

Privacy Policy

Lodi Valley Dental, LLC's Notice of Privacy Practices

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY. THE PRIVACY OF YOUR MEDICAL INFORMATION IS IMPORTANT TO US.

OUR LEGAL DUTY

We are required by the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as amended from time to time (collectively, "HIPAA") to maintain the privacy of your health information. All personal health information used by us or disclosed by us is covered by this Act regardless of whether this personal health information is electronic, oral or paper form. We are also required to provide you with this Notice of Privacy Practices ("Notice") which describes our privacy practices and legal duties, as well as your rights concerning your health information. We must follow the privacy practices described in this Notice while it is in effect. We will not use or share your health information other than as described in this Notice, unless you notify us in writing at the address provided below. This Notice takes effect July 1, 2017 and will remain in effect until we replace it.

We may change our privacy practices, and/or this Notice, from time to time. If we make any material revisions to this Notice, we will provide you with a copy of the revised Notice it will be updated on our website and available upon request. The revised Notice will specify the date on which such revised Notice becomes effective. The revised Notice will apply to all of your health information from and after the revised date. For more information about our privacy practices, or for additional copies of this Notice, please contact us using the information listed at the end of this Notice.

USES AND DISCLOSURES OF HEALTH INFORMATION WITHOUT WRITTEN AUTHORIZATION

A. Uses and Disclosures for Treatment, Payment, and Health Care Operations

We must disclose your health information to you, as described in this Notice. We also use your health information and share it with others, in electronic or other format, to help treat your condition, coordinate payment for that treatment, and run our business operations. The following are examples of situations where we do not need your written authorization to use your health information or share it with others:

Treatment: We may use your health information to provide treatment to you. We disclose your health information to our employees and others who are involved in providing the care you need. We may disclose your health information to a physician or other health care provider providing treatment to you. We may also share your health information with a pharmacist in order to provide you with a prescription or with a laboratory that performs test or fabricates dental prostheses or orthodontic appliances.

Payment: Payment means obtaining reimbursement for the provision of healthcare; determinations of eligibility or coverage; billing; claims management; collection activities; justifications of charges; and disclosure to consumer reporting agencies; protected health information relating to collection of reimbursements (only certain information may be disclosed). An example of this would be submitting your bill for health care services to your insurance company.

Health Care Operations: We may use and disclose your health information in connection with our health care operations, including quality assessment and improvement activities, review of the competence or qualifications of health care professionals, evaluation of practitioner and provider performance, training programs, accreditation, certification, and licensing and credentialing activities.

We may, without prior consent use or disclose your personal health information to carry out treatment, payment or health care operations:

- Directly to you at your request;
- In an emergency treatment situation, if we attempt to obtain such consent as soon as reasonably practicable after the delivery of such treatment, if we are required by law to treat you and attempts to obtain consent are unsuccessful, or if we attempt to obtain consent but are unable, due to barriers of communication, but we determine in our professional opinion that treatment is clearly inferred from the circumstances;
- Pursuant to and in compliance with an authorization signed by you; and
- Provided that you are informed in advance of the use and disclosure and have the opportunity to agree to or prohibit or restrict the use of disclosure. This may be an oral agreement between us and may include a health record maintained at our facility containing specific information allowed by this act.

Business Associates: We may disclose your health information to a “business associate” that needs the information in order to perform a function or service for our business operations. We will do so only if the business associate signs an agreement to protect the privacy of your health information. For example, we may share your health information with a billing company that helps us to obtain payment from your insurance company.

Appointment Reminders, Treatment Alternatives and Health-Related Benefits and Services: We may use and disclose your health information to provide you with appointment reminders (such as voicemails, postcards, letters, e-mails or other similar mobile device communications). We may also use your health information in order to recommend possible treatment alternatives or health-related benefits and services, such as disease awareness or case management that may be of interest to you.

Patient-Related Communications: We may use or disclose your health information to provide patient-related communications such as intraoral photography, “no cavity club” for children, and telephoned-in prescriptions.

B. Uses and Disclosures for the Public Need

We may use your health information and share it with others in order to comply with the law or meet important public needs described below.

Required by Law: We may use or disclose your health information when we are required by law to do so.

