

# Media Advisory

November 8, 2001



## Guidelines for Releasing Information on the Condition of Patients

### Introduction

Hospitals and health systems are responsible for protecting the privacy and confidentiality of their patients and patient information. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) mandated regulations that govern privacy standards for healthcare information. HIPAA regulations specify the purposes for which information may and may not be released without authorization from the patient. This document updates the 1997 edition of the *Guide for the Release of Information on the Condition of Patients* to be consistent with HIPAA regulations. In addition, this document provides overall policy guidance about release of patient information.

This information is provided only as a guideline. Consult with legal counsel before finalizing any policy on the release of patient information. Also, be aware that healthcare facilities must comply with state privacy laws. Contact your legal counsel or your state hospital association for further information about the application of state and federal medical privacy laws to the release of patient information.

### Condition and Location of Patients: What You May Release and to Whom

- **Inquiries must contain the patient's name—unless the inquiry comes from clergy.**  
Information about the condition and location of an inpatient, outpatient or emergency department patient may be released *only if the inquiry specifically contains the patient's name*. No information is to be given if a request does not include a specific patient's name. This includes inquiries from the press.

Inquiries from the clergy are an exception. HIPAA privacy regulations expressly permit hospitals to release the patient's name, location in the hospital, general condition and religion to clergy members, so long as the patient has not told you *not* to release the information. Clergy do not need to ask for the individual by name. It is important to note that hospitals are not required to ask about patients' religious affiliations and patients are not required to supply that information.

- As long as the patient has not requested that information be withheld, **you may release the patient's one-word condition and location without obtaining prior patient authorization.**
- **Condition.** For the one-word condition, use the terms “undetermined,” “good,” “fair,” “serious” or “critical.” See the *Definitions of Patient Conditions* section of this document on page 5 for an explanation of terms.

The death of a patient may be reported to the authorities by the hospital, as required by law. Typically, a

report will be made after efforts have been made to notify the next-of-kin. Information about the cause of death must come from the patient's physician, and its release must be approved by a legal representative of the deceased. This means that hospitals cannot share information with the media on the specifics about sudden, violent or accidental deaths, as well as deaths from natural causes, without the permission of the decedent's next-of-kin or other legal representative.

- **Location.** The patient's location may be included in the hospital directory to facilitate visits by friends and family as well as delivery of flowers and gifts. However, as a matter of policy, the patient's location should *not* routinely be given to the media.

Although HIPAA does not expressly prohibit disclosure of patients' room location to the media (because the media are accorded the same access to information as other callers) this omission was not intended as a loophole to give journalists access to celebrity or other patients who do not wish them to have it. To safeguard patient privacy, it is recommended that hospitals adopt or maintain policies prohibiting disclosure of patient location to the media without patient permission. Furthermore, the media should not contact patients directly. Instead they should request an interview through a public relations or other designated hospital representative. Hospitals may deny the media access to the patient if it is determined that the presence of photographers or reporters would aggravate the patient's condition or interfere with patient care.

A representative should accompany the media at all times while they are in the hospital. Hospitals may deny the media access to any area at their discretion, including (but not limited to) operating rooms, intensive care units, maternity units, emergency departments, psychiatric departments, nurseries, pediatric units and substance abuse units.

## Beyond the One-Word Condition: Media Access to Patients

The following activities require written authorization from the patient:

- Drafting a detailed statement (i.e., anything beyond the one-word condition) for approval by the patient or the patient's legal representative
- Taking photographs of patients
- Interviewing patients

In general, if the patient is a minor, permission for any of these activities must be obtained from a parent or legal guardian. Under certain circumstances, minors can authorize disclosure of information without parental approval or notification. State laws may vary.

## Condition and Location of Patients: When You Should *Not* Release Any Information

- **Patients can “opt out” of providing information altogether.**  
The hospital has a responsibility to tell patients what information will be included in the hospital directory and to whom that information will be disclosed. The patient has the option to expressly state that he or she does not want information released—including confirmation of his or her presence in the facility.
- **Don't release information that could embarrass or endanger patients.**  
Spokespersons should not report any information that may embarrass a patient. Situations where room location information could embarrass patients include (but are not limited to) admission to a psychiatric or substance abuse unit, admission to an obstetrics unit following a miscarriage, ectopic pregnancy or other adverse outcome, or admission to an isolation room for treatment of an infectious disease. In addition, where knowledge of a patient's location could potentially endanger that individual, (i.e., the hospital has

knowledge of a stalker or abusive partner), no information of any kind should be given, including confirmation of the patient's presence at the facility.

- **Consider other applicable federal laws.**

Be aware that federal laws prohibit hospitals from releasing any information regarding a patient being treated for alcohol or substance abuse. These include the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; the Drug Abuse Office and Treatment Act of 1972; and 42 CFR Part 2, 188. Other state laws also may apply.

