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Dear Customer:

Thank you for your inquiry related to PAR's position on whether our test materials must be disclosed to patients in order to comply with the Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA).

The widespread dissemination of test materials (which may disclose test items and answers) would violate restrictions on health care providers' use of PAR's test materials, and would render test instruments invalid and therefore useless to the professional community and the general public. The U.S. Department of Health and Human Services (HHS), which is responsible for HIPAA, recently provided clarification related to this matter and stated in a letter that:

"Any requirement for disclosure of protected health information pursuant to the Privacy Rule is subject to section 1172(e) of HIPAA 'protection of trade secrets'. As such, we confirm that it would not be a violation of the Privacy Rule for a covered entity to refrain from providing access to an individual's protected health information, to the extent that doing so would result in a disclosure of trade secrets."

Consequently, as we have done for many years, we will continue to advise our Customers that PAR's test instruments are trade secrets and protected by intellectual property laws including copyright and trade secret laws, and their usefulness and value would be greatly compromised if they were generally available to the public. This position is also consistent with our long-standing practice of ensuring through our terms and conditions of purchase and use that all test purchasers have the appropriate qualifications to administer and interpret the instruments being purchased, and that such purchasers agree to maintain the confidentiality of the instruments.

As the HHS has now confirmed, as long as test items (which may be included in record forms) are trade secrets, such information is not required to be disclosed under HIPAA. Thus, PAR's position, given the guidance from HHS, is that Customers may not disseminate copies of test record forms or protocols that disclose items to persons who request copies under HIPAA's Privacy Rule since it is our position that the test materials are copyrighted and constitute trade secrets.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kristin Greco', written over a light blue rectangular background.

Kristin Greco, MBA
CEO