Protecting Patient Privacy: HIPAA and Migrant Patients

By Farmworker Justice

To implement the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the U.S. Department of Health and Human Services (HHS) created the HIPAA Privacy Rule, which governs the use and disclosure of patients’ protected health information. It also provides patients with rights regarding their protected health information. Protected health information is individually identifiable health information that is transmitted or maintained in electronic or any other form or medium. This includes information, including demographic data, that identifies or could be used to identify a patient and that relates to a patient’s physical or mental health or condition, provision of health care to the patient, or payment for the provision of health care. Individually identifiable health information includes common identifiers such as name, address, birth date, and social security number.

State law may be more stringent than HIPAA

In addition to the HIPAA Privacy Rule, many states also have laws relating to the privacy of health information. While the HIPAA Privacy Rule usually preempts any conflicting state law, if a state law relating to individually identifiable health information is more stringent than the Privacy Rule, then that state law is not preempted. This means that health centers are responsible for determining which state laws are still applicable. In many states, this burden has been addressed through the creation of task forces to analyze the law and make that analysis available. Health centers should seek out this information for their particular state to ensure they are complying with all applicable law. In some states, the information is available through the state bar association or department of health.

Disclosure of protected health information. A health center is required to disclose protected health information to patients (or their personal representative) when they request access to, or an accounting of disclosures of, their protected health information. A health center is permitted, but not required, to use and disclose protected health information, without a patient’s authorization, for the following situations:

- To the patient (unless such disclosure is required);
- In treatment, payment, and healthcare operations;
- When a patient has had an opportunity to agree or object;
- Incident to an otherwise permitted use or disclosure;
- For the purposes of research, public health, or healthcare operations; and
- For public interest and benefit activities.

Public interest and benefit activities include releasing protected health information required by law, for judicial and administrative proceedings, for certain law enforcement purposes, and to prevent or lessen a serious threat to public safety.

A health center is not required to verify immigration status or restrict access to health care for undocumented immigrants. However, where the law requires disclosure of information about an undocumented immigrant (or any other patient), the health center would be legally obligated to comply by disclosing protected health information. HIPAA does nothing to stand in the way of this requirement, because it permits such disclosures without authorization from the patient. Thus, for example, if a court ordered the release of medical records during the course of an investigation, the health center would then be required by law to disclose protected health information. While this may be a rare occurrence, health centers should be aware of this possibility.

Additional requirements for disclosure of protected health information to employers.

There are only limited circumstances in which protected health information can be released to a patient’s employer. A health center may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to worker’s compensation and other laws that provide benefits for workplace injuries or illness. Additionally, a health center may disclose protected health information on a workplace-related medical surveillance or a work-related illness or injury. In order to make such a disclosure, all of the following conditions must be met:

- The health center provided health care to the patient at the request of the employer to continued on page 6
Strategies for Successful Integration of Outreach, Promotora and Clinical Services

By Anica Madeo, Regional Capacity-Building Coordinator; Migrant Health Promotion and Judy Cervantes-Connell, Project Manager, Farmworker Health Services, Inc.

Outreach and Promotora de Salud programs have become integral components of many Migrant and Community Health Centers, yet they are not always well integrated with each other and with clinical services. Outreach workers and promotores do much of their work outside of health centers and inside farmworking communities. This allows them to effectively reach farmworkers; however, the nature of the work can also create a disconnect between those who work normal business hours in the clinic and those who are out in the field. This article discusses the benefits of integration and presents several key strategies for aligning outreach, promotora and clinical services.

In many ways outreach and promotores programs are very similar. Both programs are designed to improve the health of farmworkers by connecting Migrant and Community Health Centers and other organizations with the farmworker community. The difference is that promotores programs are defined by WHO is doing the work whereas outreach is defined by WHAT is being done.

Promotores are members of the farmworking community who are trained to serve as lay health workers. They belong to the same culture and speak the same language as the people they are serving. In a sense, promotores are doing “in-reach,” building community capacity and bringing resources to their communities. They are often the first contact for people seeking help for a health problem within their social networks.

