Privacy Just Took on a Whole New Meaning: What HIPAA Means to Pharmacists

If you look up the word “privacy” in Webster’s *New World College Dictionary* (4th edition), you’ll find the following definition: **1** the quality or condition of being private; withdrawal from company or public view; seclusion **2** secrecy [told in strict privacy] **3** one’s private life or personal affairs [an invasion of one’s privacy].

I looked it up to understand how we got to the point where we now have a law that is very prescriptive about infringements on privacy.

As many of you are probably aware, there has been great debate about this issue. The federal government weeded through thousands of documents and hours and hours of testimony in writing final rules for the Health Insurance Portability and Accountability Act (HIPAA) and Privacy Standards. This effort has been duplicated on the state level, where in 2001, more than 33 bills were introduced in state legislatures. States must now determine whether their current privacy laws comply with the federal mandate.

State privacy laws, much like the federal one, are works in progress. Technically, even though the Final Rule on transaction and code set standards was issued on August 17, 2000, with a compliance date of October 16, 2002, and the Final Rule on privacy of patient information was issued on December 22, 2000, the rules may still be modified. President George W. Bush announced that the second Final Rule was to go into effect on April 14, 2001. The Secretary of the Department of Health and Human Services (HHS) is expected to recommend modifications to address concerns about both rules.

I find it ironic that, in today’s world of technological advances and sophistication, those entities that maintain only paper records may gain exemptions from these rules. There is something wrong with this picture—the more efficient we become, the greater the scrutiny!

So what is the impact of these regulations? The impact will be great, especially on the financial side. It is estimated

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that the cost associated with implementing HIPAA will be in the billions. Who will pay for this? These costs will no doubt be passed on to those who have to comply, who will no doubt pass them on as increased costs for consumers.

What does HIPAA mean to pharmacists? Will they see a change in their day-to-day practices? We pharmacists take great pride in being ranked as one of the most trusted and respected health care providers. We have always done an excellent job to help our patients and protect their privacy. We are likely to see increased attention paid to informing patients about what information is shared in providing care and we can expect requirements to document stricter patient consent to the release of certain information.

In daily practice, no matter what the pharmacy environment, patient information used by pharmacists is most often information needed to provide immediate care. Policies and procedures should be clear about the pharmacists’ need to access certain patient information for their use in providing pharmaceutical care. If outsourcing is part of your normal course of business, contracts will have to be reviewed and may have to be revised to comply with HIPAA regulations. Pharmacists will need to be sure they understand the difference between the words “use” and “disclosure” as they are defined in HIPAA regulations.

When the Omnibus Budget Reconciliation Act of 1990 went into effect, lawsuits against pharmacists and pharmacies for failure to counsel patients regarding their med-

ications increased. Seminars were held for plaintiffs’ lawyers about the potential of the act for new clients. The same may happen as result of HIPAA because it carries sanctions for failure to comply with its provisions: Both civil and criminal prosecution are possible for wrongful disclosure of information.

On July 6, 2001, HHS issued the first of a series of guidances intended to clarify some of the issues raised by providers, including pharmacists. For more detailed information about the current status of HIPAA implementation, go to the HHS Web site, www.hhs.gov/ocr/hipaa.

In April 1998, AMCP revised its position statement on Patient Confidentiality. If you are not familiar with this statement, I highly encourage you to review it. It can be of great assistance to your organization as it revises policies and procedures to meet the privacy regulations. In addition, the statement and other background information from AMCP can be very helpful when discussing HIPAA issues with legislators and regulators. It is critical that pharmacists be active in drafting state laws and the rules associated with HIPAA. For more information, visit AMCP’s Web site at www.amcp.org. ■

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