How Does Hospital Participation in DAWN Comply with HIPAA?

Your hospital can participate in DAWN and comply fully with the *Standards for Privacy for Individually Identifiable Health Information* (Privacy Rule), resulting from the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The HIPAA Privacy Rule allows the reporting of drug-related events to DAWN, just as it permits the reporting of infectious diseases. As a public health surveillance system, DAWN meets all of HIPAA's requirements. Disclosures to DAWN may be made without patient authorization or consent. DAWN requests only the minimum information necessary to fulfill its purpose.

Data submitted to DAWN are protected under two other Federal laws that restrict use of the data by SAMHSA and Westat, and violations of these laws carry stiff penalties.

Many hospitals have questions about participation in DAWN and HIPAA compliance. Here are answers to the most common questions.

How is participation in DAWN permitted under HIPAA?

Disclosure of protected health information to DAWN is permitted under the Privacy Rule—at 45 CFR 164.512(b)(1)—which allows hospitals to disclose protected patient information to a public health authority authorized by law to receive such information for surveillance purposes. Such disclosures do not require patient authorization. SAMHSA is a public health authority authorized by Section 505 of the Public Health Service Act to collect data from hospitals on drug-related ED visits. Westat operates DAWN under contract to SAMHSA and, thereby, serves as a public health authority for the sole purpose of collecting and processing DAWN data.

Consistent with the Privacy Rule, DAWN requests only the *minimum necessary* information to fulfill DAWN's public health surveillance purpose. Data are used only for public health and associated statistical purposes (e.g., for monitoring drug-related morbidity). SAMHSA and Westat are prohibited from using identifiable data for any other purpose.

What are the protections for our data once they are submitted to DAWN?

SAMHSA and Westat are bound by two Federal laws designed to protect the privacy of individuals and assure that sensitive data about individuals are not misused. The confidentiality provisions in Section 501(n) of the Public Health Service Act (42U.S.C.290aa) and in Title V of the E-Government Act of 2002 (P.L.107-347) prohibit SAMHSA and Westat from using identifiable information for any purpose other than the public health purposes of DAWN. SAMHSA collects and uses DAWN data to monitor drug-related morbidity at the local and national levels. DAWN data can be released only after identifying information is removed; and data are published only in aggregate form. Unlawful disclosure of information by employees of SAMHSA or Westat is subject to stiff penalties—up to 5 years in prison and up to $250,000 in fines.

How can Westat help in accounting for disclosures to DAWN?

Under the Privacy Rule, hospitals must account for disclosures of protected health information for public health. Westat can produce an accounting for disclosures to DAWN that complies fully with the Privacy Rule. In fact, the Office for Civil Rights, the agency responsible for enforcement of the Privacy Rule, has clarified the accounting provisions that apply specifically to DAWN. Such an accounting can be made available to you upon your request or on a set schedule of your choosing. For more information about DAWN and HIPAA, contact our Facility Relations staff at **1 800 FYI DAWN.**