Outreach workers bring resources and information from the health system (i.e. clinic or social services providers) to the community and back into the health system. Outreach may be completed by promotores or by other staff who may or may not be from the farmworker community, such as health educators, outreach workers, nurses, physicians, social workers or case managers. It is helpful to think of an outreach worker as an ally, advocate, educator, provider of services, trainer, and coordinator. One of outreach’s main responsibilities is to work in partnership with local communities to facilitate access to culturally responsive health care and social services.

The Benefits of Successful Integration

Successful integration of services can greatly improve a health center’s ability to bring in farmworker patients, to provide high-quality culturally competent services, and to ensure efficient and effective functioning. Health centers with well-integrated programs experience cross-departmental awareness, consistent goals, enhanced cultural proficiency of staff, more comprehensive and effective services, more consistent care both inside and outside the health center, and improved outreach staff retention.

Health centers that lack inter-departmental coordination may suffer negative consequences. For example, outreach workers are often called upon to do extra clinical tasks such as interpretation, which can limit the amount of time they have to work out in the communities. Lack of integration can also lead to inconsistent goal setting if the administrative goals are not in line with the goals of other programs. Additionally, insufficient integration results in duplication of services thus diminishing cost-effectiveness.

There are many strategies that health centers can employ to ensure successful integration of outreach and promotora programs with clinical services. Some of these strategies are straightforward and do not require significant financial resources. However, they do require time and commitment from health center staff in order to maximize potential.

Integration Strategies for Outreach and Promotora Programs

One of the easiest and most cost-effective ways of integrating outreach and promotores programs is to create awareness. Health centers should consider developing Outreach 101 or Promotor 101 presentations for all departments within the health center. These presentations can include an overview about the role of outreach in helping to increase access to care among the farmworker population. They can be delivered during departmental or all-staff meetings, special brown-bag lunches, or scheduled new hire orientation activities. Outreach workers or promotores should be involved in the presentations, so that other staff can get to know them personally.

Another way to ensure that all staff members know about the responsibilities of outreach is to create and share outreach protocols and job descriptions. These can be a useful way of documenting exactly what outreach staff and promotores should be doing. Sharing protocols and job descriptions makes it easier for staff to understand how their respective roles intersect and determine if opportunities exist for cross-departmental collaboration. It can also help prevent the “scope creep” that occurs when outreach workers are asked to assume duties that are outside their normal scope of work.

Increasing cross-departmental communication is another essential integration strategy. While cross-departmental communication can occur every day, it is more effective to have a scheduled forum specifically designed to provide the opportunity for interaction across departments. This type of communication enables discussions about collaborating, troubleshooting service delivery issues, clarifying roles and responsibilities, and more. To encourage this type of communication, health centers can make sure outreach workers and promotores have an active role in all-staff meetings and invite representatives to serve on leadership and decision-making teams.

Successful integration strategies will also encourage clinicians to participate in outreach and health education activities where they can work alongside promotores and/or outreach workers. This provides clinicians with the opportunity to experience outreach first hand while also allowing the community to benefit from the presence of a clinician at an outreach event. Additionally, there are opportunities for cross training to take place between clinicians, outreach workers and promotores. Health providers are key resources for offering continuing education and professional development to outreach and Promotor program staff. The opposite is also true; outreach workers and Promotoras can be great resources for training clinicians on topics such as cultural responsiveness and assessing the healthcare barriers experienced by the farmworker community.

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To Ask or Not to Ask:
The Critical Role of the Primary Care Provider in Screening for Occupational Injuries and Exposures

Amy K. Liebman, MPA, MA, Migrant Clinicians Network and Michael Rowland, MD, MPH, Medical Director, Maine Migrant Health Program

Occupational injuries and illnesses are among the most prevalent patient care issues for clinicians working with migrant and seasonal farmworkers and other vulnerable patients migrating for work. Largely from Mexico and other Central American countries, migrant patients are a unique segment of the workforce in the United States. Factors such as lack of training, poor safety precautions, lack of health insurance, overrepresentation in dangerous industries, language barriers, piece-rate pay, undocumented worker status, and geographical and cultural isolation can put these workers at increased risk for occupationally related injuries and illnesses and long-term sequelae. Migrant workers are disproportionately represented in occupations with high injury and death rates, such as agriculture, forestry, and construction. Exposure to pesticides is a particular concern to migrant and seasonal farmworkers and their families.

