



Richard J. Davidson
President

Liberty Place, Suite 700
325 Seventh Street, NW
Washington, DC 20004-2802
(202) 638-1100 Phone
www.aha.org

November 4, 2004

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

Dear Secretary Thompson:

On behalf of our 4,700 member hospitals and health systems, and our 31,000 individual members, the American Hospital Association (AHA) supports the Government Accountability Office's (GAO) recommendation for reducing the paperwork burdens created by the accounting of disclosures requirement in the Health Insurance Portability and Accountability Act's (HIPAA) medical privacy rule. The AHA encourages your leadership in issuing *without delay* a rule change proposal consistent with the GAO's recommendation to ensure that the necessary modifications to the rule are applicable to hospitals' compliance efforts as soon as allowable.

In its September 2004 report on first year experiences under the medical privacy rule, the GAO recommends modifying the rule "to require that privacy notices state that patient information will be disclosed to public health authorities when required by law, and to exempt such public health disclosures from the accounting-for-disclosures provision." The GAO explains that the recommended change would ensure patients are informed about disclosures of their medical information while obviating the need to track individual disclosures as they occur, which the current rule requires. The GAO explicitly notes that such a modification would further the Department of Health and Human Services' (HHS) goal of ensuring effective patient privacy protections without imposing unnecessary costs or barriers to quality health care or interfering with other important public benefits.

The GAO report calls for decisive action by HHS to implement the rule change, pointing out that HHS already had considered such a change but postponed specific action until organizations reported more experience with the current requirement. The report's call for immediate action is prompted by the GAO's continuing concern that the burden of the current requirement to account



Hon. Tommy G. Thompson

Page Two

November 4, 2004

for mandatory disclosures to public health authorities might interfere with important public health initiatives such as responding to public health agencies' requests for voluntary reporting of symptom and disease pattern data and quality-related measures.

The AHA endorses the GAO's call for immediate action to fix the medical privacy rule's accounting of disclosures requirement. Previously, we shared with Office of Civil Rights officials a proposal that details the distinct categories of disclosures that should be excluded from the accounting of disclosures requirement as the GAO's more general recommendation suggests is appropriate. We urge HHS to act quickly to adopt that proposal. Importantly, the AHA's proposal includes a specific Q&A that HHS could issue immediately as guidance for hospitals and other covered entities to follow in complying with the accounting requirements in order to grant immediate relief to hospitals already overburdened with regulatory paperwork.

If you have any questions about the AHA's recommendations, please contact Kristin Welsh, senior associate director, executive branch relations at (202) 626- 2322 or Lawrence Hughes, regulatory counsel and director, member relations at (202) 626-2346.

Sincerely,

Dick Davidson