

MAFP Comments on HIPAA Privacy Rule to Support Reproductive Healthcare Privacy

In April 2023, the U.S. Department of Health and Human Services issues a [Notice of Proposed Rulemaking](#)

to strengthen HIPAA Privacy Rule protections by prohibiting the use or disclosure of protected health information (PHI) to investigate or prosecute patients, providers, and others involved in the provision of legal reproductive healthcare, including abortion care. The proposal includes extending additional privacy protections for providers, insurers, patients, and others to safeguard PHI when that information otherwise would be disclosed or used to identify, investigate, sue, or prosecute someone for seeking, obtaining, providing, or facilitating lawful reproductive healthcare.

Michigan Academy of Family Physicians joined American Academy of Family Physicians and other chapters in submitting comments on the proposed rule.

“MAFP applauds HHS for undertaking rulemaking to uphold privacy standards for sensitive health information like reproductive healthcare,” wrote MAFP President Glenn Dregansky, DO, FAAFP, noting the proposed rule aligns with AAFP’s policy and advocacy to protect the patient-physician relationship.

MAFP’s comments also outlines six recommendations that HHS implement to minimize the onus on clinicians and disincentivize inappropriate patient information requests and use by law enforcement and other state agencies:

- Finalize the proposal to prohibit sharing reproductive health-related PHI for criminal, civil, or administrative investigations against any person in connection with lawfully provided reproductive health services, as well as to require an attestation affirming any such requests are not for prohibited purposes prior to sharing PHI with entities who may be conducting or connected to criminal, civil, or administrative investigations
- Expand this proposal to other types of “highly sensitive PHI,” specifically sexual health and gender-affirming care or other health services supporting gender diverse individuals
- Work with electronic health record (EHR) vendors to modernize the functionality of healthcare data management platforms to comply with this proposed rule without cost to the physician or their practice
- Include examples of reproductive healthcare in the regulatory text to ensure clear and consistent understanding of the applicability of this rule

- Make resources available with publication of the final rule to assist physicians and other clinicians in understanding their rights and how to respond to contradictions between state laws and this proposed rule
- Make information widely available about a patient's rights regarding requesting and sharing their PHI with other entities and how to report inappropriate attempts of coercion to use or access their PHI

[Click here](#) to read MAFP's comments in their entirety.

HHS is accepting public comments until June 16.