Public Health Activities: We may disclose your health information to authorized public health officials so they may carry out their public health activities. For example, we may share your health information with government officials that are responsible for controlling disease, injury, or disability.

Health Oversight Activities: We may release your health information to government agencies authorized to conduct audits, investigations, and inspections, as well as civil, administrative or criminal investigations, proceedings, or actions. This includes those agencies that monitor programs such as Medicaid.

Abuse or Neglect: We may disclose your health information to appropriate authorities if we reasonably believe that you are a possible victim of abuse, neglect, or domestic violence or the possible victim of other crimes.

Product Monitoring, Repair and Recall: We may disclose your health information to a person or company that is regulated by the Food and Drug Administration for the purpose of: (1) reporting or tracking product defects or problems; (2) repairing, replacing, or recalling defective or dangerous products; or (3) monitoring the performance of a product after it has been approved for use by the general public. We may also disclose your health information to report adverse reactions to medications.

Lawsuits and Disputes: We may disclose your health information if we are ordered to do so by a court or administrative tribunal that is handling a lawsuit or other dispute. We may also disclose your health information in response to a subpoena, discovery request, or other lawful request by someone else involved in the dispute, but only if efforts have been made to tell you about the request or to obtain a court order protecting the information from further disclosure.

Law Enforcement: We may disclose your health information to law enforcement officials for certain reasons including to comply with court orders or laws that we are required to follow, and to assist law enforcement officers with identifying or locating a suspect, fugitive, witness, missing person or victims of a crime.

To Avert a Serious and Imminent Threat to Health or Safety: We may disclose your health information to the extent necessary to avert a serious and imminent threat to your health or safety or the health or safety of others. If we do, we will only share your information with someone able to help prevent the threat.

Workers' Compensation: We may disclose your health information to the extent necessary to comply with workers' compensation or other programs established by law that provide benefits for work-related injuries or illness without regard to fraud.

National Security: We may disclose to authorized federal officials health information required for lawful intelligence, counterintelligence, and other national security activities. We may also disclose to military authorities the health information of Armed Forces personnel under certain circumstances. If you are an inmate or you are detained by a law enforcement officer, we may disclose your health information to the prison officers or law enforcement officers if necessary to provide you with health care, or to maintain safety, security and good order at the place where you are confined.

Coroners, Medical Examiners and Funeral Directors: In the unfortunate event of your death, we may disclose your health information to a coroner or medical examiner. This may be necessary, for example, to determine the cause of death. We may also release this information to funeral directors as necessary to carry out their duties, and to organizations that procure or store organs, eyes or other tissues so that these organizations may investigate whether donation or transplantation is possible under the law.

Research: We can use or share you information for health research.

C. Completely De-Identified and Partially De-Identified Health Information

We may use and disclose your health information if we have removed any information that has the potential to identify you so that the health information is “completely de-identified.” We may also use and disclose “partially de-identified” health information about you for public health and research purposes, or for business operations, if the person who will receive the information signs an agreement to protect the privacy of the information as required by federal and state law. Partially de-identified health information will not contain any information that would directly identify you (such as your name, street address, social security number, phone number, fax number, electronic mail address, website address, or license number).

REQUIREMENT FOR WRITTEN AUTHORIZATION

We may use your health information for treatment, payment, health care operations or other purposes described in this Notice. You may also give us written authorization to use your health information or to disclose it to anyone for any purpose. We cannot use or disclose your health information for any reason except those described in this Notice unless you give us written authorization to do so. For example, we require your written authorization for uses and disclosures of health information for marketing purposes, and disclosures that constitute a sale of your health information. Marketing is a communication about a product or service that encourages recipients of the communication to purchase or use the product or service. You may obtain a form to revoke your authorization by using the contact information listed at the end of this Notice. Your revocation will not affect any use or disclosures permitted by your authorization while it was in effect.