Frontline providers caring for migrants, like the majority of primary healthcare providers, generally do not bring an occupational and environmental health perspective to their work with this population. The most basic tool to recognize such injuries and exposures is an environmental and occupational history.

Pesticide poisonings and other occupational injuries may go unrecognized owing to the failure to take a proper exposure history.

In a study of North Carolina health department staff published in this journal in March, 2008, Tutor and colleagues found limited use of tools to screen for pesticide exposures in perinatal migrant patients and showed that staff is inadequately trained to effectively engage in pesticide exposure surveillance and prevention activities. In a commentary in the same journal volume, a health department director supported the study findings but suggested that screening for pesticide exposure is an inefficient use of time.

Given the competing demands and severe time constraints in a primary care setting, we realize that healthcare providers struggle with ways to incorporate occupational medicine practices into their day-to-day efforts if they include them all. Taking an environmental and occupational history can seem daunting.

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The Critical Role of the Primary Care Provider in Screening for Occupational Injuries and Exposures continued from page 3

Migrant Clinicians Network (MCN), an international nonprofit organization with more than 5,000 health care-professional constituents caring for the mobile underserved, recognizes both the importance of identifying occupational injuries and exposures and the reality of the pressing demands and constraints facing the primary care providers. MCN believes, nonetheless, that being able to recognize occupational diseases and injuries is fundamental to providing quality primary care to migrants. With migrant workers, there is often no distinct line between basic occupational medicine and primary healthcare.

Through a cooperative agreement with the Environmental Protection Agency, Office of Pesticides, MCN’s program Saving Lives by Changing Practices offers training and resources to help migrant clinicians use a few key screening questions and integrate occupational medicine in to the primary care setting. Migrant Clinicians Network recommends three brief screening questions for occupational and environmental exposures that could be incorporated into existing healthcare questionnaires that are used for routine patient-intake interviews:

1. Occupation: Describe what you do for work.
2. Activities and cause: Are there any physical activities that you do—at work or away from work—that you feel are harmful to you?
3. Substances/physical hazards and cause: Are you exposed to chemicals, fumes, dust, noise, and/or high heat at your work or away from work? Do you think these are harming you?

It is important to further examine the critical reasons to screen for occupational and environmental injuries and exposures. The rationale includes the following:

1. Pesticide-related diseases can present similarly to common medical conditions and often display non-specific signs and symptoms. Without knowledge of patients’ exposure history and occupation, such pesticide exposures can go unrecognized, potentially causing further illness or exacerbating an existing condition.
2. Screening for pesticide and other occupationally related exposures and injuries may give the provider an indication of a sentinel event. Migrant workers are largely employed in occupations that are inherently risky, and they are more likely than other workers to be either exposed to hazardous substances or injured on the job. Agriculture and construction are two of the most dangerous occupations. While the

The solution to diminishing occupational injuries and exposures must be multifaceted and must take place on a number of levels, often far from the clinic setting. Workplace, regulatory, policy, and enforcement changes are all needed. Preventive education and safety training for workers and their families are also essential to lessen injuries and exposures. But, there is a critical role for the clinician in this effort.

Migrant Clinicians Network has conducted a successful initiative to integrate occupational medicine into the primary care setting in four pilot partnerships with Migrant and Community Health Centers. These partnerships involved provider training and simple, but relevant, clinical systems changes. In addition the program linked primary care providers with occupational and environmental medicine specialists. In one program the clinic asked one additional question and found 40 percent of its encounters were workplace-related. Clinical resources and patient educational materials as well as information about MCN’s project Saving Lives by Changing Practices are available on MCN’s Web site at www.migrantclinician.org.

