

RE: Physician Shadowing

DATE: January 5, 2015

To summarize my research:

Individuals may shadow physicians as long as the health information disclosed is not protected health information. 45 C.F.R. § 160.103 defines protected health information as “individually identifiable health information,” which is “created or received by a health care provider...relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.” “Health information that does not *identify* an individual and with respect to which, there is no reasonable basis to believe that the information can be used to identify an individual is **not individually identifiable health information,**” and is thus, **not protected health information.** 45 C.F.R. § 164.514 (emphasis added)

The standard and requirements for de-identification is found in 45 C.F.R. § 164.514. Examples of information that should be provided before the shadowing individual enters the room include names, street address, birth dates, ages (if the patient is over 89), etc.

As long as the health information disclosed is not individually identifiable, the shadowing program may be conducted without the written authorization or the opportunity to object. However, *it would still be prudent* to train the shadowing individuals in HIPAA compliance, obtain a written and signed confidentiality form from the individuals, **and** ask the patient if he or she is comfortable allowing another individual in the room.