YOUR RIGHTS TO ACCESS AND CONTROL YOUR HEALTH INFORMATION

Under HIPAA, you have the following rights with respect to your protected health information:

- You have the right to request restrictions on certain uses and disclosures of protected health information, including restrictions placed upon disclosure to family members, close personal friends, or any other person you may identify. We are however, not required to agree with a requested restriction;
- You have the right to receive confidential communications of your protected health information, either directly from us or from us or by alternative means or from alternative locations;
- You have the right to inspect and copy your protected health information;
- You have the right to amend protected health information, however, this request may be denied under certain circumstances;
- You have the right to receive an accounting of disclosures of your protected health information made by us in the six years prior to the date of the accounting request;
- You have the right to obtain a paper copy of this notice from us, even if you have already have access to the notice electronically

If you are not able to tell us your preference, for example, if you are unconscious, we may go ahead and share your information if we believe it is in your best interest. We may also share your information when needed to lessen a serious and imminent threat to health and safety.

In the case of fundraising, we may contact you for fundraising efforts, but you can tell us not to contact you again.

COMPLAINTS

If you are concerned that we may have violated your privacy rights or have any other complaints, you may complain to us using our office contact information below. You also may submit a written complaint to the U.S. Department of Health and Human Services. We will not retaliate or take action against you for your complaint. For more information about HIPAA or to file a complaint, contact:

Privacy Officer
Katie Crane
105 Dale Drive
Lodi, WI 53555
kcranelvd@secureds.com

The U.S. Department of Health & Human Services
Office of Civil Rights
200 Independence Avenue, S.W.
Washington DC 20201
Toll Free: 1-877-696-6775

PUBLICATION DATE

Aug 20, 1996

PUBLIC LAW 104-191

104th Congress

An Act

To amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**--This Act may be cited as the "Health Insurance Portability and Accountability Act of 1996".

(b) **TABLE OF CONTENTS.**--The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I--HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

...

TITLE II--PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION; MEDICAL LIABILITY REFORM

"

Summary of Administrative Simplification Provisions

Standards for electronic health information transactions. Within 18 months of enactment, the Secretary of HHS is required to adopt standards from among those already approved by private standards developing organizations for certain electronic health transactions, including claims, enrollment, eligibility, payment, and coordination of benefits. These standards also must address the security of electronic health information systems.

Mandate on providers and health plans, and timetable. Providers and health plans are required to use the standards for the specified electronic transactions 24 months after they are adopted. Plans and providers may comply directly, or may use a health care clearinghouse. Certain health plans, in particular workers compensation, are not covered.

Privacy. The Secretary is required to recommend privacy standards for health information to Congress 12 months after enactment. If Congress does not enact privacy legislation within 3 years of enactment, the Secretary shall promulgate privacy regulations for individually identifiable electronic health information.

Pre-emption of State Law. The bill supersedes state laws, except where the Secretary determines that the State law is necessary to prevent fraud and abuse, to ensure appropriate state regulation of insurance or health plans, addresses controlled substances, or for other purposes. If the Secretary promulgates privacy regulations, those regulations do not pre-empt state laws that impose more stringent requirements. These provisions do not limit a State's ability to require health plan reporting or audits.

Penalties. The bill imposes civil money penalties and prison for certain violations.

Sec. 261. Purpose

It is the purpose of this subtitle to improve the Medicare program under title XVIII of the Social Security Act, the medicaid program under title XIX of such Act, and the efficiency and effectiveness of the health care system, by encouraging the development of a health information system through the establishment of standards and requirements for the electronic transmission of certain health information.

Sec. 262. Administrative simplification

(a) IN GENERAL.--Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

Sec. 1171. Definitions

"**SEC. 1171.** For purposes of this part:

"(1) CODE SET.--The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

"(2) HEALTH CARE CLEARINGHOUSE.--The term 'health care clearinghouse' means a public or private entity that processes or facilitates the processing of nonstandard data elements of health information into standard data elements.

"(3) HEALTH CARE PROVIDER.--The term 'health care provider' includes a provider of services (as defined in section 1861(u)), a provider of medical or other health services (as defined in section 1861(s)), and any other person furnishing health care services or supplies.

"(4) HEALTH INFORMATION.--The term 'health information' means any information, whether oral or recorded in any form or medium, that--

"(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

"(5) HEALTH PLAN.--The term 'health plan' means an individual or group plan that provides, or pays the cost of, medical care (as such term is defined in section 2791 of the Public Health Service Act). Such term includes the following, and any combination thereof:

"(A) A group health plan (as defined in section 2791(a) of the Public Health Service Act), but only if the plan--

"(i) has 50 or more participants (as defined in section 3(7) of the Employee Retirement Income Security Act of 1974); or

"(ii) is administered by an entity other than the employer who established and maintains the plan.

