

# Opinion

BY RICHARD P. MILLS, MD, MPH

## Thoughts on HIPAA: Wouldn't HIPPO Be More Apt?

**N**ow that April 14 has passed, I've returned to my normal cyber state. I'm back to getting more spam e-mails advertising weight loss, mortgage refinancing and Nigerian business opportunities than offers to prepare my practice for the HIPAA deadline. (In that vein,

I can't help but observe that my personal computer needs an additional layer of privacy protection a whole lot more than my personal medical information does.)

Dutifully, our office prepared a lengthy statement of our privacy policies, purchased a handsome little plastic rack for the waiting room and proudly displayed an offer for patients to help themselves.

I should have guessed what would happen. Remember when the financial industry went through this a few years ago? For every account I held anywhere, I received a separate piece of mail, sent first class, stamped "important information about your MONEY" or some such. Inside was a brochure explaining the privacy policies governing my account. At least that is what the title read, because I never got any further than that. To this day, I do not know the privacy policy of my bank. I just assume it is good for me because if it weren't, they would have kept quiet about it instead of sending a notice.

Well, my patients would rather read the *National Geographic* from 10 years ago than peruse our privacy policy. I know this because I dusted the top copy

with talc just to see if any fingerprints indicated it had been picked up and returned. Thanks to our silver-tongued office staff, most of the patients sign the form affirming they were offered a copy of the policy, obviating the need to fill out a "refused to sign form against medical advice" form, forever documenting the patient in the chart as a curmudgeon.

At least for the patients, the hassle ends there. Not so for the poor, unfortunate Covered Entity. (It wasn't so long ago that I was demoted from physician to provider; now I am an alien.) We'll need to formalize business arrangements with a host of other Covered Entities, Associate Entities and Business Associates. Cowed by the threat of jail time, previously friendly office staff of other Covered Entities have begun to insist on a signed release before faxing any PHI. (That's Protected Health Information, in case you are not yet fluent in Alienese.)

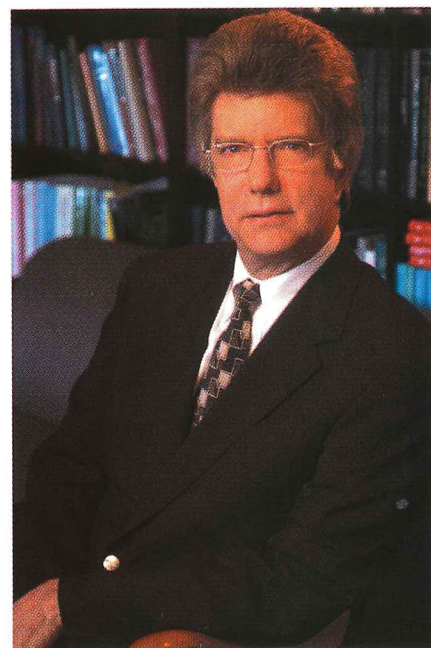
On a more serious note, the worst unintended effect of HIPAA isn't the hassle factor for the Covered Entities. In my view, it's the dampening effect on clinical research. Most ophthalmologists know of the existing requirement that clinical research protocols be

approved by Institutional Review Boards only if they provide excellent privacy protection for research subjects. But now, under HIPAA, specific individual patient consent to use PHI in research will be required. Retrospective chart reviews will no longer be a simple matter, as medical record librarians restrict chart access to treating physicians. Residents will be unable to complete a clinical research project while they are still residents. Medical progress will suffer, and so will future patients.

Call 911; there's a HIPAA loose in our china shop.

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See *News in Review* p. 12 for "Two States Fight HIPAA."



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