

# MEMORANDUM

Texas Department of Human Services \* Long Term Care/Policy

**TO:** Long Term Care -Regulatory  
Regional Directors and State Office Section Managers

**FROM:** Marc Gold, Director  
Long Term Care Policy  
State Office MC: W-519

**SUBJECT:** Regional Survey & Certification Letter #02-10

**DATE:** September 6, 2002

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The attached RS&C Letter is being provided to you for information purposes and should be shared with all professional staff.

- RS&C Letter No. 02-10 -- Privacy of Medical Record Information Rural Health Clinics  
(Ref:# S&C-02-36)

If you have any questions, please direct inquiries to the Texas Department of Health, Health Facility Licensing and Compliance Division at 512-834-6648.

~Original Signature on File~

Marc Gold

[Attachment](#)

**Department of Health & Human Services  
Centers for Medicare and Medicaid Services  
Division of Medicaid and State Operations,  
Region VI**

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August 8, 2002

REGIONAL SURVEY AND CERTIFICATION LETTER NO: 02-10

**To:** All State Survey Agencies (Action)  
All Title XIX Single State (Information)  
Agencies

**Subject:** Privacy of Medical Record Information Rural Health Clinics (Ref:# S&C-02-36)

The purpose of this letter is to clarify an adjustment to current surveyor policy guidance regarding the confidentiality of record information in Rural Health Clinics (RHC). We are providing you with additional guidance on how to enforce the current rule. This change in policy will allow more provider flexibility in keeping medical record information confidential.

The regulatory requirement for rural health clinics, at 42 C.F.R. §491.10(b)(1), states, "the clinic or center maintains the confidentiality of record information and provides safeguards against loss, destruction or unauthorized use."

A recent legal interpretation indicates that the regulation allows certain flexibility in the method of compliance. Until now, CMS has told surveyors that documents must be locked in a secure area.

CMS is expanding their interpretation to allow RHCs other options to satisfy these regulations in ways beyond just locking up their records. This is not a change in policy because we are not applying a different interpretation of the regulation, but rather an expanded application of CMS's regulations to new methods of compliance. The regulation is outcome oriented; it defines a result, not a process. Therefore clinics are allowed discretion to how best produce the required result. However, if CMS finds that a RHC's chosen alternatives do not produce confidential and safeguarded documents, the facility will be cited for its failure to comply with the regulation.

Facilities should keep in mind that in addition to the requirement present in 491.10, the privacy of individually identified health care information will be addressed in detail in the final Privacy Rule to be published by the Office for Civil Rights later this year and the final security rule which will follow the publication of the final privacy rule. RHC's also may be subject to state confidentiality laws which could restrict this practice.

Sincerely,

~Signature on File~

Molly Crawshaw, Chief  
Survey and Certification Operations Branch

Return to [Cover Memo](#)