



DEPARTMENT OF HEALTH & HUMAN SERVICES

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<http://www.hhs.gov/ocr/>

OFFICE OF THE SECRETARY

Office for Civil Rights, Region V
233 N. Michigan Ave., Suite 240
Chicago, IL 60601

July 30, 2012

(b)(6),(b)(7)(C)

Re: Re: (b) v. Planned Parenthood of Northeast Ohio
OCR Transaction Number: 12-138698

Dear (b)(6),(b)(7)(C):

On June 10, 2012, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR), Region V received your complaint alleging that Planned Parenthood of Northeast Ohio ("Planned Parenthood"), the covered entity, has violated the Federal Standards for Privacy of Individually Identifiable Health Information (45 C.F.R. Parts 160 and 164, Subparts A and E, the Privacy Rule). Specifically, you allege that, on January 18, 2012, Planned Parenthood contacted you by telephone and requested that you return a telephone call regarding recent test results. You further allege that, during the call, it was determined you were not the correct individual, and the telephone call ended. You then allege that, on January 19, 2012, you received a letter from Planned Parenthood that contained another individual's protected health information (PHI). This allegation could reflect a violation of 45 C.F.R. §§ 164.502(a) and 164.530(c).

Thank you for bringing this matter to OCR's attention. Your complaint plays an integral part in OCR's enforcement efforts.

OCR enforces the Privacy, Security, and Breach Notification Rules, and also enforces Federal civil rights laws which prohibit discrimination in the delivery of health and human services because of race, color, national origin, disability, age, and under certain circumstances, sex and religion.

The Privacy Rule allows health care providers and health plans to share PHI for permitted purposes using the mail or fax, as long as they use reasonable and appropriate administrative, technical, and physical safeguards to protect the privacy of the PHI. See 45 C.F.R. § 164.502(a). These safeguards may vary depending on the mode of communication used. For example, when faxing PHI to a telephone number that is not used regularly, a reasonable safeguard may involve a covered entity first confirming the fax number with the intended recipient of the fax.

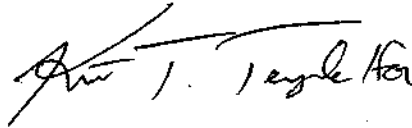
We have carefully reviewed your complaint against Planned Parenthood and have determined to resolve this matter informally through the provision of technical assistance to Planned Parenthood. Should OCR receive a similar allegation of noncompliance against Planned Parenthood in the future, OCR may initiate a formal investigation of that matter.

Based on the foregoing, OCR is closing this case without further action, effective the date of this letter. OCR's determination as stated in this letter applies only to the allegations in this complaint that were reviewed by OCR.

Under the Freedom of Information Act, we may be required to release this letter and other information about this case upon request by the public. In the event OCR receives such a request, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

If you have any questions regarding this matter, please contact Wandah Hardy, Investigator, at (312) 353-9774 (Voice) or (312) 353-5693 (TDD).

Sincerely,

A handwritten signature in black ink, appearing to read "Celeste H. Davis". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Celeste H. Davis
Regional Manager



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OFFICE OF THE SECRETARY

Office for Civil Rights, Region V
233 N. Michigan Ave., Suite 240
Chicago, IL 60601

July 30, 2012

(b)(6),(b)(7)(C) Privacy Officer
Planned Parenthood of Northeast Ohio
444 West Exchange St
Akron, OH 44303

Re: (b) v. Planned Parenthood of Northeast Ohio
OCR Transaction Number: 12-138698

Dear (b)(6),(b)(7)(C):

On January 30, 2012, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR), Region V received a complaint alleging that Planned Parenthood of Northeast Ohio ("Planned Parenthood"), the covered entity, has violated the Federal Standards for Privacy of Individually Identifiable Health Information (45 C.F.R. Parts 160 and 164, Subparts A and E, the Privacy Rule). Specifically, (b)(6),(b)(7)(C) alleges that, on January 18, 2012, Planned Parenthood contacted (b)(6),(b)(7)(C) by telephone and requested that she return the telephone call regarding recent test results. (b)(6),(b)(7) alleges that she contacted Planned Parenthood, and during the call, it was determined that she was not the correct individual. According to (b)(6),(b)(7), on January 19, 2012, she received a letter from Planned Parenthood that contained another individual's protected health information (PHI). This allegation could reflect a violation of 45 C.F.R. §§ 164.502(a) and 164.530(c).

OCR enforces the Privacy, Security, and Breach Notification Rules, and also enforces Federal civil rights laws which prohibit discrimination in the delivery of health and human services because of race, color, national origin, disability, age, and under certain circumstances, sex and religion.

Generally, the Privacy Rule permits a covered entity to make disclosures of PHI for a permitted purpose, through a variety of means, such as by mail or facsimile machine, as long as the covered entity, when doing so, uses reasonable and appropriate administrative, technical, and physical safeguards to protect the privacy of the PHI. See 45 C.F.R. § 164.502(a). These safeguards may vary depending on the mode of communication used. For example, when faxing PHI to a telephone number that is not used regularly, a reasonable safeguard may involve a covered entity first confirming the fax number with the intended recipient of the fax.

