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The dawn of the HIPAA privacy rule should not leave healthcare providers in the dark

On April 24, 2003, an article in the Wall Street Journal noted that many health providers "are going overboard to avoid violations" of the Health Insurance Portability and Accountability Act (HIPAA) privacy rule, which took effect on April 14. In fact, initial concerns actually may be slowing the transfer of Protected Health Information and placing patients at risk for harm - certainly the opposite of HIPAA's intended goal. *One particularly troubling area of confusion is whether listing the drug's intended purpose on a prescription violates HIPAA (italics added).*

We've heard from numerous organizations that physicians are now reluctant to include this crucial information on prescriptions. But according to the Department of Health and Human Services (HHS), listing a medication's purpose or the patient's diagnosis on a prescription does not violate HIPAA. Although a patient's diagnosis or purpose for using a medication would qualify as "Protected Health Information," communicating this information on a prescription does not require separate, special authorization because the information is used for the purposes of treating the patient. A violation would occur only if the prescription form was then used for a purpose not defined by HIPAA, such as copying it for a marketing company.

We've also heard concerns that listing a purpose on prescriptions may not meet qualifications of providing only the minimum amount of information necessary to treat the patient. However, the "minimum necessary" rule does not apply when Protected Health Information is disclosed between providers treating the same patient. Furthermore, we firmly believe that the drug's intended purpose should be part of the "minimum amount of information necessary" on a patient's prescription. Pharmacists should never be expected to dispense a medication without knowing its intended use, which typically is the case in outpatient pharmacies! What other health professional would feel that he is providing safe and quality care while working in the dark without this crucial information? Knowing the medication's purpose helps pharmacists (and nurses) avoid confusion between products with look-alike names. (Most products with look-alike names are used for different purposes.) It also allows a second professional to verify that the medication is being used appropriately for the patient's condition, and that it is dosed properly for its intended use (some products have multiple uses, each with a different dosing schedule). If the patient's diagnosis is perceived to be stigmatizing, such as HIV or psychosis, it's still possible to include descriptions such as "for infection" or "for mood" to communicate the drug's intended purpose. Besides, what other reimbursed medical service does not require a diagnosis or at least a purpose for validation? For that reason alone, it should be required. In fact, Medicare will not reimburse for certain medications, such as those used for home IV infusion or for transplant patients, without providing diagnosis information.

Other quality and safety issues have surfaced since the HIPAA privacy rule was enacted last month. We've learned that some providers are reluctant to report medical information to public health agencies or disease registries, and no longer feel comfortable sharing information that could help to treat others. In some cases, patient care has been delayed because providers are reluctant to fax medical records or lab results to another provider. HHS is monitoring HIPAA to ensure it does not hinder timely access to healthcare. For now, the best advice is to use common sense when applying the new HIPAA privacy rule so that patient privacy and safety are not compromised.