

HIPAA Compliance and Steps to Obtain Physical Therapist License in California & Texas

- Purpose

- Why is there a need for this search?
 - My client is wanting to obtain his physical therapist license in both California and Texas and wants to be compliant so he is not faced with any penalties after opening their business. They also want to know the correct steps to obtain their licenses in both of the above states.
- Who needs it?
 - My client
- How will it be used?
 - To help my client become compliant with HIPAA regulations to start their business and help guide them through the process of obtaining their licenses in both states.
- What outcome is expected?
 - To collect and present all relevant information without missing imperative points to ensure a smooth transition with opening both businesses in California and Texas, including HIPAA compliance and steps to obtain PT license.
- What are the risk levels?
 - “HIPAA violation fines can be issued up to a maximum level of \$25,000 per violation category, per calendar year. Minimum fine is \$100 per violation” (Alder).
- What are the reliability levels?
 - High, HIPAA, The Physical Therapy Board of California, and The Texas Board of Physical Therapy Examiners have constant up-to-date resources on their websites.

Outline

- HIPAA Compliance
 - What entities must follow HIPAA compliance
 - The Privacy Rule
 - The Security Rule
 - The Breach Notification Rule
 - Who enforces these rules
 - Enforcement Process
 - Penalties
- Getting a PT license in California
 - Regulated by
 - Education Requirements
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- Getting a PT license in Texas
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 - Exams
 - Study Material
 - Fees

HIPAA Compliance

Numerous entities must follow compliance requirements. This includes health plans, healthcare clearinghouses, and healthcare providers that conduct certain healthcare transactions electronically (HIPAA).

Who is included in this: Doctors, clinics, psychologists, nursing homes, pharmacies, chiropractors, dentists, company health plans, government-funded health plans, health insurance companies, billing services, repricing companies, value-added networks, health management information systems, and business associates who work on behalf of the provider and handle PHI (HIPAA).

Important Terms

- PHI - Protected Health Information
- ePHI - Electronic Protected Health Information

The Privacy Rule

The privacy rule according to HIPAA protects “your patients’ PHI while letting you exchange information to coordinate your patient’s care. The Privacy Rule also gives patients the right to examine and get a copy of their medical records, including an electronic copy of their electronic medical records, and to request corrections. Under the Privacy Rule, patients can restrict their health plan’s access to information about treatments they paid for in cash, and most health plans can’t use or disclose genetic information for underwriting purposes. The Privacy Rule allows you to report child abuse or neglect to the authorities (HIPAA 3).”

PHI includes information on the patient’s medical situation, whether that be from the past, present, or future. PHI also includes their personal information like their name, social security number, address, and birthdate. The last scope of information that PHI includes is the provision of health care to that patient and any current, past, or present payments made for their provision of health care (HIPAA).

The privacy rule requires the entity to notify their patients (usually with a signed document) of their privacy rights and how the entity will use their information. The entity must also train any employees about the privacy procedures that are required to remain in compliance. In addition, someone must be delegated to monitor all employees to ensure they are following the correct procedures. Moreover, all records with any PHI must be secured in a specific location to keep them from being seen by unauthorized persons (HIPAA).

There are also rules to sharing this information amongst family members of the patient and with other medical providers. As a provider, you may share the PHI of your client with other providers without a signed consent form from the patient only if it pertains to payment, treatment, or health care operations. You may also share PHI with other providers if you feel that it is in the best interest of your patient and they are incapacitated. Health information may be shared if it is for research purposes. When sharing information with your patient’s family members, your patient must not object and they must be identified by the

patient as involved in their care. As their consent is given, you can share the patient's medical information, general condition, location, room number, and connecting phone number to their room. If they share their religious affiliation, you may also share that with the clergy. You are also not expected to guarantee the protection of the information from all risks while following HIPAA guidelines (HIPAA).

Below is a list of how to secure the patient's health information from a mobile phone.

- “● Use a password or other user authentication
- Install and enable encryption
- Install and activate remote wiping or remote disabling
- Disable and don't install or use file-sharing applications
- Install and enable a firewall
- Install and enable security software
- Keep your security software up to date
- Research mobile applications (apps) before downloading
- Maintain physical control
- Use adequate security to send or receive health information over public Wi-Fi

networks

- Delete all stored health information before discarding or reusing the mobile device (HIPAA 5)”

The Security Rule

The security rule according to HIPAA includes “ *security requirements to protect patients' ePHI confidentiality, integrity, and availability. The Security Rule requires you to develop reasonable and appropriate security policies. In addition, you must analyze security risks in your environment and create appropriate solutions. What's reasonable and appropriate depends on your business as well as its size, complexity, and resources. You should always review and modify security measures to continue protecting ePHI in a changing environment.* (HIPAA 6).”

Some things you must do as a provider regarding the security rule are to make sure all of your employees are compliant, identify any threats and protect against them and ensure integrity, availability, and confidentiality of all ePHI that you create, maintain, transmit or receive from other providers (HIPAA).

