

PLEASE READ THIS IN ITS ENTIRETY BEFORE PURCHASING COURSE 2. WE WILL NOT BE ISSUING REFUNDS OR EXCHANGES FOR COURSES THAT ARE PURCHASED IN ERROR.

Are you covered by HIPAA? Let's find out.

HIPAA—a.k.a. the Health Insurance Portability and Accountability Act of 1996—is a complex set of federal regulations. It requires all health care providers covered by the law to take highly specific steps to protect client privacy, ensure the security of digital health information, and give clients control over their health information. In numerous situations, HIPAA tells you exactly what you need to say, do, and provide to clients.

You are covered by HIPAA if you are:

- **a “health care provider”** (someone who provides health services; as a psychotherapist, this definitely includes you; and if another entity or a member of your workforce does something on your behalf, it is attributed to you);
- **who transmits any “health information”** (which includes any information that could be used to identify a specific person, and includes information about that person’s “physical or mental health or condition” OR to the “provision of health care” to that person OR to payment for that person’s health care);
- **in “electronic form”** (which includes email, texts, computer faxes, and anything over the internet, as well as physically sending computers, CDs, thumb drives, or other electronic equipment, but does not include traditional telephone calls or faxes that begin as sheets of paper rather than as computer files);
- **relating to a “covered transaction”** (these generally include *communications with insurance companies or any other third parties who provides reimbursement for your services*, and specifically encompass the following types of communications, whether done by you personally or by someone on your behalf):
 - a request to obtain payment, or submission of accompanying information, to a private or public health plan (such as a PPO, HMO, or Medicare);
 - a transmission of “encounter information” to a health plan;
 - a payment, or information about a transfer of funds or payment processing information, that a health plan sends to a provider’s bank;
 - an explanation of benefits or remittance advice that a health plan sends to a provider;
 - an inquiry to a health plan to obtain enrollment, eligibility, coverage, or benefits information regarding a particular person, or a response thereto;
 - an inquiry to determine the status of a health care claim, or a response thereto;
 - a request to obtain an authorization for health care or a referral to another health care provider, and responses thereto;

- health plan premium payment transactions;
- communications to a health plan to determine the payment responsibilities of the health plan;
- first reports of injury;
- health claims attachments; and
- health care electronic funds transfers and remittance advice.

As soon as you transmit any “health information” in “electronic form” relating to a “covered transaction” you are automatically covered by HIPAA. The following scenarios may help clarify when you cross the threshold of HIPAA coverage.

- Suppose a client emails or texts you: “sorry, am running late” or “can’t make next appointment.” Are you a covered entity yet?
 - *No. First of all, you have not “transmitted” (i.e., “sent”) anything yet. Second, this is not a “covered transaction,” as it has nothing to do with insurance or payment by any third party.*
- You are about to have a session, and want to quickly check on your next client’s payment status. So you email your assistant: “Is Mike P. paid in full?”
 - *You are still not a “covered entity.” While you have just transmitted health information in electronic form (because health information includes payment information), this is not related to insurance or any other third-party payment, and is not a “covered transaction.”*
- You email back and forth with an insurance company about becoming an approved provider, the way they reimburse providers, or anything else about their general practices. These emails include information about your own practice and approach to psychotherapy.
 - *Unless you communicated anything that specifically identifies any of your clients, or makes it possible to determine the identity of one of your clients, you have not transmitted “health information,” so you are not a covered entity.*
- Your assistant goes on the website of an insurance company (or any other third party that might pay for services) to check on a client’s eligibility, coverage, or benefits. He enters the client’s name, and clicks “submit.”
 - *Congratulations, you are now a “covered entity” under HIPAA.*