



**HAWAII HEALTH SYSTEMS**  
C O R P O R A T I O N

*"Touching Lives Every Day"*

## ***COMPLIANCE ALERT 12-11***

### ***HIPAA and Inquiries of Physician's Protected Health Information—New Information Needed on Membership Applications***

**EXECUTIVE SUMMARY:** HHSC Legal Department is requesting that the following statement be added to the credentialing/membership application and the medical staff bylaws: "The physician will execute a HIPAA compliant release of personal health information authorization upon request to authorize the medical staff committee or facility administration to obtain information needed to determine his or her ability to perform the privileges for which s/he has applied or his or her continuing ability to perform the privileges s/he holds. Failure to execute the release will be a violation of the bylaws (or failure to comply with the application process, as applicable), and may result in disciplinary action."

**BACKGROUND:** Hospitals must be able to use physicians' protected health information (PHI) to meet Joint Commission standards MS.06.01.03, MS.06.01.05 #2 and MS.11.01.01. The first two standards support that the hospital has to: consider the physician's "physical ability to discharge patient care responsibilities," and; have "evidence of a physical ability to perform the requested privilege" in the credentialing process. The third, MS 11.01.01, is directly applicable to the health program. The medical staff must "implement its process to identify and manage matters of individual health for licensed independent practitioners." Access to a physician's PHI is necessary to meet these standards.

There have been discussions with regulators indicating that there is some question as to the need for an authorization in these circumstances. Although we do not believe there have been any existing violations, HHSC wants to ensure that the handling of physician medical records is HIPAA compliant. Therefore, the additional statement is requested to be added to all credentialing/membership applications and to each facility's medical staff bylaws.

**Source:** HHSC Legal Department.