

The Legal Strategist

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FOURTH QUARTER 2019

TEXAS ESOTERIC FACTS

A signed HIPAA release form must be obtained from a patient before their protected health information can be shared with other individuals or organizations, except in the case of routine disclosures for treatment, payment or healthcare operations permitted by the HIPAA Privacy Rule. It is wise to have a HIPAA Release in place before you receive medical treatment. More and more, healthcare providers have established their on policies that are stricter then the HIPPA requirements when it comes to the release of medical information.

Josefa "Chipita" Rodriguez (1799-1863) was the first and only woman ever legally hung in Texas. She was executed on a Friday the 13th at the age of 63, and her ghost is said to haunt the place where she died.

The Feature Topic is a cursory review. If you would like more information on this, or any other topic previously covered in my newsletter, which can be viewed on [The Legal Strategist](#) tab of my web site, please contact my office at 713.526.1883.

Scott Barrett

FEATURE TOPIC:

HIPPA RELEASE

The HIPAA Privacy Rule (45 CFR §164.500-534) governs the disclosure of private medical information. The primary purpose of the HIPAA Privacy Rule is to ensure the privacy of patients is protected while allowing health data to flow freely between authorized individuals for certain healthcare activities.

The HIPAA Privacy Rule allows HIPAA-covered entities (healthcare providers, health plans, healthcare clearinghouses and business associates of covered entities) to use and disclose individually identifiable protected health information without an individual's consent for treatment, payment and healthcare operations. In all cases, when individually identifiable protected health information needs to be disclosed, it must be limited to the 'minimum necessary information' to achieve the purpose for which the information is disclosed.

The Privacy Rule also gives patients the right to access the health data created, stored or maintained by their healthcare providers. Patients are permitted to obtain the data in a covered entity's designated data set – a group of records maintained by the covered entity that is used to make decisions about a patient's healthcare. Patients are also permitted to amend certain information held by a covered entity if it is discovered to be incorrect. Such requests should be obtained from a patient in writing.

Covered entities are not required to obtain consent from patients for routine disclosures for treatment, payment or healthcare operations, although some covered entities still choose to do so. This provides them with an additional level of protection in the event of a privacy complaint or audit. Such authorizations detail when protected health information will be used by the covered entity, the entities to which that information will be disclosed, and the circumstances under which information will be used and disclosed. Essentially, such an authorization duplicates much of what is detailed in a covered entity's Notice of Privacy Practices.

A HIPAA release form must be obtained from a patient before their protected health information is disclosed for any purpose other than those detailed in 45 CFR §164.506. HIPAA-compliant HIPAA release form must, at the very least, contain the following information:

- A description of the information that will be used/disclosed;
- The purpose for which the information will be disclosed;
- The name of the person or entity to whom the information will be disclosed;
- An expiration date or expiration event when consent to use/disclose the information is withdrawn. For example, an expiration event may be when a research study is completed;
- A signature and date that the authorization is signed by an individual or an individual's representative. If a representative is signing the form, the relationship with the patient must be detailed along with a description of the representative's authority to act on behalf of the patient; and
- The HIPAA release form must also include statements that advise the individual of:
 - Their right to revoke their authorization;
 - Any exceptions to the individual's right to revoke the authorization; and
 - Details of how the authorization can be revoked. (to the extent that an individual's right to revoke authorization is included in the notice required by § 164.520, the Notice of Privacy Practices)

If you would like more information on this or any other topic relating to a HIPPA Release, please contact [Scott Barrett](#) to set up a consultation.