"(B) A health insurance issuer (as defined in section 2791(b) of the Public Health Service Act).

"(C) A health maintenance organization (as defined in section 2791(b) of the Public Health Service Act).

"(D) Part A or part B of the Medicare program under title XVIII.

"(E) The medicaid program under title XIX.

"(F) A Medicare supplemental policy (as defined in section 1882(g)(1)).

"(G) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy does not provide sufficiently comprehensive coverage of a benefit so that the policy should be treated as a health plan).

"(H) An employee welfare benefit plan or any other arrangement which is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers.

"(I) The health care program for active military personnel under title 10, United States Code.

"(J) The veterans health care program under chapter 17 of title 38, United States Code.

"(K) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1072(4) of title 10, United States Code.

"(L) The Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(M) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

"(6) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.--The term 'individually identifiable health information' means any information, including demographic information collected from an individual, that--

"(A) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and--

"(i) identifies the individual; or

"(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

"(7) STANDARD.--The term 'standard', when used with reference to a data element of health information or a transaction referred to in section 1173(a)(1), means any such data element or transaction that meets each of the standards and implementation specifications adopted or established by the Secretary with respect to the data element or transaction under sections 1172 through 1174.

"(8) STANDARD SETTING ORGANIZATION.--The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute, including the National Council for Prescription Drug Programs, that develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this part.

Sec. 1172. General requirements for adoption of standards

"SEC. 1172. (a) APPLICABILITY.--Any standard adopted under this part shall apply, in whole or in part, to the following persons:

"(1) A health plan.

"(2) A health care clearinghouse.

"(3) A health care provider who transmits any health information in electronic form in connection with a transaction referred to in section 1173(a)(1).

"(b) REDUCTION OF COSTS.--Any standard adopted under this part shall be consistent with the objective of reducing the administrative costs of providing and paying for health care.

"(c) ROLE OF STANDARD SETTING ORGANIZATIONS.--

"(1) IN GENERAL.--Except as provided in paragraph (2), any standard adopted under this part shall be a standard that has been developed, adopted, or modified by a standard setting organization.

"(2) SPECIAL RULES.--

"(A) DIFFERENT STANDARDS.--The Secretary may adopt a standard that is different from any standard developed, adopted, or modified by a standard setting organization, if--

"(i) the different standard will substantially reduce administrative costs to health care providers and health plans compared to the alternatives; and

"(ii) the standard is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

"(B) NO STANDARD BY STANDARD SETTING ORGANIZATION.--If no standard setting organization has developed, adopted, or modified any standard relating to a standard that the Secretary is authorized or required to adopt under this part--

"(i) paragraph (1) shall not apply; and

"(ii) subsection (f) shall apply.

(3) CONSULTATION REQUIREMENT.--

"(A) IN GENERAL.--A standard may not be adopted under this part unless--

"(i) in the case of a standard that has been developed, adopted, or modified by a standard setting organization, the organization consulted with each of the organizations described in subparagraph (B) in the course of such development, adoption, or modification; and

"(ii) in the case of any other standard, the Secretary, in complying with the requirements of subsection (f), consulted with each of the organizations described in subparagraph (B) before adopting the standard.

"(B) ORGANIZATIONS DESCRIBED.--The organizations referred to in subparagraph (A) are the following:

"(i) The National Uniform Billing Committee.

"(ii) The National Uniform Claim Committee.

"(iii) The Workgroup for Electronic Data Interchange.

"(iv) The American Dental Association.

"(d) IMPLEMENTATION SPECIFICATIONS.--The Secretary shall establish specifications for implementing each of the standards adopted under this part.

"(e) PROTECTION OF TRADE SECRETS.--Except as otherwise required by law, a standard adopted under this part shall not require disclosure of trade secrets or confidential commercial information by a person required to comply with this part.

"(f) ASSISTANCE TO THE SECRETARY.--In complying with the requirements of this part, the Secretary shall rely on the recommendations of the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)), and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register any recommendation of the National Committee on Vital and Health Statistics regarding the adoption of a standard under this part.

