



DEPARTMENT OF HEALTH & HUMAN SERVICES

Voice - (404) 562-7886, (800) 368-1019
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<http://www.hhs.gov/ocr/>

OFFICE OF THE SECRETARY

Office for Civil Rights, Region IV
61 Forsyth Street, S.W.
Atlanta Federal Center, Suite 16T70
Atlanta, GA 30303-8909

September 25, 2012

Attn: Privacy Officer
CVS Pharmacy
5070 I-55 North
Jackson, MS 39211

Re: (b)(6),(b)(7)(C) vs. CVS Pharmacy
OCR Transaction Number: 12-146746

Dear Privacy Officer:

On July 27, 2012, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR), Region IV received a complaint alleging that CVS Pharmacy (hereinafter, "CVS") 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, the complaint alleges that CVS impermissibly disclosed the protected health information ("PHI") of Complainant when on June 16, 2012, a CVS pharmacist and technician discussed Complainant's PHI in front of other, non-employee individuals. 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.

The Privacy Rule permits certain incidental uses and disclosures of protected health information (PHI) that occur as a by-product of another permissible or required use or disclosure of PHI, as long as the covered entity has applied reasonable safeguards and implemented the minimum necessary standard, where applicable, with respect to the primary use or disclosure. See 45 C.F.R. § 164.502(a)(1)(iii). For example, the Privacy Rule permits covered health care providers to share PHI for treatment purposes without patient authorization as long as they use reasonable safeguards when doing so. These safeguards may vary depending on the mode of communication used. For example, when discussing patient health information orally with another provider in proximity of others, a doctor may be able to reasonably safeguard the information by lowering his/her voice.

In this matter, the complainant alleges the incidental use or disclosure of PHI was not permissible, either because reasonable safeguards were not in place to prevent the use or

disclosure and/or because the minimum necessary standard was not implemented when it should have been. 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 CVS. To that end, OCR has enclosed material explaining the Privacy Rule provisions related to Incidental Uses and Disclosures, Reasonable Safeguards, and the Minimum Necessary requirement.

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 CVS 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 Sonya Hanafi, Investigator, at (404) 562-7876 (Voice), (404) 562-7884 (TDD).

Sincerely,



by Roosevelt Freeman
Regional Manager
OCR Region IV

Enclosures: Incidental Disclosures
Reasonable Safeguards
Minimum Necessary



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OCR Transaction Number: 12-146746

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

On July 27, 2012, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR), Region IV received your complaint alleging that CVS Pharmacy (hereinafter, "CVS"), 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 CVS impermissibly disclosed your protected health information ("PHI") when on June 16, 2012 a CVS technician approached the pharmacist, who was in discussion with friends, and discussed your PHI in front of these non-employee individuals. 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 permits certain incidental uses and disclosures of protected health information (PHI) that occur as a by-product of another permissible or required use or disclosure of PHI, as long as the covered entity has applied reasonable safeguards and implemented the minimum necessary standard, where applicable, with respect to the primary use or disclosure. See 45 C.F.R. § 164.502(a)(1)(iii). For example, the Privacy Rule permits covered health care providers to share PHI for treatment purposes without patient authorization as long as they use reasonable safeguards when doing so. These safeguards may vary depending on the mode of communication used. For example, when discussing patient health information orally with another provider in proximity of others, a doctor may be able to reasonably safeguard the information by lowering his/her voice.

We have carefully reviewed your complaint against CVS and have determined to resolve this matter informally through the provision of technical assistance to CVS. Should OCR receive a similar allegation of noncompliance against CVS 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 Sonya Hanafi, Investigator, at (404) 562-7876 (Voice), (404) 562-7884 (TDD).

Sincerely,

A handwritten signature in cursive script, appearing to read "Roosevelt Freeman".

Roosevelt Freeman
Regional Manager
OCR Region IV