References:

The Migrant Clinicians Network’s project Saving Lives by Changing Practices is guided by the expertise of a committee of occupational and environmental specialists, primary care providers, and farmworker advocates. The names and affiliations of each member are listed below. All of the committee members endorse MCN’s efforts to promote screening in the primary care setting.

- Shelley Davis, JD, Deputy Director, Farmworker Justice (Recently Deceased)
- Joe Fortuna, MD, American College of Occupational and Environmental Medicine, Board of Directors and Section for Occupationally Underserved Populations
- Matthew C. Keifer, MD, MPH, Professor, Occupational and Environmental Medicine, University of Washington.
- Wilton Kennedy, PA-C, MMS, Program Director, Physician Assistant Program, Jefferson College of Health Science, Past President of MCN
- Katherine H. Kirkland, MPH, Executive Director, Association of Occupational and Environmental Clinics
- Dennis H. Penzell, DO, MS, FACP, Clinical Associate Professor, University of South Florida College of Medicine/Nova Southeastern College of Osteopathic Medicine
- Michael Rowland, MD, MPH, Medical Director, Maine Migrant Health Program
- Daniel L. Sudakim, MD, MPH, Director, National Pesticide Medical Monitoring Program, Oregon State University
- Edward Zuroweste, MD, Chief Medical Officer, Migrant Clinicians Network
Vaccine-Hesitant Patients – What’s a Provider to Do?

Deborah Wexler, MD, Executive Director of the Immunization Action Coalition

[Editor’s Note: This article first appeared in MCN’s Immu-News listserv. The Immunization Initiative is funded by the Centers for Disease Control and Prevention. The Immu-News listserv is a support service for clinics participating in the project. If you would like to be on the listserv, or if you have questions about the listserv or resources listed here please contact Kathryn Anderson, listserv administrator at kath@healthletter.com or Kate Bero, MCN’s Immunization Initiative Manager at kbero@migrantclinician.org.]

Many healthcare professionals have encountered parental hesitancy around vaccination. Many parental concerns can be traced to scientifically invalid information they have encountered on the Internet or through the news media. During a routine office visit, there may be insufficient time to cover this issue completely with patients and parents.

Preparation is important. In advance, be ready to answer parents’ common questions and concerns about vaccines by consulting helpful resources, some of which are highlighted in this issue of Immu-News. Good patient handouts can usually fill in any gaps in information that were missed in conversation. For parents who want to continue researching vaccine information, it is critical to recommend authoritative and credible immunization websites. The Immunization Action Coalition (IAC) has a helpful handout for patients/parents about finding reliable immunization information on the Internet. Also, become aware of vaccine-critical groups, individuals, and their websites, so that you can offer parents your professional perspective. If you encounter a question that you are not prepared to answer, it’s acceptable to say you will look into their question and get back to the parent with more information.

In some cases, clinical practices have chosen to notify patients/parents of their clinic’s policy on immunization, which is to follow the recommended vaccination schedule. Clearly expressing commitment to immunization can be powerfully persuasive with parents who are hesitant to have their child vaccinated (see Sample Vaccine Policy Statement http://www.immunize.org/catg.d/p2067.pdf).

Resources

Vaccine Concerns at Immunize.org
http://www.immunize.org/concerns
A helpful section on immunize.org is the Vaccine Concerns web section. Here, you’ll find answers to parents’ pressing questions. IAC’s Vaccine Concerns web section features easy access to resources on specific topics that parents and patients have questions about: adjuvants, alternative medicine, autism, MMR vaccine, multiple injections, mitochondrial disorders, religious concerns, and thimerosal. It also presents materials that broadly address these issues: the importance of vaccines, ways to talk with vaccine-hesitant parents and patients, and vaccine safety. In addition, the section offers a selection of resources IAC has culled from newspapers, journal articles, other periodicals, and websites.

Three Highly Recommended Pieces to Give to Your Patients

Clear Answers & Smart Advice About Your Baby’s Shots – http://www.immunize.org/catg.d/p2068.pdf. In response to the recent media attention given to vaccines, autism, and other controversies concerning vaccines, the IAC has reprinted a special excerpt from Baby 411 that answers these questions and more.


