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January **27, 2000**

U. S. Department of Health and Human Services
 Assistant Secretary for Planning and Evaluation
 Attention: Privacy-P
 Room G-322A
 Hubert H. Humphrey Building
 200 Independence Avenue, SW
 Washington, D.C. 20201

**RE: Comments of Standards of Privacy of Individually
 Identifiable Health Information, RIN0991-AB08**

Dear Sir or Madam:

As a physician and psychiatrist, I treat patients everyday in my office. They tell me of their most intimate and private concerns. As the clinical director of a metropolitan community mental health center, I hear about the depths of psychosis where a patient's hallucinations are commanding him to kill someone. I witness the depths of depressive despair -- patients who have tried to kill themselves in the most gruesome ways. I hear the extremes of traumatic experience -- such as murderous assaults, brutal rapes, or even torture. They confide the depth of their terror and their helplessness. They talk about their nightmares. They speak of their **fury**, their rage, their struggle to maintain control over these impulses. They talk about things that they would never want anyone else to know about.

They are able to speak about such deeply private matters and to unburden themselves of such tremendous heartache and anxieties because they understand that what they reveal in my presence is private and **confidential**. They **confide** in me because they know that what they reveal in my office stays in my office.

The new regulations on privacy due to go into effect on **2/17/00** drastically weaken a key protection that all patients now enjoy and depend upon -- the basic right to determine what is a permissible use of their own medical records. No one would unburden themselves in their depths **if they** thought the information they revealed would be shared with other people.

I urge you to change these regulations in the following ways:

- **Each person's right to privacy of all his or her health information should be clearly established.** This is really fundamental!
- **Preserve the statutory recognition for the privacy of psychotherapy**

To: US Dept. of **HHS/Asst. Secy** for Planning & Eval/Privacy-P
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2

communications in the final draft. The regulations must state that psychotherapy notes are as carefully protected as they are in the U.S. Supreme Court Decision, **Jaffe v. Redmond** 1996.

- **All medical records and information** deserve as high a level of protection as is provided for mental health care.
- **Please reduce the administrative burdens on individual practitioners like myself** or on small practice groups.
- **The regulations should permit individuals** or organizations-in public or private sector – **to sue for damages caused by breaches of privacy under these regulations.**

The proposed regulations strip individuals of the right to protect their health information **from** disclosure. These proposed regulations neither provide **meaningful** protection **by** their government nor do they provide any sanction **against** our government for violation of the rules.

The privacy of health care information is the foundation of quality of health care. For the public to have confidence in our health care system, we must be sure that our medical information will be used to help **us**, not to harm **us**. **Please do not change a fundamental right and protection that human beings have had for 2000 years: the Hippocratic Oath commands physicians to keep private what they learn from their patients.** How can we possibly decide to change something so central to Western Culture by administrative fiat? Please immediately reconsider these regulations along the lines I have suggested above.

Sincerely,



Anthony **LaBruzza**, M.D.