

## **Patient/Family/Support Bundle Element:**

### **HIPAA Privacy Rule and Sharing Information: Special Circumstances**

#### **Recommended statement for inclusion into safety bundles:**

Care providers are often unsure or concerned about how and what they are able to share with family members when confronted with a patient suffering from a severe or fatal maternal health complication. The Health Information Portability and Accountability Act (HIPAA) allows care providers the use of professional judgment when determining who to share sensitive patient information with when a patient is incapacitated or unable to speak on their own behalf.

In these high stress situations, care providers should take additional measures to ensure the patient's spouse/partner and immediate family (parent or sibling) receives the same information to alleviate or further increase discord or confusion. It is recommended to have all concerned parties present when sharing information. If there is obvious or known discord amongst concerned parties, care providers should clarify who is able to make decisions on behalf of the patient and remind them their choices should be aligned with what the patient would want for her care. Additionally, it is recommended all parties take notes during meetings and that care providers leading the meeting summarize their conversation and repeat action items. Notate all meetings and explicitly list those present in patients chart.

#### **From US Department of Health and Human Services:**

*The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule provides consumers with important privacy rights and protections with respect to their health information, including important controls over how their health information is used and disclosed by health plans and health care providers. Ensuring strong privacy protections is critical to maintaining individuals' trust in their health care providers and willingness to obtain needed health care services, and these protections are especially important where very sensitive information is concerned, such as mental health information. At the same time, the Privacy Rule recognizes circumstances arise where health information may need to be shared to ensure the patient receives the best treatment and for other important purposes, such as for the health and safety of the patient or others. The Rule is carefully balanced to allow uses and disclosures of information—including mental health information—for treatment and these other purposes with appropriate protections. In particular,*

*Where a patient is not present or is incapacitated, a health care provider may share the patient's information with family, friends, or others involved in the patient's care or payment for care, as long as the health care provider determines, based on professional judgment, that doing so is in the best interests of the patient.*

*In all cases, disclosures to family members, friends, or other persons involved in the patient's care or payment for care are to be limited to only the protected health information directly relevant to the person's involvement in the patient's care or payment for care.*

See: <http://www.hhs.gov/ocr/privacy/hipaa/understanding/special/mhguidance.html> for more information