

PATIENT FOLLOW-UP LETTERS AND HIPAA

Position Statement of the Air Medical Physician Association,
Accepted by the AMPA Board of Trustees 3/29/03.

BACKGROUND

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) includes privacy standards that will impact common EMS practices. The privacy provisions of HIPAA, also known as the "Privacy Rule", include, but are not limited to, the following:

1. Health care providers who transmit any health information electronically are "covered entities". Covered entities must comply with the Privacy Rule.
2. Individually identifiable health information is considered "protected health information (PHI)".
3. In general, covered entities may disclose PHI for the purposes of treatment, payment and healthcare operations, with or without written patient consent. However, the covered entity must provide every patient with a "Notice of Privacy Practices" which describes the uses and disclosures of PHI by the covered entity and the patient's rights and the covered entity's legal duties with respect to PHI. In addition, the covered entity must make a good-faith effort to obtain the patient's signed acknowledgement of receipt of the Notice.
4. More specifically, a covered entity may disclose PHI to another covered entity for health care operations activities of the entity that receives the information, if each entity either has or had a relationship with the patient.
5. Disclosure of PHI for purposes other than treatment, payment and health care operations requires specific authorization from the patient.
6. When using or disclosing PHI, a covered entity must make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use or disclosure. The "minimum necessary" standard does not apply to disclosures to or requests by a health care provider for treatment.

Upon completion of a patient transport, air ambulance services have historically forwarded written correspondence to the requesting health care provider or EMS agency with individually identifiable patient care information. The so-called "follow-up letter" often serves multiple purposes and can play a role in treatment, payment and/or health care operations. Health care operations, as defined in HIPAA, includes quality assessment and improvement activities and training programs. Since it typically contains PHI, the follow-up letter is subject to the privacy provisions of HIPAA.

In its simplest form, the follow-up letter is a gesture of professional courtesy that is intended to help the air ambulance service maintain its referral patterns. The follow-up letter assumes a more substantive role when the requesting provider is responsible for on-going patient care. In this situation, the follow-up letter provides the requesting provider with information about the patient's clinical course that helps the requesting provider determine the need and scope of subsequent medical **treatment**. The follow-up letter also plays an important role in **health care operations** when it is utilized for education, training and performance improvement. The patient outcome data included in the follow-up letter is ideally utilized when it is incorporated into formal quality improvement activities, such as the appropriate utilization of air ambulance services. Finally, the follow-up letter can be used for **payment** purposes when the reimbursement of medical care is denied due to lack of medical necessity. In fact, the clinical information included in the follow-up letter can help support medical necessity.

AMPA POSITION STATEMENT

AMPA recognizes the importance of protecting the privacy of individually identifiable health information and supports reasonable regulatory efforts to protect patient privacy.

AMPA recognizes the value of the patient follow-up letter for purposes of treatment, payment and health care operations, as defined by HIPAA, and supports the current practice of follow-up letters which often include PHI.

EMS agencies and other covered entities that send or receive patient follow-up letters must safeguard the privacy of follow-up letters which include PHI in accordance with a HIPAA compliance plan.