



otherwise available prior to the disclosure, and has the capacity to make health care decisions, a healthcare provider may discuss this information with the family and these other persons if the patient agrees or, when given the opportunity, does not object.

The healthcare provider may also share relevant information with the family and these other persons if one can reasonably infer, based on professional judgment, that the patient does not object. Under these circumstances, for example:

- A physical therapist may give information about a patient's mobility limitations to a friend driving the patient home from the hospital.
- An Associate in billing may discuss a patient's payment options with her adult daughter.
- A nurse may instruct a patient's roommate about proper medicine dosage when she comes to pick up her friend from the hospital.
- A physician or nurse practitioner may discuss a patient's treatment with the patient in the presence of a

friend when the patient brings the friend to a medical appointment and asks if the friend can come into the treatment room.

Even when the patient is not present or it is impracticable because of emergency circumstances or the patient's incapacity for the provider to ask the patient about discussing her care or payment with a family member or other person, a healthcare provider may share this information with the person when, in exercising professional judgment, it determines that doing so would be in the best interest of the patient. Thus, for example:

- A surgeon may, if consistent with such professional judgment, inform a patient's spouse, who accompanied her husband to the emergency room, that the patient has suffered a heart attack and provide periodic updates on the patient's progress and prognosis.
- A nurse may, if consistent with such professional judgment, discuss an incapacitated patient's condition with a family member over the phone.

In addition, the Privacy Rule expressly permits a provider to use professional judgment and experience with common practice to make reasonable inferences about the patient's best interests in allowing another person to act on behalf of the patient to pick up a filled prescription, medical supplies, X-rays, or other similar forms of protected health information. For example, when a person comes to a pharmacy requesting to pick up a prescription on behalf of an individual he identifies by name, a pharmacist, based on professional judgment and experience with common practice, may allow the person to do so.

Thus, it is important to balance the healthcare and privacy interests of our patients, and it is often a judgment call when you do so. Typically, sharing information with good professional judgment can be appropriate during the course of treatment. It is usually not appropriate to discuss things after the fact, in the grocery store, at church or some other setting that has nothing to do with the immediate course of treatment. If in doubt that it is permitted under the law, do not do it.