



American Medical Women's Association

The Vision and Voice of Women in Medicine since 1915

February 11, 2019

Roger Severino
Director
Office for Civil Rights
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

RE: Request for Information on Modifying HIPAA Rules to Improve Coordinated Care (RIN 0945-AA00)

Dear Director Severino:

The American Medical Women's Association (AMWA) appreciates the opportunity to respond to the request for information (FRI) from the Office for Civil Rights (OCR) on the Health Insurance Portability and Accountability Act (HIPAA) regulations and how they can be revised to preserve and protect the privacy and security of patients' health information.

AMWA is an organization which functions at the local, national, and international level to advance women in medicine and improve women's health. We achieve this by providing and developing leadership, advocacy, education, expertise, mentoring, and strategic alliances. The leaders and membership of AMWA are dedicated to protecting access to care and fully oppose the barrier this proposed rule creates for families, especially women and children.

As an organization, AMWA supports strong protections for patient privacy. Therefore, AMWA's ethical opinion on patient privacy provides that stringent confidentiality protections to a patient's privacy should be honored unless waived by the patient.

Our opinion is not only to protect patient privacy, but also to preserve the patient-physician relationship. In cases when breaches of confidentiality must occur due to extreme concern for public health and safety, those breaches must be both narrow in scope and content to protect as much sensitive information as possible.

AMWA supports OCR's goal of encouraging and incentivizing care coordination and case management through information sharing, however, we do not support mandated disclosure of PHI and the stripping of a patients' control over his or her privacy rights. Furthermore, individuals do not recognize that their PHI may be used for a multitude of reasons outside of their individual care and payment for that care.

Additionally, neither covered entities nor business associates should be required to disclose PHI to another covered entity; and HIPPA covered entities should not be required to disclose PHI to non-covered health care providers. AMWA supports maintaining the current minimum necessary standard

for disclosures to covered entities. We urge HHS to ensure the physician and patient communities are well-informed and agree with any efforts to advance electronic data access.

AMWA is strongly opposed to any privacy rule permitting law enforcement agencies access to medical records or individually identifiable health information, including PHI unless through court order. Patients do not expect, nor do they welcome, unauthorized access to PHI. If OCR insists on mandating disclosure for any purpose, it should be only among health care providers and for treatment purposes. Should OCR decide to propose a disclosure requirement, patients should be able to restrict or “opt out” of certain types of disclosures; however we understand this may come with administrative challenges.

AMWA appreciates that current HIPAA disclosures are generally permissive, not mandatory. Under the HIPAA Privacy Rule, providers may ask patients’ permission to share relevant health information with family members and others; and may also use careful discretion on sharing information with those parties when doing so is determined to be in the best interests of the patient.

AMWA strongly opposes any mandate or requirement to disclose PHI to an entity for treatment purposes. Patients, in general, should be entitled to decide whether and to whom their PHI is disclosed. Indeed, there are times that a patient does not want certain sensitive information shared beyond his or her physician’s practice. Furthermore, there are potential security risks inherent in sharing information electronically.

In conclusion, on behalf of AMWA, we appreciate the opportunity to provide comments on the outlined issues and their impact on patient privacy, and look forward to working with the agency on this issue moving forward. Should you have any questions, please direct them to Theresa Rohr-Kirchgraber, MD at trohrkir@iu.edu.

Respectfully,



Connie Newman, MD
President
American Medical Women’s Association (AMWA)