

Summary for Clinics

State of New York Medical Records Privacy Laws

I. Summary

New York has a “State Public Health Law”¹ and a regulatory provision² that identifies covered entities and addresses the privacy and security of protected health information and a patient’s right to access their healthcare records, regardless of recorded form or medium, and requires healthcare providers to provide such records to a requestor when presented with a written authorization signed by the patient. In general, HIPAA requirements should be applied to the care, storage and transmittal of all medical records in New York PMCs. PRCs and PMCs in New York City are cautioned that they may both come under scrutiny of the City’s Administrative Code if they offer any prenatal care and should apply HIPAA privacy rules to the use, storage and transmission of all private health information in their possession.³ Under New York law, both PRCs and PMCs have a further obligation to provide notice of any unauthorized access to electronically stored personal information of clients.

II. Do the requirements of the law apply to New York PRCs? To PMCs?

The requirements apply to New York PMCs that meet the definition of “Health care provider” under the New York Public Health Law and regulations as they are broad enough to encompass PMCs with staff licensed under New York educational law provisions (medical license), inclusive of physicians and nurses. New York’s Code of Rules and Regulations further encompasses PMCs by specifically including “Any provision of medical or health services by a provider of medical or health services organized as a not-for-profit or business corporation . . .”⁴ Both PRCs and PMCs in New York City are likely to fall under the City’s stringent regulation and confidentiality requirements when offering ultrasound or any other form of prenatal care. However, the specific Administrative Code that expands confidentiality to cover PRCs is currently under an injunction pending further legal action before the New York State 2nd Circuit Court of Appeals.

III. Does New York law define “Protected Information” differently than HIPAA?

New York law defines “Patient information” as “any information concerning or relating to the examination, health assessment including, but not limited to, a health assessment for insurance and employment purposes or treatment of an identifiable subject maintained or possessed by a health care facility or health care practitioner who has provided or is providing services for assessment of a health condition. . .”⁵ This expands the protected information coverage to all forms of health care records, not just electronic records, including verbal communications between a patient and a health care provider.

IV. Are there any specific compliance requirements for PMCs under New York law not identified in the NIFLA HIPAA VOLUNTARY COMPLIANCE MANUAL FOR PMCs?

New York PMCs should apply the voluntary compliance standards found in the **NIFLA HIPAA Voluntary Compliance Manual for PMCs** to the handling of all medical records, regardless of form. PRCs that employ or have licensed medical professionals on their volunteer staff must insure that

¹ NY Public Health Law § 18

² 10 NYCRR § 600.8

³ NYC Administrative Code §20-815(g)

⁴ 10 NYCRR § 600.8

⁵ NY Public Health Law 18(1)



only the health care practitioner has access to “patient information” unless the patient has given written authorization to share the information with other staff.⁶

V. Are there any specific New York law provisions applicable to PRCs?

New York requires any business that collects computerized personal information (first name or first initial and last name in connection with a social security number, driver’s license number, credit card number or other account numbers) to notify the owner of the information if there is an unauthorized access or breach of electronic data immediately upon discovery of the breach.⁷ New York law also requires the business report the breach the State’s Attorney General’s office if any New York citizen’s personal information is involved in the breach. PRCs and PMCs are strongly encouraged to install encryption software on their computer systems and to take other steps to minimize the risk of a breach.

©2014 All Rights Reserved. The information contained herein has been prepared by NIFLA for informational purposes for NIFLA members only. This information is not a substitute for obtaining legal advice from an attorney licensed in your state. The information herein and any attachments is confidential and may contain privileged attorney-client information or work product. The information is intended only for the use of NIFLA members in good standing. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited.

⁶ NY Public Health Law § 18(6)

⁷ NY State technology Law § 899a

