

Final Rule HIPAA Privacy Rule to Support Reproductive Health Care Privacy

Q& A with

Brent Reece, JD, CPCU

Director of Risk Management and Claim Advocacy

d: 770-308-2087 | c: 706-300-2033 | e: breece@sspins.com

Sterling Seacrest Pritchard

2500 Cumberland Parkway

Atlanta, Georgia 30339

sterlingseacrest.com

Q: As with most new legislation, there is a lot of gray areas that we simply won't know the answers to when this enforcement starts. Does RHI overrule Information Blocking?

A: **NO, INFORMATION BLOCKING RELATES TO PREVENTING THE PATIENT FROM BEING ABLE TO ACCESS THEIR OWN RECORDS. THE NEW RHI RULE RELATES TO THIRD PARTIES ACCESSING THESE NOW-HYPER PROTECTED RHI RECORDS. IN OTHER WORDS, THE PATIENT STILL SHOULD HAVE FULL ACCESS TO ALL OF THEIR RECORDS, INCLUDING RHI.**

Q: Does the attestation for RHI need to be completed for every chart extract until the EHR has a method to both identify and restrict RHI from chart extracts?

A: **YES, ACCORDING TO THE OCR, YOU MUST OBTAIN A NEW ATTESTATION FOR EACH SPECIFIC USE OR DISCLOSURE REQUEST**

Q: Does a parent performing a self-service chart extract from the portal and then sending that to their insurance company or attorney count as a disclosure of RHI if that self-produced chart extract included RHI and the patient did not complete an attestation

A: **THE PATIENT CONTROLS THEIR OWN RECORDS; SO, FROM MY UNDERSTANDING, IF THEY WANT TO DISCLOSE THEIR OWN RHI, THEY CAN. THE PARENTS ARE REPRESENTATIVES OF THEIR MINOR CHILDREN, SO THEY CAN DO SO AS WELL ON THEIR CHILD'S BEHALF. THAT SAID, IT MAY NOT BE A BAD IDEA TO NOTIFY THE PARENTS ABOUT THE RULE WHEN THEY ASK FOR THEIR RECORDS SPECIFIC TO AN INSURANCE COMPANY REQUEST [AND THOSE RECORDS CONTAIN RHI]]?**