

Part B Insider (Multispecialty) Coding Alert

Reader Question: Understand HIPAA Nuances on Electronic Signatures

Question: With the pandemic still impacting our daily schedule, we continue to see a majority of our Part B patients via telehealth at our small, rural practice. When we have them sign paperwork digitally, is there anything we need to do to ensure its HIPAA compliant?

Alabama Subscriber

Answer: Electronic signatures - also referred to as e-signatures - are actually not discussed in any of the HIPAA rules. In fact, the Department of Health and Human Services (HHS) guidance defers to the states on this matter.

"Currently, no standards exist under HIPAA for electronic signatures. In the absence of specific standards, covered entities [CEs] must ensure any electronic signature used will result in a legally binding contract under applicable state or other law," says HHS.



According to HIPAA, the most important thing for CE's to remember is that security measures are in place and the use of e-signatures is "reasonable and appropriate."

Tip: There are a few things that your organization can do to ensure that your patients' e-signatures are more secure.

First, you may want to check your state's laws and revisit your current practice protocols to ensure they are aligned. Next, a thorough review of Medicare's signature mandates and your jurisdiction's particulars may be in order.

And, even though it's not a requirement under the HIPAA Security Rule, you may want to use software and form generators that employ encryption to protect your documents and e-signatures - especially during the pandemic when so much administrative work is done via the web. Additionally, if a risk assessment determines that encryption is a "reasonable and appropriate safeguard" for your organization, you should probably follow through and implement it to avoid a violation down the line.

Password protection and multifactor authentication (MFA) can also help to protect electronic protected health information (ePHI). Platforms like DocuSign and PandaDoc offer a variety of templates, storage options, and legal resources to help providers with patients' e-signatures.