

The elimination of consent

1996	Congress passed HIPAA, <u>but did not</u> pass a federal medical privacy statute, so the Dept. of Health and Human Services (HHS) was required to develop regulations that specified patients' rights to health privacy. <i>PL 104-191, Sec 264</i>	<i>"... the Secretary of Health and Human Services shall submit to [Congress]...detailed recommendations on standards with respect to the privacy of individually identifiable health information."</i>
2001	President Bush implemented the HHS HIPAA "Privacy Rule" which recognized the "right of consent". <i>65 Fed. Reg. 82,462</i>	<i>"...a covered health care provider must obtain the individual's consent, in accordance with this section, prior to using or disclosing protected health information to carry out treatment, payment, or health care operations."</i>
2002	HHS amended the HIPAA "Privacy Rule", eliminating the "right of consent". <i>67 Fed. Reg. at 53,211</i>	<i>"The consent provisions...are replaced with a new provision...that provides regulatory permission for covered entities to use and disclose protected health information for treatment, payment, healthcare operations."</i>