

THE PATIENT AND THE HIPAA ACT

Patient Information on the Benefits of the HIPAA Act

General Background

The Fourth Amendment to the United States Constitution guarantees that:

“... the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches shall not be violated.”

thus privacy is a fundamental right of all citizens.

With the growth of the ‘electronic age’ and the adoption of a more relaxed lifestyle unfortunately this right has been abused. This has occurred in part through the ever-increasing requests for information by employers, banks, financial institutions, stores marketing companies etc., the sales of personal lists and information easily available across the Internet has become endemic.

Most Americans, according to public opinion polls over the last 20 years, feel they have

“...lost control of their personal information,”

and that their greatest concern is the loss of personal privacy.

The HIPAA Act

To improve both the efficiency and effectiveness of the health care system, Congress passed the Health Insurance Portability and Accountability Act (HIPAA), Public Law 104-191. President Bush signed the law into effect in 2001. Included in the HIPAA Act are the Administrative Simplification provisions that adopt national standards for electronic transactions (billing) together with requirements for maintaining patient information privacy in the electronic age. Consequently Congress required provisions within the HIPAA Act that mandated the adoption of Federal privacy protection for individually identifiable health information. A large number, but not all, health care providers are required to meet these provisions.

In recognizing the need to protect personal health information, Congress established the need to protect personal health information, known as protected health information (PHI), to be included in the regulations covering patient privacy. Protected health information must be protected whether it is in the written, electronic or oral form. To ensure that all citizens have the same protection for the personal health information, Congress with these regulations has established a national set of health privacy practices.

Protection of Patient Privacy Rights

The HIPAA Privacy Rule, for the first time establishes national standards to protect a patient’s information. Under the HIPAA regulations these are patient medical records and other personal and sensitive health information. The HIPAA privacy Rule regulations provide:

- giving patients more control over their own health information;
- setting boundaries on the use and release of health records;
- establishing appropriate safeguards that health care providers and associated staff must comply with to achieve the required protection of the privacy of health information;
- holding individuals who breach the regulations accountable with civil and criminal penalties that can be imposed if the patients privacy rights are violated;
- providing a balance between when public responsibility supports disclosure of some forms of health data, where for example public health needs to be protected.

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For patients it also provides for being able to make informed choices when seeking both care and reimbursement for health care based on how their personal health information is being managed and used:

- enabling patients to find out how their protected health information may be used and also how certain disclosure of this information have occurred;
- generally the regulations limit release of protected health information to the minimum necessary for the particular purpose of the disclosure;
- for providing patients with the right, with some specific exceptions, to examine and obtain a copy of their own health records and to request corrections where appropriate;
- empowers the individuals to control certain uses and disclosures of their protected health information.

Timing

The provisions of the HIPAA Privacy regulations come into effect on April 14, 2003.

Summary

The Privacy Rule provisions of the HIPAA Act establish a foundation at the Federal level for the protection of an individual's health information. The privacy Rule does not replace Federal, state or other law that grants even greater privacy protection. Health care providers are free to retain or adapt more protective policies or practices for their patients.