In this matter, the complainant alleges that PHI was impermissibly disclosed either through the mail or by fax. Pursuant to its authority under 45 C.F.R. §§ 160.304(a) and (b), OCR has determined to resolve this matter informally through the provision of technical assistance to Planned Parenthood. To that end, OCR has enclosed a checklist of reminders on how to safely use the mail or fax machines when sending PHI.

You are encouraged to review these materials closely and to share them with your staff as part of the Health Insurance Portability and Accountability Act (HIPAA) training you provide to your workforce. You are also encouraged to assess and determine whether there may have been an incident of noncompliance as alleged by the complainant in this matter, and, if

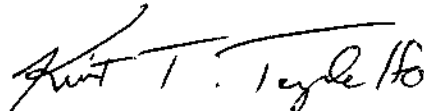
so, to take the steps necessary to ensure such noncompliance does not occur in the future. Please contact OCR if you need further information regarding the allegations in this matter. Should OCR receive a similar allegation of noncompliance against Planned Parenthood in the future, OCR may initiate a formal investigation of that matter.

Based on the foregoing, OCR is closing this case without further action, effective the date of this letter. OCR's determination as stated in this letter applies only to the allegations in this complaint that were reviewed by OCR.

Under the Freedom of Information Act, we may be required to release this letter and other information about this case upon request by the public. In the event OCR receives such a request, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

If you have any questions regarding this matter, please contact Wandah Hardy, Investigator, at (312) 353-9774 (Voice) or (312) 353-5693 (TDD).

Sincerely,

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Celeste H. Davis
Regional Manager

Enclosure: Checklist

May a physician's office or health plan use mail or fax to send patient medical information?

Yes. Where the Privacy Rule allows covered health care providers, health plans, or health care clearinghouses to share protected health information with another organization or with the individual, they may use a variety of means to deliver the information, as long as they use reasonable safeguards when doing so. When the communications are in writing, the patient information may be sent by mail, fax, or other means of reliable delivery.

The Privacy Rule requires that covered entities apply reasonable safeguards when making these communications to protect the patient information from inappropriate use or disclosure to unauthorized persons. These safeguards will vary depending on the mode of communication used. For example, when mailing patient information, reasonable safeguards would include checking to see that the name and address of the recipient are correct and current and that only the minimum amount of patient information is showing on the outside of the envelope to ensure proper delivery to the intended recipient. When faxing protected health information to a telephone number that is not regularly used, a reasonable safeguard would include first confirming the fax number with the intended recipient. Similarly, a covered entity may pre-program frequently used numbers directly into the fax machine to avoid misdirecting the information to someone who is not the intended recipient.

The following checklists provide guidance on reasonable safeguards that a covered health care provider, health plan, or health care clearinghouse may put in place to protect patient information from being impermissibly disclosed during (1) mailing and (2) faxing.
See 45 C.F.R. § 164.530(c).

MAILING CHECKLIST

<input type="checkbox"/>	Carefully check name and address of intended recipient. Many names are similar; make sure you have the correct name for the intended recipient on the envelope. Make sure the address on the envelope matches the correct address of the intended recipient.
<input type="checkbox"/>	Carefully check the contents of the envelope before sealing. Make sure the contents may be permissibly disclosed to the intended recipient or properly relate to the individual. Check all pages to make sure records or material related to other individuals are not mistakenly included in the envelope.
<input type="checkbox"/>	Check the information showing on the outside of the envelope or through the address window. Make sure identifying information that is not necessary to ensure proper delivery is not disclosed.
<input type="checkbox"/>	When doing mass mailings, do a test run to ensure the system is properly performing and check at least a sample of the mailings for the accuracy of name and address of the intended recipients and the correct contents, as indicated above, before sending.

<input type="checkbox"/>	Have policies and procedures in place to safeguard protected health information that is mailed, including processes to act promptly on (1) name and address changes to ensure corrections are made in all the relevant records; and (2) reports of misdirected mail to identify the cause and take steps to prevent future incidents.
<input type="checkbox"/>	Train staff on the mailing procedures that your organization has put in place to safeguard protected health information during mailing. Update the training periodically and be sure to train new staff.

FAXING CHECKLIST

<input type="checkbox"/>	Carefully check the fax number to make sure you have the correct number for the intended recipient. When manually entering the number, check to see that it has been entered correctly before sending.
<input type="checkbox"/>	Confirm fax number with the intended recipient when faxing to this party for the first time or if the fax number is not regularly used.
<input type="checkbox"/>	Program regularly used numbers into fax machines. Check to make sure you are selecting the preprogrammed number for the correct party before sending.
<input type="checkbox"/>	Update fax numbers promptly upon receipt of notification of correction or change. Have procedures for deleting outdated or unused numbers which are preprogrammed into the fax machine.
<input type="checkbox"/>	Locate fax machines in areas where access can be monitored and controlled and avoid leaving patient information on fax machines after sending.
<input type="checkbox"/>	Have policies and procedures in place to safeguard protected health information that is faxed, including processes to act promptly on (1) changes in fax numbers to ensure corrections are made in all the relevant records; and (2) reports of a misdirected fax to identify the cause and take steps to prevent future incidents, including revising the organization's policies and procedures.
<input type="checkbox"/>	Train staff on the policies and procedures for the proper use of fax machines that your organization has put in place to safeguard protected health information during faxing. Update the training periodically and be sure to train new staff.