



Cynthia Marcotte Stamer, P.C.
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Helping Health Industry Clients Use Law and Process To Manage Risks and Promote Objectives
A Member of Glast, Phillips & Murray, P.C.



Proposed Patient Safety and Quality Improvement Act of 2005 Released

February 3, 2008

The Agency for Healthcare Research and Quality (AHRQ) Office of Civil Rights of the Department of Health and Human Services yesterday published proposed regulations to implement and enforce the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act) including the confidentiality protections of the Patient Safety Act and the Patient Safety Organization (PSO) requirements.

The proposed regulation addresses the listing and operation of PSOs, the privilege and confidentiality protection for patient safety work product, the disclosure permissions for patient safety work product, and the enforcement of the confidentiality protection.

OCR's enforcement responsibility includes the imposition of a civil money penalty for a knowing or reckless impermissible disclosure of patient safety work product. A civil money penalty may be imposed in an amount up to \$10,000 for each violation. In addition, a principal may be separately liable for a civil money penalty based on a violation by its agent.

The Patient Safety Act recognizes certain provisions of the HIPAA Privacy Rule are implicated by covered entity providers seeking the protections of the Patient Safety Act. The proposed regulation addresses how the HIPAA Privacy Rule disclosure permissions operate in conjunction with the proposed patient safety disclosure permissions.

To review the proposed regulation, see the Federal Register at <http://a257.g.akamaitech.net/7/257/2422/01jan20081800/edocket.access.gpo.gov/2008/pdf/E8-2375.pdf>.

If you have questions about the proposed regulations on your operations, would like assistance preparing or submitting comments on the proposed regulations, or have other questions concerning health industry privacy, quality, peer review or other matters, please contact us.

About Cynthia Marcotte Stamer & Heidi Kocher

Cynthia Marcotte Stamer, P.C., a member of the law firm of Glast, Phillips & Murray, P.C, has extensive experience advising, and representing health care providers and other health industry clients health care operations, reimbursement, regulatory and public policy, risk management, human resources, credentialing, technology, privacy, and other concerns. Her clients include hospitals, physicians, clinics, IPAs, PHOs, skilled nursing facilities, assisted living and home health, rehabilitation, imaging and other diagnostic services providers, DME, physician practice management companies and other management services organizations, health care technology, and other health industry clients. Recognized in the International Who's Who of Professionals and bearing the Martindale Hubble AV-Rating, Ms. Stamer is a highly regarded legal advisor and consultant, author and speaker, who regularly conducts management and other training on health care reimbursement and other health industry operational, regulatory, and public policy matters.

Chair of the American Bar Association (ABA) Health Law Section Managed Care & Insurance Interest Group and known for her practical, direct problem-solving approach, Ms. Stamer also applies her extensive industry experience in numerous professional and industry leadership roles. In addition to her ABA Health Law Section involvement, Ms. Stamer serves on the editorial advisory boards of and is a contributing author for the Bureau of National Affairs and other publications, served as the Compliance Committee Chair and a member of the Board of the National Kidney Foundation of North Texas Board of Directors, serves on the continuing education and conference planning committees of the ABA Joint Committee On Employee Benefits (JCEB), the HFMA Lone Star Chapter, TAHFA, the IRS TEGE Advisory Council, and numerous other health industry groups. She also is the past-president of the Alliance for Health Care Excellence, and founder of its Health Care Heroes and Patient Empowerment Programs. She also is active in numerous other industry organizations including the American Health Lawyers Association, the Medical Group Management Association, the Alliance for Healthcare Excellence, the Dallas Bar Association Health Law Section,

Ms. Stamer is a widely published author and highly sought-after speaker nationally and internationally sought out for her strategic knowledge and insights on operational and technical health care risk management and operational concerns. A

columnist for MD News and recurring author for various other health industry publications, Ms. Stamer's insights have been quoted by the Wall Street Journal, the Bureau of National Affairs (BNA), HIPAA Comply, Private Payer News, Modern Health Care, Managed Healthcare Executive, Health Leaders, Caring for The Elderly Magazine, For The Record, the Dallas Morning News, Spencer Publications, the Dallas Business Journal, the Houston Business Journal, and a various other national and local publications. Ms Stamer is the author of 100s of publications on health industry matters including numerous highly regarded works published by the American Bar Association, Aspen Publishers, BNA, the American Health Lawyers Association, the Medical Group Management Association, Government Institutes, Inc., Decision Health and others.

Heidi Kocher has over 10 years experience in healthcare law, having represented many kinds of healthcare providers, from small DME companies to large national health care organizations. Prior to returning to private practice, Ms. Kocher was in-house at one of the largest national hospital companies. Her wide-ranging experience includes advising corporate and individual clients on the myriad federal and state fraud and abuse laws, such as Stark, the Anti-kickback statute, and False Claims Act, structuring mergers, acquisitions, joint ventures, employment agreements, and other deals, developing compliance programs and plans, interfacing with fiscal intermediaries, carriers, and other payers, resolving reimbursement issues, conducting investigations, assisting with preparing for and responding to JCAHO surveys, obtaining advisory opinions from the OIG, and representing providers in relation to federal and state agencies. She has worked with hospitals, physicians, mid-level practitioners, pharmacies, DME companies, LTACs, SNFs, home health and hospice agencies, inpatient rehab facilities, clinical laboratories, as well as allied health practitioners. She is active in the Health Care Compliance Association, and has written numerous articles and provided training on various healthcare law topics.

For more information about Ms. Stamer and Ms. Kocher, a listing of selected publications and other health industry links, information about workshops and other training and other health industry information and resources or other details about Cynthia Marcotte Stamer, P.C. and Glast, Phillips & Murray, P.C., see CynthiaStamer.com or contact Ms. Stamer or Ms. Kocher.

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We hope that this information is useful to you. You can register to receive future updates and information about upcoming programs, access other publications by Ms. Stamer and other helpful resources or additional information about Ms. Stamer and/or Glast, Phillips & Murray, P.C., at CynthiaStamer.com or by contacting Ms. Stamer directly. If you or someone else you know would like to receive future Alerts or other information about developments, publications or programs, please be sure that we have your current contact information – including your preferred e-mail. Interested persons can register or update their contact information by providing that information to us through registration on our website at www.cynthiastamer.com or via telephone, fax or e-mail. If you have questions or concerns about the matters discussed in this publication or other health care or health industry related matters, wish to obtain information about arranging for training or presentations by Ms. Stamer, wish to suggest a topic for a future program or publication, or wish to request other information or materials, please contact Ms. Stamer using the contact information set forth below.

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