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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

July 15, 2002

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES:

MILITARY CONSTRUCTION
CHAIRMAN

DEFENSE

VA, HUD, AND INDEPENDENT AGENCIES

ASSISTANT MAJORITY WHIP

The Honorable Tommy Thompson
Secretary of Health and Human Services
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Thompson:

As you know, I have worked for years on, and was the primary author of the Health Insurance Portability and Accountability Act of 1996 (HIPPA). This legislation was the basis for the medical privacy rule promulgated by the Department of Health and Human Services. Earlier this year, I had the opportunity to meet with a number of your staff members to discuss my concerns about the privacy rule. While I was very pleased to learn that many of my concerns were under consideration, I do want to share my thoughts directly with you.

I believe it is imperative for the final rule to be released as soon as possible. Many health care providers I have surveyed are waiting for final guidance before making key implementation decisions, and it is important to ensure that there is a workable window of time to implement the very comprehensive changes required. It is imperative that the final rule be issued no later than early August in order to avoid, or at least, minimize calls for a delay in the privacy regulation's implementation.

Given my experience with the electronic transactions standards, I am concerned that if we do not provide a reasonable timeframe, and the flexibility required for a successful implementation, some in Congress will seek the same type of open-ended delays I had to fight so vigorously last year to moderate.

One approach that you may want to consider is allowing providers some time and flexibility to get to compliance in a non-punitive way. I want to be clear -- I do not want to delay the implementation date. However, I believe it is not useful to start hitting providers, who are making good faith compliance efforts, with fines and penalties as soon as April 15, 2003.

Obviously, there are some things, at a bare minimum, we should require at day one. However, I believe it is important to provide a reasonable time period where penalties can be phased-in. Given the magnitude of what we are asking the provider community to do, this approach would give covered entities the opportunity to avail themselves of technical support and guidance.

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On a separate issue, I am hopeful the final rule ensures that hospitals can continue to share important treatment information to improve quality health care. For example, the Greater Dayton Area Hospital Association (GDAHA) for years has improved outcomes by sharing information with participating regional hospitals. This has led directly to reduced mortality, better outcomes, and lowered average hospital stays in a number of areas. These improvements in patient care also often translated into lower treatment costs. GDAHA is expanding the program in conjunction with the Ohio Hospital Association, and is only one example in a number of states that also do this kind of research to improve patient care. It is imperative that we do not get in the way of this very important work.

Again, thank you for your consideration of my views.

Sincerely,

A handwritten signature in black ink that reads "David Hobson". The signature is written in a cursive, slightly slanted style.

DAVID L. HOBSON
Member of Congress