(g) APPLICATION TO MODIFICATIONS OF STANDARDS.--This section shall apply to a modification to a standard (including an addition to a standard) adopted under section 1174(b) in the same manner as it applies to an initial standard adopted under section 1174(a).

Sec. 1173. Standards for information transactions and data elements

"**SEC. 1173.** (a) STANDARDS TO ENABLE ELECTRONIC EXCHANGE.--

"(1) IN GENERAL.--The Secretary shall adopt standards for transactions, and data elements for such transactions, to enable health information to be exchanged electronically, that are appropriate for--

"(A) the financial and administrative transactions described in paragraph (2); and

"(B) other financial and administrative transactions determined appropriate by the Secretary, consistent with the goals of improving the operation of the health care system and reducing administrative costs.

"(2) TRANSACTIONS.--The transactions referred to in paragraph (1)(A) are transactions with respect to the following:

"(A) Health claims or equivalent encounter information.

"(B) Health claims attachments.

"(C) Enrollment and disenrollment in a health plan.

"(D) Eligibility for a health plan.

"(E) Health care payment and remittance advice.

"(F) Health plan premium payments.

"(G) First report of injury.

"(H) Health claim status.

"(I) Referral certification and authorization.

"(3) ACCOMMODATION OF SPECIFIC PROVIDERS.--The standards adopted by the Secretary under paragraph (1) shall accommodate the needs of different types of health care providers.

(b) UNIQUE HEALTH IDENTIFIERS.--

"(1) IN GENERAL.--The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system. In carrying out the preceding sentence for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

"(2) USE OF IDENTIFIERS.--The standards adopted under paragraph (1) shall specify the purposes for which a unique health identifier may be used.

(c) CODE SETS.--

"(1) IN GENERAL.--The Secretary shall adopt standards that--

"(A) select code sets for appropriate data elements for the transactions referred to in subsection (a)(1) from among the code sets that have been developed by private and public entities; or

"(B) establish code sets for such data elements if no code sets for the data elements have been developed.

"(2) DISTRIBUTION.--The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under section 1174(b).

(d) SECURITY STANDARDS FOR HEALTH INFORMATION.--

"(1) SECURITY STANDARDS.--The Secretary shall adopt security standards that--

"(A) take into account--

"(i) the technical capabilities of record systems used to maintain health information;

"(ii) the costs of security measures;

"(iii) the need for training persons who have access to health information;

"(iv) the value of audit trails in computerized record systems; and

"(v) the needs and capabilities of small health care providers and rural health care providers (as such providers are defined by the Secretary); and

"(B) ensure that a health care clearinghouse, if it is part of a larger organization, has policies and security procedures which isolate the activities of the health care clearinghouse with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

"(2) SAFEGUARDS.--Each person described in section 1172(a) who maintains or transmits health information shall maintain reasonable and appropriate administrative, technical, and physical safeguards--

"(A) to ensure the integrity and confidentiality of the information;

"(B) to protect against any reasonably anticipated--

"(i) threats or hazards to the security or integrity of the information; and

"(ii) unauthorized uses or disclosures of the information; and

"(C) otherwise to ensure compliance with this part by the officers and employees of such person.

(e) ELECTRONIC SIGNATURE.--

"(1) STANDARDS.--The Secretary, in coordination with the Secretary of Commerce, shall adopt standards specifying procedures for the electronic transmission and authentication of signatures with respect to the transactions referred to in subsection (a)(1).

"(2) EFFECT OF COMPLIANCE.--Compliance with the standards adopted under paragraph (1) shall be deemed to satisfy Federal and State statutory requirements for written signatures with respect to the transactions referred to in subsection (a)(1).

(f) TRANSFER OF INFORMATION AMONG HEALTH PLANS.--The Secretary shall adopt standards for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

Sec. 1174. Timetables for adoption of standards

"**SEC. 1174.** (a) INITIAL STANDARDS.--The Secretary shall carry out section 1173 not later than 18 months after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, except that standards relating to claims attachments shall be adopted not later than 30 months after such date.