Several things you should consider when you are creating those safeguards are the hardware and software infrastructure, the size and the capabilities of the infrastructure, and the costs of the safeguards (HIPAA).

The Breach of Security Rule

The breach of security rule according to HIPAA *“requires you to notify affected individuals, HHS, and, in some cases, the media. Generally, a breach is an unpermitted use or disclosure under the Privacy Rule that compromises the security or privacy of PHI..... You must notify authorities of most breaches without reasonable delay and no later than 60 days after discovering the breach. Submit notifications of smaller breaches affecting fewer than 500 individuals to HHS annually. The Breach Notification Rule also requires business associates to notify a covered entity of breaches at or by the business associate.(HIPAA 7)”*

To assess the risk or probability of the PHI breach, you would consider the following

- Who was the unauthorized user who viewed, sent, or received the PHI?
- Did the unauthorized user just acquire or did they review the PHI?
- How was the PHI risk reduced?
- What specific PHI was included in the breach?

Who enforces these rules?

The OCS (HHS Office of Civil Rights) enforces the rules and looks for different violations like; the disclosure or use of PHI when unpermitted, the disclosure or use of PHI over what is required, insufficient safeguards in place, lack of safeguards whether technical, administrative, or physical for ePHI and insufficient access given to the patient of their own PHI (HIPAA).

Here are some Case Examples:

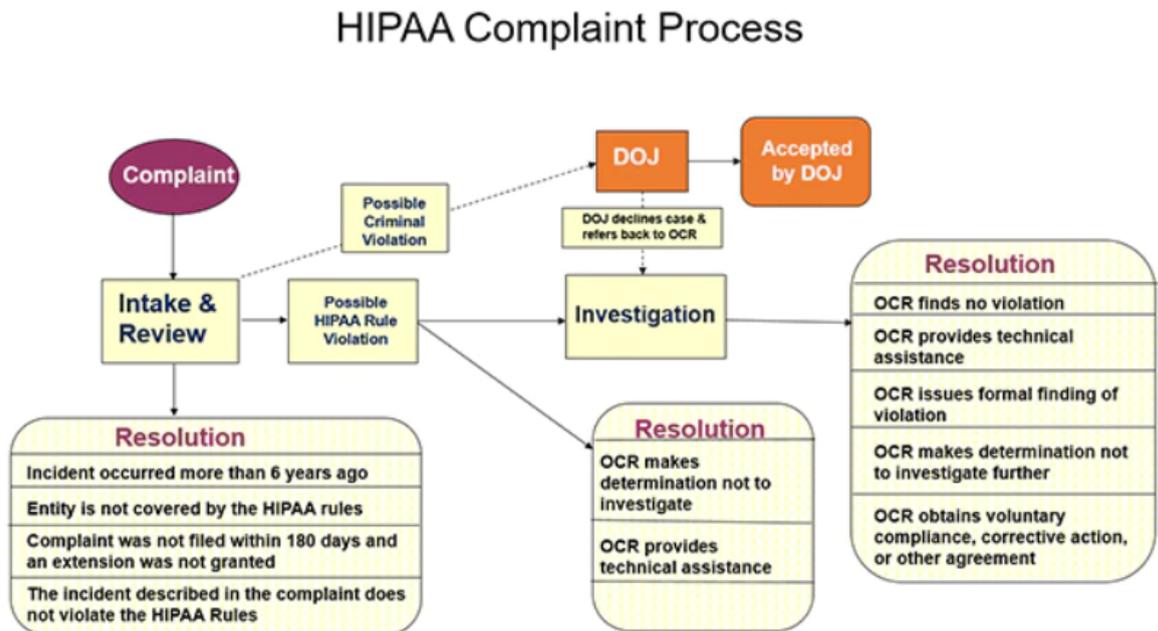
“● HIPAA Privacy and Security Rule: A wireless health service provider agreed to pay \$2.5 million to settle potential violations of the HIPAA Privacy and Security Rules after someone stole a laptop with 1,391 individuals’ ePHI from an employee’s vehicle. The investigation revealed insufficient risk analysis and management processes at the time of the theft. Additionally, the organization’s HIPAA Security Rule policies and procedures were in draft form. The organization couldn’t produce any final policies or procedures regarding safeguards for ePHI, including for mobile devices.

● HIPAA Breach Notification Rule: A specialty clinic agreed to pay \$150,000 to settle potential violations of the HIPAA rules. An unencrypted thumb drive with the ePHI of about 2,200 individuals was stolen from a clinic employee’s vehicle. The investigation revealed the clinic hadn’t accurately or thoroughly analyzed the potential risks and vulnerabilities to the confidentiality of ePHI as part of its security management process. The clinic also didn’t comply with Breach Notification Rule requirements for written policies and procedures and employee training. This case was the first settlement with a covered entity for not having policies and procedures to address the HIPAA Breach Notification Rule (HIPAA 10).”

Enforcement Process

The OCS enforcement process can be done 1 of 3 ways; they may receive a complaint and look into it further, they may also do compliance reviews with the providers, or they may perform education or outreach to help foster compliance with the requirements of compliance (Enforcement).