- **Exercise good judgment in situations where patients can't express a preference.**

In some cases, patients will not have had the opportunity to state a preference about having their information released. For example, a patient's medical condition may prevent hospital staff from asking about information preferences upon admission. In those circumstances, condition and location information should only be released if, *in the hospital's professional judgment*, releasing such information would be in the patient's best interest. Then, when the patient recovers sufficiently, the hospital must ask about information preferences. Each hospital should develop policies and procedures to guide staff in making these judgments.

## Matters of Public Record

- **What is a matter of public record?**

Matters of public record refer to situations that are reportable by law to public authorities, such as law enforcement agencies, the coroner or public health officer. While laws and/or regulations require healthcare facilities to report a variety of information to public authorities, it is not the responsibility of facilities to provide that information in response to calls or other inquiries from the media or other parties, *including law enforcement officials*. Instead, such calls should be directed to the appropriate public authority.

- **Are public record cases different from other cases?**

No. Patients who are involved in matters of public record have the same privacy rights as all other patients, as far as the hospital is concerned. The mode of transportation by which a patient arrives at the hospital should have no bearing on the hospital's approach to releasing information about the patient. The fact that someone has been transported to the hospital by a police or fire department from an accident, crime scene or fire is a matter of public record likely to be reported by those agencies. These public records may prompt media calls to the hospital requesting a patient's condition. Only the one-word condition should be given. For many hospitals, this may represent a change from previous policies.

There are numerous state statutes addressing reporting of incidents ranging from child abuse to gunshot wounds. The fact that a hospital has an obligation to report certain confidential information to a governmental agency does not make that information public and available to news reporters.

Refer media questions to the public entity (such as the coroner's office, police, fire or health department) that receives such reports. The public entity will be guided by the applicable statute as to whether it can release any or all of the information received.

- **Are celebrity cases different?**

No. Celebrities, public figures and public officials are not subject to different standards than other patients when it comes to hospital policies for releasing information to the media.

## Releasing Patient Information in Disaster Situations

- **When feasible, notify the next-of-kin first.**

While it is desirable to notify next-of-kin before releasing patient information, in disaster situations

involving multiple casualties, it may be necessary to share patient information with other hospitals and/or rescue/relief organizations before the next-of-kin has been notified.

- **Don't hesitate to cooperate with other hospitals or relief agencies.**

You may release patient information to other hospitals, healthcare facilities and relief agencies in situations where multiple facilities are receiving patients from one disaster. Public relations representatives from different facilities are encouraged to cooperate and facilitate the exchange of information regarding patients' location and status. Specifically, you may disclose patient information to a public or private organization assisting in relief efforts for the purpose of notifying family members or others responsible for a patient's care about the patient's location, general condition or death.

- **When appropriate, release general information to help dispel public anxiety.**

In highly charged situations such as disasters, the public may benefit from the release of general information when specific information is not yet releasable. For example, you might say, "the facility is treating four individuals as a result of the explosion." You may state the number of patients who have been brought to the facility by gender or by age group (adults, children, teenagers, etc.) This type of general information can help reduce undue anxiety.

- **Work effectively with the media.**

Current information should be made available to the media as soon as possible. If information is not yet available or if next-of-kin has not been notified, all media inquiries should be logged and callbacks made as soon as information is releasable. A location should be provided for all media to gather so that information can be released in a press conference format that does not compromise patient privacy or the healthcare facility's need for added security in a disaster situation.

#### Definitions of Patient Conditions

**Undetermined.** Patient awaiting physician and assessment.

**Good.** Vital signs are stable and within normal limits. Patient is conscious and comfortable. Indicators are excellent.

**Fair.** Vital signs are stable and within normal limits. Patient is conscious, but may be uncomfortable. Indicators are favorable.

**Serious.** Vital signs may be unstable and not within normal limits. Patient is acutely ill. Indicators are questionable.

**Critical.** Vital signs are unstable and not within normal limits. Patient may be unconscious. Indicators are unfavorable.

Clinicians find the "critical but stable" term useful when discussing cases amongst themselves because it helps them differentiate patients who are expected to recover from those whose prognosis is worse. But a critical condition means that at least some vital signs are unstable, so this is inherently contradictory. The term "stable" *should not* be used as a condition. Furthermore, this term *should not* be used in combination with other conditions, which by definition, often indicate a patient is unstable.

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For further information about crisis communications and media relations, visit the Web site of the AHA's Society for Healthcare Strategy and Market Development, [www.stratsociety.org](http://www.stratsociety.org) or call AHA's communications and media relations staff at 202-638-1100. To order additional copies of the *Guidelines for Releasing Information on the Condition of Patients* (catalog no.166851), call 800-AHA-2626 or order online at [www.ahaonlinestore.org](http://www.ahaonlinestore.org). This booklet is priced in lots of 10 at \$28 for members; \$58 for non-members.

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