

prescription drugs taken by its workers, easily discovering that one employee was HIV positive. That is wrong. Under the rules we released today, it will now be illegal.

There's something else that's really bothered me too, for years, and that is that private companies should not be able to get hold of the most sensitive medical information for marketing purposes. Yet, too often, that happens as well. Recently, expectant mothers who haven't even told their friends the good news, are finding sales letters for baby products in their mailboxes. That's also wrong. And under these new rules, it will also be illegal.

Health insurance companies should not be able to share medical records with mortgage companies who might be able to use them to deny you a loan. That actually happens today, but under these rules, it will be illegal. Health insurance companies shouldn't be able to keep you from seeing your own medical records. Up to now, they could. Under these rules, they won't be able to do that anymore.

Under the rules being issued today, health plans and providers will have to tell you up front who will and won't be allowed to see your records. And under an Executive order I am issuing today, the Federal Government will no longer have free rein to launch criminal prosecutions based on information gleaned from routine audits of medical records.

With these actions today, I have done everything I can to protect the sanctity of individual medical records. But there are further protections our families need that only Congress can provide. For example, only new legislation from Congress can make these new protections fully enforceable and cover every entity which holds medical records. So I urge the new Congress to quickly act to provide these additional protections.

For 8 years now, I have worked to marry our enduring values to the stunning possibilities of the information age. In many ways, these new medical privacy rules exemplify what we have tried to do in this administration and how we have tried to do it. We can best meet the future if we take advantage of all these marvelous possibilities but we

don't permit them to overwhelm our most fundamental values.

I hope that these privacy rules achieve that goal. And again, let me say, for this and so much more, I am profoundly grateful to the people who work here at HHS, the people who work with them at OMB and in the White House. In this action, you have done an enormous amount to reassure and improve the lives of your fellow Americans.

Thank you very much.

NOTE: The President spoke at 12:46 p.m. in the Great Hall at the Department of Health and Human Services. In his remarks, he referred to Janlori Goldman, director, Health Privacy Project, Georgetown University.

Executive Order 13181—To Protect the Privacy of Protected Health Information in Oversight Investigations

December 20, 2000

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, it is ordered as follows:

Section 1. Policy.

It shall be the policy of the Government of the United States that law enforcement may not use protected health information concerning an individual that is discovered during the course of health oversight activities for unrelated civil, administrative, or criminal investigations of a non-health oversight matter, except when the balance of relevant factors weighs clearly in favor of its use. That is, protected health information may not be so used unless the public interest and the need for disclosure clearly outweigh the potential for injury to the patient, to the physician-patient relationship, and to the treatment services. Protecting the privacy of patients' protected health information promotes trust in the health care system. It improves the quality of health care by fostering an environment in which patients can feel more comfortable in providing health care professionals with accurate and detailed information about their personal health. In order to provide greater protections to patients' privacy, the Department of Health

and Human Services is issuing final regulations concerning the confidentiality of individually identifiable health information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA applies only to "covered entities," such as health care plans, providers, and clearinghouses. HIPAA regulations therefore do not apply to other organizations and individuals that gain access to protected health information, including Federal officials who gain access to health records during health oversight activities.

Under the new HIPAA regulations, health oversight investigators will appropriately have ready access to medical records for oversight purposes. Health oversight investigators generally do not seek access to the medical records of a particular patient, but instead review large numbers of records to determine whether a health care provider or organization is violating the law, such as through fraud against the Medicare system. Access to many health records is often necessary in order to gain enough evidence to detect and bring enforcement actions against fraud in the health care system. Stricter rules apply under the HIPAA regulations, however, when law enforcement officials seek protected health information in order to investigate criminal activity outside of the health oversight realm.

In the course of their efforts to protect the health care system, health oversight investigators may also uncover evidence of wrongdoing unrelated to the health care system, such as evidence of criminal conduct by an individual who has sought health care. For records containing that evidence, the issue thus arises whether the information should be available for law enforcement purposes under the less restrictive oversight rules or the more restrictive rules that apply to non-oversight criminal investigations.

A similar issue has arisen in other circumstances. Under 18 U.S.C. 3486, an individual's health records obtained for health oversight purposes pursuant to an administrative subpoena may not be used against that individual patient in an unrelated investigation by law enforcement unless a judicial officer finds good cause. Under that statute, a judicial officer determines whether there is

good cause by weighing the public interest and the need for disclosure against the potential for injury to the patient, to the physician-patient relationship, and to the treatment services. It is appropriate to extend limitations on the use of health information to all situations in which the government obtains medical records for a health oversight purpose. In recognition of the increasing importance of protecting health information as shown in the medical privacy rule, a higher standard than exists in 18 U.S.C. 3486 is necessary. It is, therefore, the policy of the Government of the United States that law enforcement may not use protected health information concerning an individual, discovered during the course of health oversight activities for unrelated civil, administrative, or criminal investigations, against that individual except when the balance of relevant factors weighs clearly in favor of its use. That is, protected health information may not be so used unless the public interest and the need for disclosure clearly outweigh the potential for injury to the patient, to the physician-patient relationship, and to the treatment services.

Sec. 2. Definitions.

- (a) "Health oversight activities" shall include the oversight activities enumerated in the regulations concerning the confidentiality of individually identifiable health information promulgated by the Secretary of Health and Human Services pursuant to the "Health Insurance Portability and Accountability Act of 1996," as amended.
- (b) "Protected health information" shall have the meaning ascribed to it in the regulations concerning the confidentiality of individually identifiable health information promulgated by the Secretary of Health and Human Services pursuant to the "Health Insurance Portability and Accountability Act of 1996," as amended.
- (c) "Injury to the patient" includes injury to the privacy interests of the patient.