For Health Professionals, Consult IAC’s Helpful PowerPoint Presentation


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Specific Strategies for Integrating Promotoras Programs

Integrating promotoras can be especially challenging because they typically spend very little time at the health center. In fact, some promotoras never meet the clinical staff (or even other outreach staff!) since many of them work day jobs on the farms and do their promotoras work at night and on the weekends. It is very important to create opportunities to acknowledge the valuable work of promotoras. If promotoras cannot come to the clinic, clinic staff should be invited to visit the communities. Some health centers create a bulletin board with promotor photos and bios and hang it in a centralized area where all staff can see. Additionally, cross-departmental team building activities, such as picnics or end-of-season recognition ceremonies, can create bonding opportunities as well as a forum to formally recognize the accomplishments of promotoras and other staff that serve farmworkers.

While this is not an exhaustive list of strategies for integrating outreach and promotor programs, these strategies provide a glimpse into the possibilities that exist for health centers wanting to improve cross-departmental collaboration, communication, and coordination. For more information, please contact Farmworker Health Services, Inc. at 510-268-0091 and/or Migrant Health Promotion at 734-944-0244.
Protecting Patient Privacy: HIPAA and Migrant Patients  continued from page 1

either conduct an evaluation relating to surveillance in the workplace or to evaluate whether a patient has a work-related illness or injury;

• The disclosed protected health information consists of findings concerning a workplace-related medical surveillance or a work-related illness or injury;

• The employer needs the findings to comply with its legal obligations; and

• The health center gave written notice to the patient that protected health information relating to the medical surveillance or work-related illness or injury would be disclosed to the employer.

This notice can be provided either by giving a copy of the notice to the patient at the time the health care is provided or, if the health care is provided on the employer’s work site, by posting the notice in a prominent place at the location where the health care is provided.

Patient rights to alternative communication

Patients have the right to request to receive communications of protected health information from a covered healthcare provider by an alternative means (e.g., by closed envelope rather than post card) or an alternative location (e.g., at a designated address or phone number). Health centers must accommodate these requests as long as they are reasonable, and they may not require an explanation of the reason the patient is making the request. However, the health center may condition such accommodation on the patient actually providing an alternate address or method of contact.

Services for patients with limited English proficiency

A significant number of migrant workers have limited English proficiency (LEP). HHS has provided guidance on the services that federally-funded entities must provide to persons with limited English proficiency. According to this guidance, health centers must weigh four factors in determining what language services to provide:

• The number or proportion of LEP persons eligible to be served, the greater the number or proportion of LEP persons eligible to be served, the greater the frequency with which the health center serves LEP persons, the greater the importance of the service provided, and the smaller the costs associated with language assistance, the greater the likelihood that the health center should provide language assistance. Each health center must make its own individual determination as to whether to provide language services, and for what functions they will be provided.

In the HIPAA Privacy Rule context, a health center would want to consider the language services it offers for written translation and oral interpretation. Regarding translation, there are at least four types of documents that would need to be translated:

1. a notice of privacy practices and acknowledgement form
2. any consent form the health center chose to use (although obtaining consent is optional)
3. an authorization form, and
4. any notification that protected health information will be given to the patient’s employer

The translation of written privacy information would be a relatively limited one-time expense, although any updates to the English documents would also necessitate re-translation.

If the health center also utilizes interpreters, it should ensure it has policies in place to address privacy issues. A health center is permitted to share a patient’s protected health information with an interpreter without the patient’s written authorization only under the following three circumstances:

• The interpreter works for the health center (e.g., a bilingual employee or a contract interpreter);

• The interpreter is acting on behalf of the health center, but is not a member of the health center’s workforce if the health center has a written contract or other agreement with the interpreter that meets HIPAA’s business associate contract requirements; or

• The interpreter is the patient’s family member, friend, or other person identified by the patient as his interpreter if the patient agrees or does not object, or if in the exercise of professional judgment, the provider determines that the patient does not object.