Below is a chart to show the complaint processed pulled from hhs.gov.



Penalties for non-compliance

“Penalties for HIPAA violations can be issued by the Department of Health and Human Services Office for Civil Rights (OCR) and state attorneys general. In addition to financial penalties, covered entities are required to adopt a corrective action plan to bring policies and procedures up to the standards demanded by HIPAA. (Alder).”

There are 4 categories of penalties that will determine what the exact penalty is and the action plan to move forward. Below are the tiers pulled from a HIPAA Journal written by Steve Alder.

- **“Tier 1:** A violation that the covered entity was unaware of and could not have realistically avoided, had a reasonable amount of care had been taken to abide by HIPAA Rules- Minimum fine of \$100 but up to \$50,000 per violation.

- **Tier 2:** A violation that the covered entity should have been aware of but could not have avoided even with a reasonable amount of care. (but falling short of willful neglect of HIPAA Rules) - Minimum fine of \$1000 but up to \$50,000 per violation.
- **Tier 3:** A violation suffered as a direct result of “willful neglect” of HIPAA Rules, in cases where an attempt has been made to correct the violation- Minimum fine of \$10,000 but up to \$50,000 per violation.
- **Tier 4:** A violation of HIPAA Rules constituting willful neglect, where no attempt has been made to correct the violation - Minimum of \$50,000 per violation. (Alder)”

Getting a Physical Therapist License in California

Regulated by:

- PTBC (Physical Therapy Board of California)
- Department of Consumer Affairs

Education Requirements: Found from

<https://www.usa.edu/blog/how-to-become-a-physical-therapist/>

- Bachelor's Degree in related field
- Graduate from a DPT Program

DPT Resource:

<https://www.usa.edu/college-of-rehabilitative-sciences/doctor-physical-therapy/>

Application Process:

- Pass the NPTE (taken through fsbpt.org)
- Pass the California Law exam (taken through fsbpt.org)
- Submit fingerprints to the state of California- the cost is around \$50 (https://www.ptbc.ca.gov/applicants/livescan_inst.shtml#instructions_form)
- Submit an application to PTBC through BreZE (create this account through this link <https://www.breeze.ca.gov/datamart/mainMenu.do;jsessionid=gyppvw1yaTUU385kxCYIfQU2oOseM7muNqSQgCj8g.vo-20-bqcrq>)

Exams that need to be taken:

- NPTE through the federation of states boards of physical therapy
 - <https://www.fsbpt.org/>
 - Register and choose your date for the exam well in advance as the test will not be an open book format and will be extensive. The test has 250 questions. The total cost is \$485 (Physical).
- Cal-Law Exam through the federation of state boards of physical therapy
 - <https://www.fsbpt.org/>
 - Register and choose your date for the exam well in advance. It consists of 50 questions and you are allotted 1 hour to complete them. The total cost is \$90 (Physical).

<https://www.prometric.com/> - Use this site to schedule your exam when ready.

Where to get study material:

NPTE Exam - <https://therapyexamprep.com/npte-books/>

Cal-Law Exam -

<https://www.fsbpt.org/Portals/0/documents/exam-candidates/California%20LAW%20Content%20Outline%20for%20Web.pdf>

<https://www.fiscal-therapist.com/california-jurisprudence-exam-cal-law-study-guide/>

Fees:

Fingerprints - \$50

Cal-Law Exam - \$90

NPTE Exam - \$485

Application - \$300

Initial License -\$150

Complete the checklist in this PDF to help you go through the process

https://www.ptbc.ca.gov/forms/apply_endorse.pdf

Getting a Physical Therapist License in Texas

Regulated by: <https://ptot.texas.gov/>

- TBPTE (Texas Board of Physical Therapy Examiners)
- ECPTOTE (The Executive Council of Physical Therapy and Occupational Therapy Examiners)

Education Requirements:

<https://blog.getluna.com/the-pt-license-process-in-texas>

- Bachelor's Degree in related field
- Graduate from a DPT Program

DPT Resource:

<https://aptaapps.apta.org/accreditedschoolsdirectory/AllPrograms.aspx>

Application Process:

- Pass the NPTE (taken through fsbpt.org)
- Submit fingerprints to the state of Texas- the cost is around \$40 (<https://uenroll.identogo.com/>)
- Apply for a license with The Texas Board of Physical Therapy Examiners (https://txapps.texas.gov/app/orig/index.jsp?AGENCY_NAME=ptot&CONFIG_ID=PTOT_INDIV&LICENSE_ID=01)

Exams that need to be taken:

- NPTE through the federation of states boards of physical therapy
 - <https://www.fsbpt.org/>
 - Register and choose your date for the exam well in advance as the test will not be an open book format and will be extensive. The test has 250 questions. The total cost is \$485 (Physical).

Where to get study material:

NPTE Exam - <https://therapyexamprep.com/npte-books/>

Fees:

Fingerprints - \$40

NPTE Exam - \$485

PT License - \$190

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