

HIPPA and Florida's Amendment 7 – Implications for FSCI

HIPPA Privacy Rule:

Collection of FSCI post-discharge outcome data is not prohibited by HIPPA.

According to the Final Privacy Rule, issued on August 14, 2002, Section 164.506(c)(4), “A covered entity may disclose protected health information to another covered entity for health care operations activities of the entity that receives the information, if each entity either has or had a relationship with the individual who is the subject of the protected health information being requested, the protected health information pertains to such relationship, and the disclosure is for a purpose listed in paragraph (1) or (2) of the definition of health care operations...”

Section 164.501 of the Privacy Rule defines health care operations and Paragraph (1) of the definition provides, “(1) Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, population-based activities related to improving health or reducing health care costs, protocol development, case management and case coordination, contracting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment.”

Florida's Constitutional Amendment 7:

Article X, Section 25 of the Florida Constitution (Amendment 7) was adopted by voters on the 2004 ballot. This constitutional amendment gave access to patients and their representatives to information dealing with adverse medical incidents. At least one judicial opinion limited the scope to reports that involved a specific patient and a specific incident. The Florida Surgical Care Initiative (FSCI) is a general quality improvement program.

Further, to establish an additional level of patient data protection, many hospitals have joined federally certified Patient Safety Organizations (PSO) that protect against discovery of quality and patient safety information. The PSO Act supersedes Florida law and “Amendment 7.”