"(b) ADDITIONS AND MODIFICATIONS TO STANDARDS.--

"(1) IN GENERAL.--Except as provided in paragraph (2), the Secretary shall review the standards adopted under section 1173, and shall adopt modifications to the standards (including additions to the standards), as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to a standard shall be completed in a manner which minimizes the disruption and cost of compliance.

"(2) SPECIAL RULES.--

"(A) FIRST 12-MONTH PERIOD.--Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary may not adopt any modification to a standard adopted under this part during the 12-month period beginning on the date the standard is initially adopted, unless the Secretary determines that the modification is necessary in order to permit compliance with the standard.

"(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.--

"(i) IN GENERAL.--The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

"(ii) Additional rules.--If a code set is modified under this subsection, the modified code set shall include instructions on how data elements of health information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

Sec. 1175. Requirements

"**SEC. 1175.** (a) CONDUCT OF TRANSACTIONS BY PLANS.--

"(1) IN GENERAL.--If a person desires to conduct a transaction referred to in section 1173(a)(1) with a health plan as a standard transaction--

"(A) the health plan may not refuse to conduct such transaction as a standard transaction;

"(B) the insurance plan may not delay such transaction, or otherwise adversely affect, or attempt to adversely affect, the person or the transaction on the ground that the transaction is a standard transaction; and

"(C) the information transmitted and received in connection with the transaction shall be in the form of standard data elements of health information.

"(2) SATISFACTION OF REQUIREMENTS.--A health plan may satisfy the requirements under paragraph (1) by--

"(A) directly transmitting and receiving standard data elements of health information; or

"(B) submitting nonstandard data elements to a health care clearinghouse for processing into standard data elements and transmission by the health care clearinghouse, and receiving standard data elements through the health care clearinghouse.

"(3) TIMETABLE FOR COMPLIANCE.--Paragraph (1) shall not be construed to require a health plan to comply with any standard, implementation specification, or modification to a standard or specification adopted or established by the Secretary under sections 1172 through 1174 at any time prior to the date on which the plan is required to comply with the standard or specification under subsection (b).

"(b) COMPLIANCE WITH STANDARDS.--

"(1) INITIAL COMPLIANCE.--

"(A) IN GENERAL.--Not later than 24 months after the date on which an initial standard or implementation specification is adopted or established under sections 1172 and 1173, each person to whom the standard or implementation specification applies shall comply with the standard or specification.

"(B) SPECIAL RULE FOR SMALL HEALTH PLANS.--In the case of a small health plan, paragraph (1) shall be applied by substituting '36 months' for '24 months'. For purposes of this subsection, the Secretary shall determine the plans that qualify as small health plans.

"(2) COMPLIANCE WITH MODIFIED STANDARDS.--If the Secretary adopts a modification to a standard or implementation specification under this part, each person to whom the standard or implementation specification applies shall comply with the modified standard or implementation specification at such time as the Secretary determines appropriate, taking into account the time needed to comply due to the nature and extent of the modification. The time determined appropriate under the preceding sentence may not be earlier than the last day of the 180-day period beginning on the date such modification is adopted. The Secretary may extend the time for compliance for small health plans, if the Secretary determines that such extension is appropriate.

"(3) CONSTRUCTION.--Nothing in this subsection shall be construed to prohibit any person from complying with a standard or specification by--

"(A) submitting nonstandard data elements to a health care clearinghouse for processing into standard data elements and transmission by the health care clearinghouse; or

"(B) receiving standard data elements through a health care clearinghouse.

Sec. 1176. General penalty for failure to comply with requirements and standards

"SEC. 1176. (a) GENERAL PENALTY.--

"(1) IN GENERAL.--Except as provided in subsection (b), the Secretary shall impose on any person who violates a provision of this part a penalty of not more than \$100 for each such violation, except that the total amount imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed \$25,000.

"(2) PROCEDURES.--The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

"(b) LIMITATIONS.--

"(1) OFFENSES OTHERWISE PUNISHABLE.--A penalty may not be imposed under subsection (a) with respect to an act if the act constitutes an offense punishable under section 1177.

"(2) NONCOMPLIANCE NOT DISCOVERED.--A penalty may not be imposed under subsection (a) with respect to a provision of this part if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person violated the provision.

