



March 2003

Dear Administrator,

As you are aware, the Final Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA) will be implemented on April 14, 2003, and we will all be expected to comply. In looking at the contents of this Rule, there seems to be some confusion regarding the difference between “**PROFESSIONAL CHAPLAIN**” and “**AREA CLERGY**.”

We, the Presidents of the five major national pastoral care, counseling, and education organizations in the United States, write to you because we are concerned that the leadership of our health care organizations have a clear understanding of the Privacy Rule issues that affect the delivery of pastoral care to patients within their facilities. We provide you with the following clarifications of the Privacy Act so that your patients will continue to enjoy pastoral care services provided by the professional chaplains who are a part of the workforce at your institutions.

Note that there are two important definitions used in the Privacy Rule: Disclosure and Workforce.

“**DISCLOSURE** means the release, transfer, provision of access to, or divulging in any other manner of information *outside the entity holding the information.*”

Since Board Certified Chaplains hired by the organization are considered an integral part of the interdisciplinary team, they would not be included in the “outside the entity holding the information” category. Area clergy would be considered, “outside the entity . . .”

“**WORKFORCE** means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.”

Board Certified Chaplains would come under the category of employees. Area Clergy would not. (Also included in the category of employee would be clinical pastoral education supervisors and clinical pastoral education students.)

Board Certified Chaplains are required, through their Job Descriptions and JCAHO regulations (RI. 1.3.5.), to provide a spiritual assessment and a plan of care for the patients in the covered entity. The Board Certified Chaplains, as members of the health care team, are expected by JCAHO to document in the chart of the patient. The Area Clergy do not have access to patients' charts.

JCAHO states health care providers have a duty to provide denominational preference screening to ensure meeting the patients' spiritual/religious needs. Patients must give permission for this information to be shared with Area Clergy. The interdisciplinary team, including the Board Certified Chaplains, has access to this information within a patient's chart.

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To further clarify the different roles within your organization, we suggest the following:

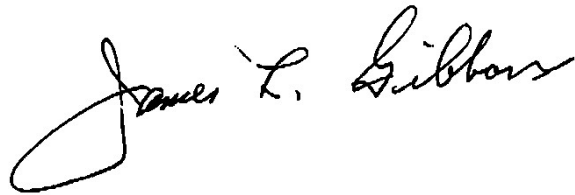
1. Refer to Board Certified Chaplains hired within your organization as "Health Care Professionals";
2. Ensure that Board Certified Chaplains within your organization are formally named within your Provision of Care Policy; and
3. Ensure that Chaplains hired within your organization are board certified.

We hope this information is helpful as you put into practice the provisions of the Privacy Rule within your organization. If you have any questions, please feel free to contact the undersigned.

Sincerely,



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