

Report on Patient Privacy Volume 21, Number 6. June 10, 2021 OCR Enforcement of Gender Protections May Mirror Brooklyn Hospital Settlement

By Theresa Defino

Six years ago, the HHS Office for Civil Rights (OCR) entered into a settlement agreement with a New York hospital that allegedly discriminated against a transgender patient.^[1] Although it did not pay a fine, a feature common to OCR's HIPAA settlements, The Brooklyn Hospital Center (TBHC) committed to implementing a two-year corrective action plan (CAP) that contained a number of sweeping requirements, including revising its intake process and room-placement policies.^[2]

It also was required under the 2015 settlement and CAP to revise its policies and procedures to pledge that "every patient has the right to privacy and confidentiality during medical treatment or other rendering of care within TBHC."

The agreement appears to be OCR's only settlement based on enforcement of nondiscrimination provisions that had been included in the Affordable Care Act (ACA) five years earlier. Now, a decade after the ACA was passed and on the heels of a recent United States Supreme Court ruling, OCR has put health care organizations on notice that it will again sanction those that violate the nondiscrimination provisions in Section 1557. This is, of course, in addition to continuing to enforce the privacy, security and breach notification regulations and other civil rights protections in health care.

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