DEPARTMENT OF HEALTH & HUMAN SERVICES
Voice - (212) 264-3313, (800) 368-1019
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OFFICE OF THE SECRETARY
Office for Civil Rights, Region II
Jacob Javits Federal Building
26 Federal Plaza, Suite 3312
New York, NY 10278

(b)(6),(b)(7)(C)

AUG 15 2013

OCR Transaction Number: 12-146465

Dear (b)(6),(b)(7)(C)

On July 25, 2012, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR), Region V received your complaint alleging that CVS Pharmacy store located at 8970 S. Meridian Street, Indianapolis, IN 46217 (CVS), the covered entity, has violated the Federal Standards for Privacy of Individually Identifiable Health Information (45 C.F.R. Parts 160 and 164, Subparts A and E, the Privacy Rule). The complaint was forwarded to the Region II office for consideration. Specifically, you allege that, on July 23, 2012, (b)(6),(b)(7)(C) an estranged acquaintance and an employee of CVS, disclosed your medical condition to a mutual acquaintance of your girlfriend. This allegation could reflection a violation of 45 C.F.R. §§ 164.502(a), 164.510 (b), and 164.530(c).

Thank you for bringing this matter to OCR's attention. Your complaint plays an integral part in OCR's enforcement efforts.

OCR enforces the Privacy, Security, and Breach Notification Rules, and also enforces the Federal civil rights laws which prohibit discrimination in the delivery of health and human services because of race, color, national origin, disability, age, and under certain circumstances, sex and religion.

A covered entity may not use or disclose protected health information except as permitted or required by the Privacy Rule. As long as an individual does not object, a covered entity is allowed to share or discuss with the individual's family, friends, or other persons identified by the individual the protected health information that is directly relevant to such person's involvement with the individual's care or payment for care. The covered entity may ask the individual's permission, may tell the individual that the covered entity plans to discuss the information and give the individual an opportunity to object, or may decide, using the covered entity's professional judgment, that the individual does not object. However, in any of these cases, the covered entity may discuss **only** the information that the person involved needs to know about the individual's care or payment for their care.

The minimum necessary provision of the Privacy Rule also requires the covered entity to limit access to protected health information by identifying the persons or classes of

persons within the covered entity who need access to the information to carry out their job duties, the categories or types of protected health information needed, and conditions appropriate to such access.

Finally, a covered entity must provide a process for individuals to make complaints concerning the covered entity's policies and procedures required by the Privacy Rule or its compliance with such policies and procedures or with the requirements of the Privacy Rule. 45 C.F.R. § 164.530 (d)(1).

We have carefully reviewed your complaint against CVS and have determined to resolve this matter informally through the provision of technical assistance to CVS. Should OCR receive a similar allegation of noncompliance against CVS in the future, OCR may initiate a formal investigation of that matter.

Based on the foregoing, OCR is closing this case without further action, effective the date of this letter. OCR's determination as stated in this letter applies only to the allegations in this complaint that were reviewed by OCR.

Under the Freedom of Information Act, we may be required to release this letter and other information about this case upon request by the public. In the event OCR receives such a request, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

Should you have any questions regarding this matter, please contact Robert Chirila, Investigator, by email at robert.chirila@hhs.gov or by telephone at (212) 264-8900 (Voice), or (212) 264-2355 (TDD). Thank you for bringing this matter to our attention.

Sincerely,

Linda C. Colón
Regional Manager

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26 Federal Plaza, Suite 3312
New York, NY 10278

(b)(6),(b)(7)(C) Director
Information Governance and Privacy
9501 E Shea Blvd
Scottsdale, AZ 85260-6719

AUG 15 2013

OCR Transaction Number: 12-146465

Dear (b)(6),(b)(7)(C):

On July 25, 2012, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR), Region V, received a complaint alleging that CVS Pharmacy store located at 8970 S. Meridian Street, Indianapolis, IN 46217 (CVS), the covered entity, has violated the Federal Standards for Privacy of Individually Identifiable Health Information (45 C.F.R. Parts 160 and 164, Subparts A and E, the Privacy Rule). The complaint was forwarded to the Region II office for consideration. Specifically, (b)(6),(b)(7)(C) (the complainant) alleges that, on July 23, 2012, (b)(6),(b)(7)(C) an estranged acquaintance and an employee of CVS, disclosed her medical condition to a mutual acquaintance of her girlfriend. This allegation could reflection a violation of 45 C.F.R. §§ 164.502(a), 164.510 (b), and 164.530(c).

OCR enforces the Privacy, Security, and Breach Notification Rules, and also enforces the Federal civil rights laws which prohibit discrimination in the delivery of health and human services because of race, color, national origin, disability, age, and under certain circumstances, sex and religion.

Pursuant to the Privacy Rule, a covered entity may not use or disclose protected health information (PHI) except as permitted or required by the Privacy Rule. As long as an individual does not object, a covered entity is allowed to share or discuss the individual's health information with the individual's family, friends, or others involved in the individual's care or payment for their care. The covered entity may ask the individual's permission, may tell the individual that the covered entity plans to discuss the information and give the individual an opportunity to object, or may decide, using the covered entity's professional judgment, that the individual does not object. However, in any of these cases, the covered entity may discuss **only** the information that the person involved needs to know about the individual's care or payment for their care.

The minimum necessary provision of the Privacy Rule also requires the covered entity to limit access to protected health information by identifying the persons or classes of persons within the covered entity who need access to the information to carry out their job duties, the categories or types of protected health information needed, and conditions appropriate to such access.

Finally, a covered entity must provide a process for individuals to make complaints concerning the covered entity's policies and procedures required by the Privacy Rule or its compliance with such policies and procedures or with the requirements of the Privacy Rule. 45 C.F.R. § 164.530 (d)(1).

In this matter, the complainant alleges that the complainant's PHI was impermissibly disclosed to a member of the complainant's family or to an acquaintance of the complainant or that the complainant's PHI was otherwise impermissibly used by an employee of CVS. Pursuant to its authority under 45 C.F.R. §§ 160.304(a) and (b), OCR has determined to resolve this matter informally through the provision of technical assistance to CVS. To that end, OCR has enclosed material explaining the Privacy Rule provisions related to Disclosures to Family and Friends, the Minimum Necessary Requirement, and Reasonable Safeguards.

It is our expectation that you will review these materials closely and share them with your staff as part of the Health Insurance Portability and Accountability Act (HIPAA) training you provide to your workforce. It is also our expectation that you will assess and determine whether there may have been an incident of noncompliance as alleged by the complainant in this matter, and, if so, to take the steps necessary to ensure such noncompliance does not occur in the future. Please contact OCR if you need further information regarding the allegations in this matter. Should OCR receive a similar allegation of noncompliance against CVS in the future, OCR may initiate a formal investigation of that matter.

Based on the forgoing, OCR is closing this case without further action, effective the date of this letter. OCR's determination as stated in this letter applies only to the allegations in this complaint that were reviewed by OCR.

Under the Freedom of Information Act, we may be required to release this letter and other information about this case upon request by the public. In the event OCR receives such a request, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

Should you have any questions regarding this matter, please contact Robert Chirila, Investigator, by email at robert.chirila@hhs.gov or by telephone at (212) 264-8900 (Voice), or (212) 264-2355 (TDD). Thank you for bringing this matter to our attention.

Sincerely,

Linda C. Colón
Regional Manager

Enclosures: Disclosures to Family and Friends
The Minimum Necessary Requirement
Reasonable Safeguards