

Questions

- 1. If a church staff member calls on behalf of the clergy, can this information be released?**

An internal decision needs to be made as to adding language to expand the definition of clergy. For example, language such as this could be used: “spiritual representatives of the church, which may include but are not necessarily limited to priests, pastors, associate pastors, rabbis, deacons or their representatives”.

- 2. How does the person answering the phone really know the identity of the caller?**

BayCare made a suggestion that when the clergy or a representative calls, only yes/no questions may be asked. This eliminates an unnecessary trip by the clergy. Once the clergy arrives, identification is presented. BayCare is also including in their registration process the question as to whether or not the patient desires that information be included in the facility directory.

- 3. What if a patient opts-out of the directory, but someone walks in with the name and room number of the patient (e.g., neighbor)?**

Even if the patient opted out of the directory, the patient may want visitors. The patient is allowed to give out his or her information. If the patient opted out of the directory, the desk cannot give out information. One option is to ask patients their preference on restricting visitors or to call the unit where the patient is located and ask the patient about the visitor.

- 4. Are hospitals able to inform clergy about parishioners in the hospital?**

Yes. The privacy rule allows this communication to occur as long as the patient has been informed and does not object. The privacy rule applies that a covered health care provider may maintain in the directory the individual’s name, location in the facility, health condition expressed in general terms and religious affiliation. The facility may disclose this directory information to members of the clergy. For example, the hospital may disclose the names of Methodist patients to a Methodist minister unless a patient has restricted such disclosure. Directory information, except for religious affiliation, may be disclosed only to other persons who ask for the individual by name. If a patient is not able to agree or object to being including in the facility directory, these disclosures may still occur if such disclosure is consistent with any prior expressed preference of the individual, and the disclosure is in the individual’s best interest as determined in the professional judgment by the provider.

See, <http://www.hhs.gov/ocr/faqs1001.doc>

5. Has anyone distributed a letter to the clergy describing HIPAA regulations and restrictions placed on visits?

Not at this time; however, see answer to No. 4 above. In furtherance of this question, a letter may be sent to clergy stating that they may have access to this information except when the patient opts out. Another option is to place notices in local parish bulletins, or the parishioners should let the clergy know if they will be in the hospital.

6. How is the directory handled when a patient comes into the hospital as a trauma patient?

One option is to find out what the patient's preference has been in the past. Another would be to check with family members. While the patient is unconscious or incapacitated, there is discretion to put information into directory until the patient is conscious and able to address this issue.

7. Is the institution in compliance by addressing this in the Notice?

The Notice of Privacy Practices has to be made available to patients. Any education beyond that to community members or clergy or people who are not patients within the facility is above and beyond, and not required by the Notice of Privacy practices.

8. Should restrictions be noted in writing?

See Form #2 (attached), Notice of Privacy Practices. It is advisable that the restriction be made in writing to the Hospital Privacy Officer, Compliance Officer or whoever deemed appropriate.

9. What is the definition of treatment team?

It is advisable to have a broad definition of the treatment team to include treatment, payment, healthcare operations, social workers, etc.

10. Is it necessary to ask whether the patient wants to opt out of the directory as well as providing the form?

It is good practice to reiterate the question to the patient and to make sure the form documents the patient's intent.

11. Does the Privacy Notice have to be discussed with the patient?

The regulations state that the Acknowledgement be signed stating that the patient received the Notice. An educational summary can be prepared and given to the patient in addition to the Notice.

Additional questions and/or comments can be forwarded to Rick Reed at rreed@che.org or Mary Ann Carter at mcarter@che.org.