Sec. 3. Implementation.

- (a) Protected health information concerning an individual patient discovered during the course of health oversight activities shall not be used against that individual patient in an unrelated civil, administrative, or criminal investigation of a non-health oversight matter unless the Deputy Attorney General of the U.S. Department of Justice, or insofar as the protected health information involves members of the Armed Forces, the General Counsel of the U.S. Department of Defense, has authorized such use.
- (b) In assessing whether protected health information should be used under subparagraph (a) of this section, the Deputy Attorney General shall permit such use upon concluding that the balance of relevant factors weighs clearly in favor of its use. That is, the Deputy Attorney General shall permit disclosure if the public interest and the need for disclosure clearly outweigh the potential for injury to the patient, to the physician-patient relationship, and to the treatment services.
- (c) Upon the decision to use protected health information under subparagraph (a) of this section, the Deputy Attorney General, in determining the extent to which this information should be used, shall impose appropriate safeguards against unauthorized use.
- (d) On an annual basis, the Department of Justice, in consultation with the Department of Health and Human Services, shall provide to the President of the United States a report that includes the following information:
 - (i) the number of requests made to the Deputy Attorney General for authorization to use protected health information discovered during health oversight activities in a non-health oversight, unrelated investigation;
 - (ii) the number of requests that were granted as applied for, granted as modified, or denied;
 - (iii) the agencies that made the applications, and the number of requests made by each agency; and
 - (iv) the uses for which the protected health information was authorized.
- (e) The General Counsel of the U.S. Department of Defense will comply with the requirements of subparagraphs (b), (c), and (d), above. The General Counsel also will prepare a report, consistent with the requirements of subparagraphs (d)(i) through (d)(iv), above, and will forward it to the Department of Justice where it will be incorporated into the Department's annual report to the President.

Sec. 4. Exceptions.

- (a) Nothing in this Executive Order shall place a restriction on the derivative use of protected health information that was obtained by a law enforcement agency in a non-health oversight investigation.
- (b) Nothing in this Executive Order shall be interpreted to place a restriction on a duty imposed by statute.
- (c) Nothing in this Executive Order shall place any additional limitation on the derivative use of health information obtained by the Attorney General pursuant to the provisions of 18 U.S.C. 3486.
- (d) This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, the officers and employees, or any other person.

William J. Clinton

The White House,
December 20, 2000.

[Filed with the Office of the Federal Register,
8:45 a.m., December 22, 2000]

NOTE: This Executive order will be published in the *Federal Register* on December 26.

**Statement on the Resignation of
Arthur Levitt as Chairman of the
Securities and Exchange
Commission**

December 20, 2000

I would like to express my deep gratitude to Arthur Levitt for his almost 8 years as Chairman of the Securities and Exchange Commission. As the longest serving Chairman in the Commission's history, Arthur's leadership, experience, and steadfast dedication have helped promote and sustain America's capital markets as the very finest in the world, during a period marked by a renewed emphasis on innovation, entrepreneurship, and investing. This time of unprecedented growth has brought new and unique challenges to America's markets, and Arthur Levitt led the SEC's response to the forces of technology, competition, and globalization.

Above all else, he has been a true champion of the individual investor. He has worked tirelessly to educate and protect America's investors, speaking to thousands of investors in Investor Town Hall Meetings across the country. In addition, he has worked to put more information and greater power in the hands of investors, increasing transparency in the marketplace, and making financial information accessible to everyone. He has responded quickly to the rise in Internet fraud by launching an Internet enforcement team to prosecute it.

In a period when timely and accurate financial information is more critical than ever before, Arthur led campaigns to improve the quality of financial reporting and sponsored market initiatives to increase market disclosure and lower costs for investors. America's capital markets and its investors have benefited significantly from Chairman Levitt's enduring vision, judicious oversight, and abiding sense of fair play. I wish Arthur and his wife, Marylin, all the best in their future endeavors, and join our Nation's investors in

thanking him for his years of commitment and public service.

**Statement on the Death
of John Lindsay**

December 20, 2000

Hillary and I were deeply saddened to learn of the death of John Lindsay. As a Member of Congress, and later as mayor, John Lindsay built a remarkable rapport with the people of New York City—people of every race, in every neighborhood, in every walk of life. In times of great change, John Lindsay was a progressive yet pragmatic force for the public interest. New Yorkers and all Americans will miss not only his confident style but his commitment to social progress for all.

**Statement on Action by India and
Pakistan To Reduce Tensions in
Kashmir**

December 20, 2000

I welcome today's announcements by both India and Pakistan aimed at reducing tensions in Kashmir. The decision by Prime Minister Vajpayee that India will continue the ceasefire it initiated last month in Kashmir is an important step forward. In the meetings we held earlier this year the Prime Minister told me of his determination to pursue a course of peace in Kashmir. I applaud today's announcement as a sign of his continuing commitment to that course. This initiative, along with Pakistan's announcement today that it will withdraw part of its forces deployed along the Line of Control and its earlier decision to exercise maximum restraint there, raises the hopes of the world community that peace is possible in Kashmir. To achieve that end, I continue to believe that all parties should reject violence and work for a peaceful resolution of the conflict through dialog.