



Department of Health

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Executive Deputy Commissioner

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DHDTC DAL 18-10
Hospital Feedback EMS

Dear Chief Executive Officer:

The New York State Department of Health (Department) is issuing this letter, after consultation with the Department's Division of Legal Affairs, to reiterate the requirement for hospitals to share patient-specific health related information with Emergency Medical Services (EMS) personnel for the purpose of pre-hospital performance improvement. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) permits the sharing of this information, and hospitals should not refuse to disclose this information on the grounds that HIPAA prohibits the disclosure.

Sharing data and information with EMS providers is a long-standing New York State requirement. 10 NYCRR §405.19 states that a hospital-wide quality assurance program shall include:

(f)(1)(iii) "emergency care provided to hospital patients, to be conducted at least four times a year, and to include pre-hospital care providers, emergency services personnel and emergency service physicians"; and

(f)(2) "hospitals as represented by emergency department practitioners and other clinical practitioners relevant to the care provided should also collaborate, as provided under Public Health Law Section 3006, in the quality improvement programs of their local EMS to review prehospital care issues including review of specific patient cases."

As you are aware, EMS is an integral component of the healthcare system. Quality improvement initiatives to improve patient outcomes should include providing patient-specific care and disposition information back to EMS providers that service the hospital. EMS providers will use this information for their own quality improvement activities to improve prehospital patient care as required in Public Health Law §3006. Patient-specific feedback to EMS providers can be verbal, written and/or electronically transmitted.

The HIPAA Privacy Rule (45 CFR Parts 160 and 164) allows hospitals that are HIPAA-covered entities to use and disclose HIPAA-protected health information (PHI) for health care operations without any authorization from the patient. 45 CFR §164.502(a)(1)(ii). The uses and disclosures of PHI for quality assurance and quality improvement activities described in 10 NYCRR §405.19(f) are uses and disclosures of PHI for the purpose of health care operations under HIPAA. See 45 CFR §164.501 (*Health care operations*). In addition, HIPAA allows HIPAA-covered entities to disclose PHI as required by State law. 45 CFR §164.512(a). The disclosures for quality assurance and quality improvement activities described in 10 NYCRR §405.19(f) are required by law. See 45 CFR §164.103 (*Required by law*).

The Privacy Rule therefore allows hospitals to disclose PHI to EMS providers under 10 NYCRR §405.19(f). HIPAA-compliant electronic platforms such as the Statewide Health Information Network for New York (SHIN-NY), ImageTrend® Hospital Hub web-portal, and other electronic platforms that are being utilized in New York to communicate electronic patient health information may be used for this purpose. The Department encourages the use of these electronic platforms to communicate feedback to EMS providers for purposes of quality improvement.

More information on the Privacy Rule can be found at the U.S. Department of Health and Human Services website at <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>.

Should you have questions regarding this guidance, please contact the Division of Hospitals and Diagnostic & Treatment Centers at (518) 402-1004 or via email at hospinfo@health.ny.gov or the Bureau of EMS and Trauma Systems at (518) 402-0096.

Sincerely,

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Director
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