



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000
Governor Mike Beebe
Nathaniel Smith, MD, MPH, Interim Director, and State Health Officer

July 18, 2013

To whom it may concern:

Re: Mandatory Reporting for Quality Assessment and System Improvement

The Trauma Section of the Arkansas Department of Health has an on-going Quality Improvement Program that both guides trauma system policies and improves the care for patients suffering traumatic injuries. The Section has three active projects that it conducts under this program. The first involves the Governor's Trauma Advisory Council's (TAC's) Quality Improvement Subcommittee process, in which health care providers who are involved in cases presenting concerns are invited to attend quality improvement meetings to discuss the issues. As noted below, these discussions are protected from disclosure. In addition, the outcomes are designed not to be punitive, but rather educational in nature. The second project involves a Preventable Mortality Study. This review will examine trauma deaths prior to the trauma system and those that have occurred since the system's inception in 2009. The results will inform trauma system stakeholders regarding the value of the system and what improvements might need to be made in prevention efforts as well as patient care. Finally, the Section will study certain "critical events" that occur along the continuum of care for trauma patients. Health care providers who are involved in these events will be asked to furnish information to their respective Trauma Regional Advisory Councils for discussion and possible referral to the TAC's Quality Improvement Subcommittee. Again, the purpose is to improve the quality of care for these patients.

It is noted that the Section has contracted with a Quality Improvement Organization to validate and analyze data related to each of the above initiatives. In addition, the Section will contract with the American College of Surgeons to participate in its Total Quality Improvement Program. At the request of the Section, personnel from each of these entities will also obtain data from health care providers. This data will play an important role in moving the Section's Quality Improvement Program forward.

The purpose of this letter is to advise trauma centers and other health care providers that participating in the quality improvement process and providing relevant information to the Arkansas Department of Health is mandatory.

As a condition of eligibility in the sustaining grant of the statewide trauma system, all hospitals and EMS providers must participate in all quality improvement reviews that involve care

provided by the respective facility or service. All documents, data, records or reports collected or compiled for the purposes of trauma system quality review and trauma system assessment "...shall be treated in a manner that is consistent with all state and federal privacy requirements, including without limitation the federal Health Insurance Portability and Accountability Act of 1996 privacy rule, 45 C.F.R. §164.512(i)." (see Ark. Code Ann. §20-13-809) In addition, Ark. Code Ann. §20-13-819 (a) (1) makes it clear that these documents may be compiled on behalf of the "....Department of Health, The Trauma Advisory Council, or other entity authorized under this subchapter for the purpose of quality or system assessment and improvement of the trauma system".

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) does not relieve healthcare providers from mandatory reporting of diseases and conditions to the Department of Health, including information to satisfy the requirements of the Trauma System Act. (see Ark. Code Ann. §20-13-801 et. seq.) Section 164.512(b) of HIPAA, "Uses and Disclosures for Public Health Activities" (45 CFR Parts 160 and 164), specifically states that it is permissible to disclose protected health information to public health authorities when they are authorized by law to collect such information. Additionally, the preamble to the privacy rule states: "The final rule continues to permit covered entities to disclose protected health information without individual authorization directly to public health authorities, such as state and local public health departments."

The Arkansas Department of Health is a public health authority as defined in the HIPAA regulations. In addition, the Department is charged with regulatory authority over hospitals, clinics and emergency medical service providers.

Dr. Joseph H. Bates, Deputy State Health Officer, also most recently addressed this issue and I am attaching a copy of his December 8, 2011 letter for further reference. Should you have additional questions concerning HIPAA or privacy and confidentiality requirements of the Department you may contact Reginald A. Rogers, Deputy General Counsel and HIPAA Compliance Officer for the Arkansas Department of Health at 501-661-2609.

Sincerely,



Nathaniel Smith, MD, MPH
Interim Director and State Health Officer