DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for
Preparedness & Response
Washington, D.C. 20201

AUG 1 3 2012

Jerrie Lynn Kind
Executive Director
National Association of EMS Physicians
P.O. Box 19570
Lenexa, KS 66285

Dear Ms. Kind:

In 2011, over 36 million patients around the nation were treated and transported by Emergency Medical Services (EMS). EMS is an essential part of our health care system and is dedicated to improved health care outcomes through quality improvement. The day-to-day delivery of EMS care is integral to the Office of the Assistant Secretary for Preparedness and Response's (ASPR) commitment to building resilient health care systems and communities around the nation.

A number of participants at the EMS stakeholder meeting in November 2011 noted that some EMS agencies experience difficulty obtaining patient outcome or emergency department (ED) disposition data as part of their quality improvement program. Some hospitals have cited Health Insurance Portability and Accountability Act (HIPAA) privacy requirements when denying requests for patient outcome or ED disposition data. To address this perception and concern, we have developed an information sheet to clarify the circumstances under which the Federal HIPAA Privacy Rule permits a hospital to share patient outcome data with an EMS agency for quality improvement activities.

The enclosed document describes the applicable requirements under the Federal HIPAA Privacy Rule for the disclosure of patient information for quality improvement activities. It does not address applicable requirements for the disclosure of patient information for generalized research purposes. Further, additional consideration should be given to state, local or other (e.g., facility-adopted) privacy standards and rules that may provide restrictions on the sharing of patient information that exceed the Federal HIPAA Privacy Rule standards.

ASPR commends the EMS community's commitment to continuous improvement and supports efforts to enhance resilience and preparedness in communities throughout the nation.

Sincerely,

Nicole Lurie

Nicole Lurie, MD, MSPH
Assistant Secretary for Preparedness and Response

Sharing Patient Health Outcome Information between Hospitals and EMS Agencies for Quality Improvement

This information sheet provides clarification as to the circumstances when a hospital and/or emergency department (ED) may share patient outcome information with the Emergency Medical Service (EMS) for quality improvement. The information provided is based on the requirements of the Federal Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule that apply to the disclosure of patient information for quality improvement. It does not address applicable requirements for the disclosure of patient information for generalized research purposes. Further, additional consideration should be given to state, local, or other (e.g., facility-adopted) privacy standards and rules that may provide restrictions on the sharing of patient information that exceed the Federal HIPAA Privacy Rule standards.

If both the hospital and EMS provider are HIPAA covered entities[1], the hospital may share patient health outcome information with the EMS provider for certain health care operations[2] activities of the EMS provider, such as quality improvement activities, as long as both entities have (or have had in the past) a relationship[3] with the patient in question. The hospital may share the information without the patient's authorization, but must make reasonable efforts to disclose only the minimum amount of individually identifiable health information needed for the activity.

Definitions and Examples

[1]Covered entity: Includes a health care provider who transmits health information in electronic form in connection with a financial or administrative health care transaction for which the Department of Health and Human Services has developed HIPAA standards. If the EMS provider does not submit electronic claims to a health plan or government payer (such as Medicare or Medicaid) it may not be considered a "covered entity."
Example: EMS and EDs are considered covered entities if they transmit health care claims to a health plan via electronic transactions for payment purposes.

Source: HIPAA Rules at 45 CFR 160.103, http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr160.103.htm, and at 45 CFR Part 162, http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title45/45cfr162_main_02.tpl.

[2]Health care operations: Encompasses a number of activities to support health care treatment and payment functions, including quality assessment and improvement activities, (including outcomes evaluation and development of clinical guidelines), provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities.

Source: HIPAA Privacy Rule at 45 CFR 164.501
http://edocket.access.gpo.gov/cfr_2007/octqtr/45cfr164.501.htm

[3]Relationship: Includes a current or prior relationship between a patient and each covered entity.
Example: EMS rendered treatment to and transported patient X to an ED for health incident Y. The EMS and ED therefore both have a relationship with patient X for health incident Y.

Source: HIPAA Privacy Rule at 45 CFR 164.506(c)(4).