

PRAYERS SNARED

CHURCHES FEAR RED TAPE FROM NEW HOSPITAL PRIVACY RULES

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PUTTING AUNT KATE'S kidney surgery on your church's prayer list can cause legal problems.

Federal regulations designed to protect the privacy of medical information have created confusion for clergy. And an unintended consequence:

Churches have taken precautions with prayer requests. Some are drawing up new guidelines. Some are requiring signed consent forms. Specific references to illness are avoided.

And lawyers have entered the fray. Keep prayer requests generic, they advise. The devil can be in the details. Public disclosure of private facts can attract lawsuits.

The culprit: Conflicting interpretations of the Health Insurance Portability and Accountability Act. The law principally deals with health-care coverage, but also includes privacy provisions, which hospitals began implementing last year.

By limiting public prayer for sick worshippers, clergy are overreacting, government officials say. Yet, some lawyers have misinterpreted HIPAA and advised hospitals to impose more controls than the law requires, said an official who represents 4,000 chaplains nationwide.

"This is a huge problem," said Josephine Schrader, executive director of the Association of Professional Chaplains in Schaumburg, Ill. "If a chaplain is employed by a hospital then he might not have problems getting

access to information. But if he doesn't have a staff and relies on volunteers and lay chaplains, there can be trouble. There are thousands of volunteer chaplains who are affected by these rules."

Valarie Englert, associate pastor at First United Methodist Church of Rockwall, agreed. "Each hospital is applying the standards differently. You can get what you need to know in one place and then get nothing someplace else."

Her church became so concerned about keeping medical information private that it suspended publication of prayer requests for more than four months. Consent forms and guidelines were developed by a lawyer, a member of the congregation. Members must sign the forms if they want others to pray for them.

"It definitely caused some angst among our members," Ms. Englert said. "As a people of prayer, we trust that God is loving and powerful enough to know what our needs are even if we cannot articulate them, even if our prayers are general. God hears and has the knowledge."

Those who enforce the law wonder what the hubbub is all about.

"I am surprised this is happening. No one was trying to tie up prayer in government regulations," said Richard Campanelli, director of the Office of Civil Rights in the U.S. Department of Health and Human Services.

HIPAA does not prevent clergy from getting medical information nor should it affect prayer, he said.

"We keep saying this, but a belief persists that HIPAA is somehow hurting the religious community, preventing access to information for prayer," he said in a telephone interview. "This is miscommunication and misinterpretation out there."

The problem, according to Lerrill J. White, a chaplain at St. Luke's Episcopal Hospital in Houston, is that institutions aren't consistent in defining who is recognized as a health care provider, with access to patient information.

"Some law firms have issued opinions saying that chaplains are not 'health care providers' but clergy who should be excluded from access to patient information," he said. "The terms 'clergy' and 'chaplain' do not have the same meaning."

Chaplains have completed certified training and clinical pastoral education programs recognized by the nursing and allied health professions, he said. This distinguishes them from most clergy, who lack such health care credentials. John Engelhard, senior chaplain for Presbyterian Health Care System in Dallas, said HIPAA has not been an issue for the staff of six chaplains he supervises.

"But we are employed by the hospital. We see the charts, and that makes a difference," he said. "Sometimes we are right in there when the doctor is consulting with the patient, so we have had access all along. I suspect that lay people would have a harder time." The law was enacted in 1996, but the privacy safeguards didn't take effect until 2003. Officials of religious groups say they're experiencing the effects of those recent changes.

The law applies to medical information held by “covered entities”—hospitals, clinics, pharmacies, nursing homes, health insurance carriers and employee health plans.

HIPAA did “squeeze down a little bit on the information flow to clergy,” said Dan Gary, associate general counsel for the United Methodist Church.

“They can find out members of their denominations who are hospitalized but not why, not unless the patient authorized the hospital to release that information.”

The desire among some church members for more specific information about fellow members’ condition might be innocent, Mr. Gary said. But the legal risks, he said, do call for restraint. “The silver lining in all this is that clergy and church members are paying attention to what gets said, printed and put on prayer lists.”

As an example of the trouble that could arise, he cited an invasion of privacy case in Ohio that went to the state Court of Appeals before it was settled out of court.

The case—which involved sensitive information published in a church bulletin and then put on a Web site—predated the new HIPAA regulations, but legal experts said it’s the sort of thing the law could apply to today.

Bryan Mitnaul was music director at Cleveland’s Fairmount Presbyterian Church for about nine years. He was hospitalized for months with depression.

In informing the congregation that he was preparing to return, the church bulletin, which was posted on the Internet, disclosed confidential medical information about him, said Thomas M. Horwitz, his lawyer.

The lawyer said that while he represented Mr. Mitnaul (who is now music director for a church in Miami Beach), “I was the only attorney on my Unitarian Church board, and I told them we needed cover on this same issue. People may crave details, but they are not entitled to them. If this hasn’t crossed a church’s radar, it will.”

Added Mr. Gary: “Churches should not publish information without people’s consent. And if you must write something, keep it general.” In calling for prayers, churches should not specify the nature of a member’s illness. The advice applies as well to Web messages, including e-mails, he said.

Officials said some smaller hospitals, fearful of lawsuits, may be denying access even to information that the rules permit them to share.

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“Some providers are probably being more restrictive than necessary,” said Mr. Campanelli.

HIPAA, he said, “allows hospitals to disclose the religious affiliation of patients who choose to provide it. Clergy members can get this information.” He added, “The wrinkle is the patient is in control about what medical information, if any, is shared.”

The Methodists appear to be out front in establishing specific policies.

“I am impressed that the Methodists have gone to that extent,” said Rev. Bob Coerver, director of priestly life and ministry for the Catholic Diocese of Dallas.

“To my knowledge, locally, nationally and internationally, we do not have such guidelines. Are they needed? Yes.”

He said the new law has created enough difficulties for ministers visiting hospitals. “I have heard that some parishes have stopped publishing prayer requests, but there have been no universal guidelines from church leadership.”

Ultimately, Father Coerver said, it’s the responsibility of individual clergy members to pray for their congregations. “If they feel more information is useful, they ought to inquire and to treat that with strict confidence.”

Peggy Papert, a social worker and staff member at Temple Emanu-El, said 20 volunteers make a total of 20 hospital visits each week.

“When HIPAA was first being applied, there was some confusion and misunderstanding. But I believe we are getting past that,” she said. “We’ve never been that specific in our communications, so I don’t believe the privacy issue has come up.”

In the end, avoiding specifics may not be not only the most prudent course, but the most prayerful, said Ms. Englert of First United Methodist Church of Rockwall.

“Our prayers may become more powerful if we trust that God can and will take care of the details,” she said.