

DEPARTMENT OF HEALTH & HUMAN SERVICES Office of the Secretary
Director
Office for Civil Rights
Washington, D.C. 20201

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Dear Healthcare Provider:

We just passed the first anniversary of implementation of federal protections for the privacy of individual health information under the Privacy Rule, issued pursuant to the Health Insurance Portability and Accountability Act - HIPAA. As you know, the HIPAA Privacy Rule provides new federal protections for personal health information held by providers and health plans, and gives patients an array of rights with respect to that information. At the same time, the Privacy Rule is balanced so that it permits the disclosure of personal health information needed for patient care and other important purposes.

As hospitals and other covered entities continue to implement these Privacy Rule protections, we want to be sure that you are aware of the wide variety of helpful guidance and technical assistance materials the Department of Health and Human Services has published and made available on our website, <http://www.hhs.gov/ocr/hipaa/>. Here are just a few examples of how information we have made available at the website responds to requests we have received for clarification about the Privacy Rule:

- HIPAA does not require patients to sign consent forms before doctors, hospitals, or ambulances can share information for treatment purposes: Providers can freely share information with other providers where treatment is concerned, without getting a signed patient authorization or jumping through other hoops. Clear guidance on this topic can be found at a number of places: For instance, see the answers to frequently asked questions (FAQs) in the "Treatment/Payment/Health Care Operations " subcategory, or search the FAQs on a likely word or phrase - like "treatment." Or see the Fact Sheet, "Uses and Disclosures for Treatment, Payment, and Health Care Operations," <http://www.hhs.gov/ocr/hipaa/guidelines/sharingfortpo.pdf> or review the "Summary of the HIPAA Privacy Rule," <http://www.hhs.gov/ocr/privacysummary.pdf>.

- HIPAA does not require providers to eliminate all incidental disclosures: The Privacy Rule recognizes that it is not practicable to eliminate all risk of incidental disclosures. That is why, in August 2002, we adopted specific modifications to the Rule to clarify that incidental disclosures do not violate the Privacy Rule when providers and other covered entities have common sense policies which reasonably safeguard and appropriately limit how protected health information is used and disclosed. Our guidance explains how this applies, for instance, to customary health care practices - like using patient sign-in sheets or nursing station whiteboards, or placing patient charts outside exam rooms. At our website, see the FAQs in the "Incidental Uses and Disclosures" subcategory; search the FAQs on terms like "safeguards" or "disclosure"; or review the Fact Sheet on "Incidental Disclosures," <http://www.hhs.gov/ocr/hipaa/guidelines/incidentalud.pdf>.

- HIPAA does not cut off all communications between providers and the families and friends of patients: Doctors and other providers covered by HIPAA can share needed information with family, friends - or even with anyone else a patient identifies as involved in his or her care - as long as the patient does not object. The Privacy Rule also makes it clear that, unless a patient objects, doctors, hospitals and other providers can disclose information when needed to notify a family member, or anyone responsible for the patient's care, about the patient's location or general condition. Even when the patient is incapacitated, a provider can share appropriate information for these purposes if he believes that doing so is in the best interest of the patient. Among other resources, review the OCR website FAQs in the subcategory "Disclosures to Family and Friends."

- HIPAA does not stop calls or visits to hospitals by family, friends, clergy or anyone else: Unless he or she objects, basic information about the patient can still appear in the hospital directory, so that when people call or visit and ask for the patient, they can be given the patient's phone and room number, and general health condition; and clergy - who can access religious affiliation if the patient provided it ~ don't have to ask for patients by name. See the FAQs in the "Facility Directories" subcategory at the OCR website.

- HIPAA does not prevent child abuse reporting: Doctors may continue to report child abuse or neglect to appropriate government authorities. See the explanation in the FAQs on this topic which can be found, for instance, by searching on the term "child abuse;" or review the fact sheet on "Public Health," <http://www.hhs.gov/ocr/hipaa/guidelines/publichealth.pdf>.

- HIPAA is not anti-electronic: Doctors can continue to use e-mail, the telephone, or fax machines to communicate with patients, providers, and others using common sense, appropriate safeguards to protect patient privacy - just as many were doing before the Privacy Rule went into effect. A helpful discussion on this topic can be found in the OCR website FAQs by searching on "phone," "fax" or "e-mail."

The next time you have a question about the Privacy Rule, I encourage you to visit our website and take advantage of the resources available there. Our Privacy Rule FAQs alone already have been accessed some 2 million times; and we continue to update and add to these resources.

As technology advances, the goal of protecting the privacy of health information will be ever more important; and an accurate understanding of how the Privacy Rule works will help covered entities efficiently meet this important goal as they continue to deliver excellent health care.

Sincerely,

/s/

Richard M. Campanelli, J.D.