



DEPARTMENT OF HEALTH & HUMAN SERVICES

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OFFICE OF THE SECRETARY

Director

Office for Civil Rights

200 Independence Ave., SW Rm 506F

Washington, DC 20201

May 21, 2003

Ms. Laura Redoutey, FACHE
President
Nebraska Hospital Association
1640 L Street, Suite D
Lincoln, Nebraska 68508-2581

Dear Ms. Redoutey:

Thank you for your letter to Secretary Thompson regarding the requirements of the health information privacy regulation (Privacy Rule) issued pursuant to the Health Insurance Portability and Accountability Act (HIPAA). The Secretary and I are committed to protecting the privacy of health information through implementation of the Privacy Rule. At the same time, the Department is undertaking a broad range of efforts to assist covered entities in voluntarily complying with their obligations under HIPAA.

Your letter raised concerns about requirements for accounting of disclosures of protected health information. In particular, you are concerned that the Privacy Rule's accounting requirements for disclosures for public health purposes may create an unnecessarily burdensome paperwork system that will divert hospitals' resources from patient care. You suggest including public health disclosures in the notice of privacy practices and/or preparing a standard list of public health disclosures that could be provided to a patient requesting such information.

Identifying public health disclosures in the notice of privacy practices as specified in the Privacy Rule at 45 CFR 164.520(b) would not relieve the covered entity from accounting to the individual for such disclosures as required in 45 CFR 164.528. However, like other privacy standards, the accounting standard is designed to be flexible and scalable. Thus, the Rule does not necessarily require that special procedures be adopted to track disclosures individually. Rather, as long as the information required by the accounting standard is provided, a covered entity is free to design a system that efficiently permits an accounting to be provided upon an individual's request.

For example, a healthcare organization may, if convenient, develop a checklist for use in providing the required accounting for regular or routine disclosures of personal health information (such as reports of birth, death, etc., to public health authorities). When an individual requests an accounting, the checklist could be filled in to identify which of these more routine disclosures had been made, and provided to the individual along with the required information concerning disclosures not reflected on the checklist. Moreover, the Privacy Rule permits a covered entity to provide a summary accounting for repetitive disclosures made during

the accounting period for the same purpose to the same recipient – such as a public health authority.¹

The Department has recently published further discussion of this issue in “HIPAA Privacy Rule and Public Health: Guidance from CDC and the US Department of Health and Human Services,” pp. 8-9. This document and additional information, guidance, and technical assistance materials that facilitate compliance with the Privacy Rule may be accessed at the OCR web site, www.hhs.gov/ocr/hipaa.

We thank you for your thoughtful suggestion on how to improve the operation of the Privacy Rule and hope our comments are helpful in assisting your organization with its compliance efforts. As the Privacy Rule is implemented, the Department will continue to carefully monitor its impacts to assure that the Rule does not have any unintended negative effects on patient access to quality health care, as it provides for the protection of patient information. If we find that such effects arise, we can consider proposing modifications to the Rule. In addition, we will continue to publish guidance and technical assistance materials to help covered entities have the tools they need to implement the Privacy Rule in an effective and efficient manner.

Sincerely,



Richard M. Campanelli, J.D.
Director

¹A summary accounting of such repetitive disclosures need not list each reporting occurrence; rather, in the case of reporting to a public health entity, the summary would identify the local public health authority receiving the protected health information (PHI), the PHI disclosed, the purpose of the disclosure (such as, communicable disease surveillance), the periodicity of such reports (e.g., weekly), and the first and last dates of such disclosures during the accounting period.