"(3) FAILURES DUE TO REASONABLE CAUSE.--

"(A) IN GENERAL.--Except as provided in subparagraph (B), a penalty may not be imposed under subsection (a) if--

"(i) the failure to comply was due to reasonable cause and not to willful neglect; and

"(ii) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

"(B) EXTENSION OF PERIOD.--

"(i) NO PENALTY.--The period referred to in subparagraph (A)(ii) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

"(ii) ASSISTANCE.--If the Secretary determines that a person failed to comply because the person was unable to comply, the Secretary may provide technical assistance to the person during the period described in subparagraph (A)(ii). Such assistance shall be provided in any manner determined appropriate by the Secretary.

"(4) REDUCTION.--In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (3) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

Sec. 1177. Wrongful disclosure of individually identifiable health information

"**SEC. 1177.** (a) OFFENSE.--A person who knowingly and in violation of this part--

"(1) uses or causes to be used a unique health identifier;

"(2) obtains individually identifiable health information relating to an individual; or

"(3) discloses individually identifiable health information to another person,

shall be punished as provided in subsection (b).

"(b) PENALTIES.--A person described in subsection (a) shall--

"(1) be fined not more than \$50,000, imprisoned not more than 1 year, or both;

"(2) if the offense is committed under false pretenses, be fined not more than \$100,000, imprisoned not more than 5 years, or both; and

"(3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, be fined not more than \$250,000, imprisoned not more than 10 years, or both.

Sec. 1178. Effect on State law

"**SEC. 1178.** (a) GENERAL EFFECT.--

"(1) GENERAL RULE.--Except as provided in paragraph (2), a provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

"(2) EXCEPTIONS.--A provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall not supersede a contrary provision of State law, if the provision of State law--

"(A) is a provision the Secretary determines--

"(i) is necessary--

"(I) to prevent fraud and abuse;

"(II) to ensure appropriate State regulation of insurance and health plans;

"(III) for State reporting on health care delivery or costs; or

"(IV) for other purposes; or

"(ii) addresses controlled substances; or

"(B) subject to section 264(c)(2) of the Health Insurance Portability and Accountability Act of 1996, relates to the privacy of individually identifiable health information.

"(b) PUBLIC HEALTH.--Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

"(c) STATE REGULATORY REPORTING.--Nothing in this part shall limit the ability of a State to require a health plan to report, or to provide access to, information for management audits, financial audits, program monitoring and evaluation, facility licensure or certification, or individual licensure or certification.

Sec. 1179. Processing payment transactions

SEC. 1179. To the extent that an entity is engaged in activities of a financial institution (as defined in section 1101 of the Right to Financial Privacy Act of 1978), or is engaged in authorizing, processing, clearing, settling, billing,

transferring, reconciling, or collecting payments, for a financial institution, this part, and any standard adopted under this part, shall not apply to the entity with respect to such activities, including the following:

"(1) The use or disclosure of information by the entity for authorizing, processing, clearing, settling, billing, transferring, reconciling or collecting, a payment for, or related to, health plan premiums or health care, where such payment is made by any means, including a credit, debit, or other payment card, an account, check, or electronic funds transfer.

"(2) The request for, or the use or disclosure of, information by the entity with respect to a payment described in paragraph (1)--

"(A) for transferring receivables;

"(B) for auditing;

"(C) in connection with--

"(i) a customer dispute; or

"(ii) an inquiry from, or to, a customer;

"(D) in a communication to a customer of the entity regarding the customer's transactions, payment card, account, check, or electronic funds transfer;

"(E) for reporting to consumer reporting agencies; or

"(F) for complying with--

"(i) a civil or criminal subpoena; or

"(ii) a Federal or State law regulating the entity."

(b) CONFORMING AMENDMENTS.--

(1) REQUIREMENT FOR MEDICARE PROVIDERS.--Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended--

(A) by striking ``and" at the end of subparagraph (P);

(B) by striking the period at the end of subparagraph (Q) and inserting "; and"; and

(C) by inserting immediately after subparagraph (Q) the following new subparagraph:

"(R) to contract only with a health care clearinghouse (as defined in section 1171) that meets each standard and implementation specification adopted or established under part C of title XI on or after the date on which the health care clearinghouse is required to comply with the standard or specification."