Additional resources

For additional information on the HIPAA Privacy Rule, see Summary of the HIPAA Privacy Rule at www.hhs.gov/ocr/privacy/hipaa/understanding/summary/privacysummary.pdf.

For information on meeting the needs of LEP persons in healthcare settings, see http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/lepnongovtres.html.

NOTE: The content of this document is general information only, and is not to be intended to be legal advice. Health centers are advised to contact an attorney for further guidance.
MCN Receives New Funding for Work on Behalf of Migrants

MCN is very pleased to announce the receipt of four new funding opportunities that will enable us to expand our reach and better serve you.

1. National Children’s Center for Rural and Agricultural Health and Safety - Technologies of Engagement

Using computer based scenarios to educate clinicians about real life hazards for adolescent farmworkers, MCN will develop and evaluate an evidence-based online training module introducing primary care clinicians to relevant agricultural safety and health concerns pertaining to immigrant and migrant adolescent farmworkers. To fully explore agricultural risks and learn how to better care for migrant and immigrant adolescent farmworkers, the clinician will be guided in ways to recognize, manage and/or prevent agricultural related injuries, exposures and illnesses. The clinician will engage with a computer program that integrates experiential learning and uses an avatar character to walk the learner through a farm setting and identify risks along the way. For each hazard the avatar character identifies, an explanation of these risks and how to prevent such risks will be displayed. The module will include an interface that can be used by both the clinician and the adolescent farmworker. Using the same interface for both groups of participants will ultimately allow for a common context for communication between providers and patients. The educational content surrounding how to deal with those risks, however, will differ significantly for the clinician and farmworker.

2. Environmental Protection Agency, Office of Environmental Education – Salud – Environmental Health Education to Protect Farmworker Children from Pesticide Exposure in Puerto Rico

The Migrant Clinicians Network will partner with PathStone (a not-for-profit community development and human services organization) to provide environmental health education to farmworker parents in Puerto Rico. The program will train the trainers who will then educate farmworker families and provide them with appropriate materials in Spanish. Family members will learn how to evaluate their children’s risk of pesticide exposure and take necessary actions to reduce or eliminate that risk. The target audience is 180 farmworker families in rural and isolated communities in Puerto Rico (e.g. Utuado, Maricao, Adjuntas, Orocivos, Humacao and Santa Isabel.)

3. University Research Co., Center for Human Services

This contract is to provide bridge case management services through MCN’s Health Network, to migrant farmworker and other high-risk pregnant women living with HIV/AIDS originating in Cumberland County, New Jersey.

4. Lance Armstrong Foundation – Survivorship Training for Promotor and Outreach Workers

The training is to ensure that cancer survivors who are also migrant workers have access to culturally-relevant tools and resources. LAF is contracting with MCN to train a network of promotores using the LIVESTRONG Cancer Survivorship Training Curriculum. Trainings will be conducted at the East Coast, Midwest, and Western Migrant Stream Forums. Additionally, project funding will allow promotores and outreach workers at three migrant health centers to undergo the LIVESTRONG.
The 2009 National Primary Oral Health Conference
November 1-5, 2009
Nashville, TN
http://www.nnoha.org/calendar.htm

National Advisory Council on Migrant Health Meeting
November 2-3, 2009
Hilton Hotel, Rockville, MD
http://bphc.hrsa.gov/nacmh/default.htm

137th APHA Annual Meeting
November 7-11, 2009
Philadelphia, PA
http://www.apha.org/meetings/

The 19th Annual Midwest Stream Farmworker Health Forum
November 19-21, 2009
South Padre Island, TX
http://www.ncfh.org

Diabetes and Tuberculosis: A National Web-Based Seminar
December 10, 2009, 11:00am-1:00pm
Pacific Standard Time
Francis J Curry National Tuberculosis Center
http://www.nationaltbccenter.ucsf.edu/training/schedule_2009.cfm

Western Migrant Stream Forum
February 12-14, 2010
Seattle, WA
Northwest Regional Primary Care Association

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