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June 24, 2014

Mr. Sloan D. Gibson
Acting Secretary
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Acting Secretary Sloan Gibson,

Tragically, on May 3rd, 2014, the Albuquerque, New Mexico Police Department (APD) shot and killed an armed man after a stand-off with police. The man had been treated at the Raymond G. Murphy Veterans Affairs Medical Center in Albuquerque, New Mexico for mental health issues. The APD requested the man's health information from the Raymond G. Murphy VA Medical Center, in order to help inform their crisis intervention strategy. After this incident, I reviewed the Veterans Health Administration's VHA protocol and guidance regarding the release of protected health information (PHI) to law enforcement agencies during emergencies.

According to the Health Insurance Portability and Accountability Act (HIPAA), the VHA may disclose protected health information if the disclosure: "(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and (B) Is to a person or persons reasonably able to prevent or lessen the threat including the target of the threat." The VHA plays an important role in balancing the need to protect public health and safety with the need to protect personally-identifiable health information.

However, the VA has very little additional protocol or guidance regarding the release of PHI during emergencies. VHA Handbook 1907.06, which provides processes and procedures for releasing PHI, includes no information on how VA facilities should expedite PHI requests during emergencies. The word "emergency" does not even appear in VHA Handbook 1907.06. VHA Handbook 1605.1, which describes time standards for processing requests, only requires the VHA to answer PHI requests within 20 workdays from the date of receipt. Lastly, Chapter 21 of VHA Handbook 1605.1, which discusses in detail VHA's guidance for disclosing PHI to law enforcement, does not include any information regarding the release of PHI during emergencies.

Although individual Release of Information Supervisors may establish a system to expedite priority PHI requests, the lack of VHA guidance on the release of PHI during emergencies is completely unacceptable. This issue is too important to overlook, and VHA should update its previous directives and handbooks regarding the release of PHI during emergencies in order to best serve veterans, their families, and the general public.

Considering the unique and pressing nature of emergency situations, I request that the VHA immediately develops protocol and procedures for releasing PHI during emergencies, based on the best practices of Release of Information Supervisors. I also urge the VHA to direct its Release of Information Supervisors to build relationships with local law enforcement agencies to ensure that there is a sustained line of communication between VA health care facilities and local law enforcement agencies during emergencies.

We are all committed to ensuring that emergencies involving PHI requests, similar to the incident in Albuquerque, New Mexico, are handled expeditiously and appropriately. I look forward to your prompt response and action on this issue.

Sincerely,



Michelle Lujan Grisham

Member of Congress