health: guidance from CDC and the US Department of Health and Human Services. *MMWR* 2003;52(S-2):1.