(2) TITLE HEADING.--Title XI (42 U.S.C. 1301 et seq.) is amended by striking the title heading and inserting the following:

Sec. 263. Changes in membership and duties of National Committee on Vital and Health Statistics

Section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k))

is amended--

(1) in paragraph (1), by striking "16" and inserting "18";

(2) by amending paragraph (2) to read as follows:

"(2) The members of the Committee shall be appointed from among persons who have distinguished themselves in the fields of health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services research, consumer interests in health information, health data standards, epidemiology, and the provision of health services. Members of the Committee shall be appointed for terms of 4 years.";

(3) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and inserting after paragraph (2) the following:

"(3) Of the members of the Committee--

"(A) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, by the Speaker of the House of Representatives after consultation with the Minority Leader of the House of Representatives;

"(B) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, by the President pro tempore of the Senate after consultation with the Minority Leader of the Senate; and

"(C) 16 shall be appointed by the Secretary.";

(4) by amending paragraph (5) (as so redesignated) to read as follows:

"(5) The Committee--

"(A) shall assist and advise the Secretary--

"(i) to delineate statistical problems bearing on health and health services which are of national or international interest;

"(ii) to stimulate studies of such problems by other organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

"(iii) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (I) within the Department of Health and Human Services, (II) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e), and (III) to the extent possible as determined by the head of the agency involved, by the Department of Veterans Affairs, the Department of Defense, and other Federal agencies concerned with health and health services;

"(iv) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health and Human Services, with respect to the Cooperative Health Statistics System established under subsection (e), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1);

"(v) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

"(vi) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest;

"(vii) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems; and

"(viii) in complying with the requirements imposed on the Secretary under part C of title XI of the Social Security Act;

"(B) shall study the issues related to the adoption of uniform data standards for patient medical record information and the electronic exchange of such information;

"(C) shall report to the Secretary not later than 4 years after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996 recommendations and legislative proposals for such standards and electronic exchange; and

"(D) shall be responsible generally for advising the Secretary and the Congress on the status of the implementation of part C of title XI of the Social Security Act."; and

(5) by adding at the end the following:

"(7) Not later than 1 year after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, and annually thereafter, the Committee shall submit to the Congress, and make public, a report regarding the implementation of part C of title XI of the Social Security Act. Such report shall address the following subjects, to the extent that the Committee determines appropriate:

"(A) The extent to which persons required to comply with part C of title XI of the Social Security Act are cooperating in implementing the standards adopted under such part.

"(B) The extent to which such entities are meeting the security standards adopted under such part and the types of penalties assessed for noncompliance with such standards.

"(C) Whether the Federal and State Governments are receiving information of sufficient quality to meet their responsibilities under such part.

"(D) Any problems that exist with respect to implementation of such part.

"(E) The extent to which timetables under such part are being met."

Sec. 264. Recommendations with respect to privacy of certain health information

(a) IN GENERAL.--Not later than the date that is 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Labor and Human Resources and the Committee on Finance of the Senate and the Committee on Commerce and the Committee on Ways and Means of the House of Representatives detailed recommendations on standards with respect to the privacy of individually identifiable health information.

(b) SUBJECTS FOR RECOMMENDATIONS.--The recommendations under subsection (a) shall address at least the following:

(1) The rights that an individual who is a subject of individually identifiable health information should have.

(2) The procedures that should be established for the exercise of such rights.

(3) The uses and disclosures of such information that should be authorized or required.

(c) REGULATIONS.--

(1) IN GENERAL.--If legislation governing standards with respect to the privacy of individually identifiable health information transmitted in connection with the transactions described in section 1173(a) of the Social Security Act (as added by section 262) is not enacted by the date that is 36 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate final regulations containing such standards not later than the date that is 42 months after the date of the enactment of this Act. Such regulations shall address at least the subjects described in subsection (b).

(2) PREEMPTION.--A regulation promulgated under paragraph (1) shall not supercede a contrary provision of State law, if the provision of State law imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications imposed under the regulation.

(d) CONSULTATION.--In carrying out this section, the Secretary of Health and Human Services shall consult with--

(1) the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)); and

(2) the Attorney General.