

Richard Schottenfeld, M.D.
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January 27, 2000

U. S. Department of Health and Human Services
Assistant Secretary for Planning and Evaluation
Attention: Privacy-P
Room G-322A
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, D.C. 20201

**RE: Comments of Standards of Privacy of Individually
Identifiable Health Information, RIN0991-AB08**

Dear Sir or Madam:

As a physician and psychiatrist, I treat patients everyday in my office. They tell me of their most intimate and private concerns. As a specialist in Substance Abuse Treatment, patients tell me about matters that they would never want anyone else to know about. They may tell me of a longstanding addiction in themselves or in a family member. Or they convey how their substance abuse has caused them to lose virtually everything important to them in their lives. They are able to speak about such deeply private matters and to unburden themselves of such tremendous heartache and anxieties because they understand that what they reveal in my presence is private and confidential. They confide in me because they know that what they reveal in my office stays in my **office**.

The new regulations on privacy due to go into effect on **2/17/00** drastically weaken a key protection that all patients now enjoy and depend upon-the basic right to determine what is a **permissible** use of their own **medical** records. No one would unburden themselves in their depths if they thought the information they revealed would be shared with other people.

I urge you to change these regulations in the following ways:

- **Each person's right to privacy of all his or her health information should be clearly established.** This is really fundamental!
- **Preserve the statutory recognition for the privacy of psychotherapy communications in the final draft.** The regulations must state that psychotherapy notes are as **carefully** protected as they are in the U.S. Supreme Court Decision, **Jaffe v. Redmond** 1996.
- **All medical records and information** deserve as high a level of protection as is provided for mental health care.

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To: US Dept. of **HHS/Asst. Secy** for Planning & Eval/Privacy-P
From: Richard Schottenfeld, M.D.
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2

- **Please reduce the administrative burdens on individual practitioners like myself or on small practice groups.**
- **The regulations should permit individuals or organizations – in public or private sector – to sue for damages caused by breaches of privacy under these regulations.**

The proposed regulations strip individuals of the right to protect their health information from disclosure. These proposed regulations neither provide **meaningful** protection **by** their government nor do they provide any sanction **against** our government for violation of the rules.

The privacy of health care information is the foundation of quality of health care. For the public to have confidence in our health care system, we must be sure that our medical information will be used to help **us**, not to harm **us**. **Please do not change a fundamental right and protection that human beings have had for 2000 years: the Hippocratic Oath commands us physicians to keep private what we learn from our patients.** How can we possibly decide to change something so central to Western Culture by administrative fiat? Please immediately reconsider these regulations along the lines I have suggested above.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Schottenfeld", with a stylized flourish at the end.

Richard Schottenfeld, M.D.