Understanding the privacy rule of the Health Insurance Portability and Accountability Act (HIPAA) is critical for athletic trainers. The new privacy rule gives all individuals the right to keep their medical information confidential. Athletic trainers should protect themselves and their organization from litigation by increasing their knowledge of and compliance with HIPAA’s privacy rule.

Key Words: privacy rule, patient rights, ethical obligation

History and Structure of HIPAA

Enacted on August 21, 1999, the final HIPAA legislation expanded far beyond its original intent, which was to ensure insurance portability. The sweeping legislation now includes guarantees of security, confidentiality, and patients’ rights concerning their personal health information. The Department of Health and Human Services is responsible for overseeing HIPAA’s implementation and regulation. HIPAA can be broken down into three “rules.” Although the HIPAA rules have implications for all athletic trainers, these implications will vary according to each employment setting. The transaction rule is intended to standardize procedure codes and electronic billing format, and the security rule is designed to secure personal identifiable health-care information (e.g., using a Social Security number to identify a patient). The most important HIPAA rule for athletic trainers is the privacy rule, which protects patient health information. This rule presents unique ethical dilemmas for the athletic training profession. The one question that we as athletic trainers must ask ourselves is, Whom are we protecting?

Why the Need for Privacy?

Medical records contain more highly sensitive information about an individual than any other record kept on file. Nonetheless, if an individual is an athlete or elevated to celebrity status, medical information is often made public record. According to Dick Patrick of USA Today, “Injury reports inform fans of developments...
with their teams. They also are seen as a way to counteract the influence of gamblers who could be seeking an edge through inside information. 

The new privacy rules give individuals the right to keep their medical information confidential. This right is given to all, and because it is not based on status or profession, it includes all levels of athletes.

The privacy rule provides the first comprehensive federal protection for the privacy of health information. It pertains to any private health information and all individually identifiable health information that is transmitted or maintained in any form or medium. This includes paper and oral communication. Many health-care providers, for professional or ethical reasons, routinely obtain a patient’s consent for disclosure of information to insurance companies or for other purposes. The privacy rule builds on these practices by establishing uniform standards for health-care providers to obtain their patients’ consent for use and disclosure of health information about the patient to carry out health-care operations.

The privacy rule became effective on April 14, 2001. Health-care providers and covered entities must comply with the new requirements by April 14, 2003. The privacy rule for the first time creates national standards to protect individuals’ medical records and other personal health information. For patients, the rule means being able to make informed choices when seeking care and reimbursement for care, based on how personal health information is used.

**Patient Rights**

- Enable patients to find out how their information might be used and what disclosures of their information have been made
- Generally limit release of information to the minimum reasonably needed for the purpose of the disclosure
- Give patients the right to examine and obtain a copy of their own health records and request corrections

**Ethics and Morals**

The privacy rule provides individuals with certain rights with respect to their personal health information. These rights rest with that individual or with the “personal representative” of that individual. In general, a person’s right to control protected health information is based on that person’s right to control the health care itself. Because parents usually have authority to make health-care decisions about their minor child, a parent is generally a personal representative of his or her minor child under the privacy rule and has the right to obtain access to health information about the child. This would also be true in the case of a guardian or other person acting in loco parentis of a minor.

**Requirements of Medical Providers**

- Providing information to patients about their privacy rights and how their information can be used
- Adopting clear privacy procedures for their practice
- Training employees so that they understand the privacy procedures
- Designating an individual to be responsible for ensuring that the privacy procedures are adopted and followed
- Securing patient records containing individually identifiable health information so that they are not readily available to those who do not need them

**What Does HIPAA Do?**

- Gives patients more control over their health information
- Sets boundaries on the use and release of health records
- Establishes appropriate safeguards that health-care providers and others must follow to protect the privacy of health information
- Holds violators accountable, with civil and criminal penalties that can be imposed if they violate patients’ privacy rights
- Creates a balance when public responsibility requires disclosure of some forms or data—for example, to protect public health