



HIPPA Privacy Rule Policies

Policies and Procedures	Policy # 25	
USES AND DISCLOSURES REQUIRED BY LAW		
APPROVED BY:	ADOPTED:	
	REVISED: 07122017	
SUPERCEDES POLICY: NEW	REVIEWED: 07122017	

Purpose

To describe the procedures under which LifeMed ID will use or disclose Protected Health Information (PHI) as required by law and in accordance with state and federal privacy laws, HIPAA Regulations and LifeMed ID’s contracts with its customers.

Policy

It is the policy of LifeMed ID to protect PHI and to use and disclose PHI as required by law and in accordance with state and federal privacy laws, HIPAA Regulations and LifeMed ID’s contracts with its customers.

All workforce members must comply with this policy. Violations of this policy will result in disciplinary action based on the seriousness of the offense or other factors. Disciplinary action may include written warning, suspension, or termination.

Definitions

“Customer” is an entity from which LifeMed ID receives PHI subject to a Business Associate Agreement (or other written agreement with the entity) in compliance with the HIPAA Regulations and approved by LifeMed ID’s legal counsel.

“Legal Process Documents” include a subpoena, discovery request, order of a court or other document of any kind related to a legal process.

For a description of all the elements of abuse, neglect and domestic violence related to adults, children and the elderly see *Appendix C: Description of Abuse, Neglect and Domestic Violence* below.

For definitions of other capitalized terms or phrases, please refer to: *HIPAA-HITECH Privacy and Security Glossary*.

Procedures

State and federal laws and regulations may mandate certain uses or disclosures of PHI. If the law or regulation can be enforced by an official government agency, it is deemed to be “required by law”. (Private contractual agreements between parties are not considered to be “required by law”.) This Policy





addresses certain types of uses or disclosures that are commonly required by law. (For example, reports of child abuse are required under the laws of most states.) There may be additional circumstances, not specifically described in this Policy, in which the use or disclosure of PHI is required by law. The determination of whether a specific use or disclosure of PHI is required by law will be made by the LifeMed ID Privacy Officer, in consultation with legal counsel.

Receipt of Legal Process Documents; Approval for Disclosures.

- a. Any LifeMed ID workforce member who receives any legal process documents will immediately notify and forward these documents to LifeMed ID's legal counsel.
 - b. Legal counsel will forward any legal process documents which involve or relate to PHI to the Privacy Officer, who will assist in responding in accordance with this policy and contractual requirements.
 - c. Any workforce member who believes that a disclosure may be appropriate or required under this Policy will contact and receive the approval of the LifeMed ID Privacy Officer prior to making any disclosures of PHI.
2. Court Orders and Subpoenas. Certain disclosures of PHI may be mandated by a court order or subpoena.
- a. Orders of Court or Administrative Tribunal: To the extent permitted by applicable state law, PHI may be released in response to a valid court order or an order from an administrative tribunal.
 - b. Subpoenas, Discovery Requests, and Other Legal Processes: PHI may not be released in response to a subpoena or discovery request unless:
 - i. Applicable state law permits the disclosure; or
 - ii. One of the following circumstances applies:
 - A. The individual provides a written and dated Authorization to release the information to the requesting party; the Authorization will meet the requirements set forth in Privacy Policy #12: Authorization to Use or Disclose Protected Health Information,
 - B. The subpoena or request is accompanied by a valid order from a court or administrative tribunal,
 - C. The subpoena requires the PHI to be disclosed for law enforcement or investigation purposes, and meets the requirements of Section 3 below; this includes grand jury subpoenas and subpoenas issued by government attorneys on behalf of local, state, and federal enforcement agencies,
 - D. The legal process documents are not accompanied by an order of a court or administrative tribunal, and
 - a. LifeMed ID receives satisfactory assurance from the party seeking the information that reasonable efforts have been made to ensure that the individual who is the subject of the PHI has been given notice of the request; or
 - b. LifeMed ID receives satisfactory assurance from the party seeking the information that reasonable efforts have been made to secure a qualified protective order as required by law.

For the purposes of this Subsection (D), LifeMed ID will be deemed to have received satisfactory assurances from the entity seeking the PHI if it receives a written statement and accompanying documentation demonstrating that:



- c. The party requesting PHI has made a good faith attempt to provide written notice to the individual or, if the individual's location is unknown, to mail a notice to the individual's last known address,
 - d. The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual to raise an objection to the court or administrative tribunal; and
 - e. The time for the individual to raise objections to the court or administrative tribunal has elapsed, and
 - i. No objections were filed, or
 - ii. All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.
 - iii. LifeMed ID may disclose PHI in response to lawful process without receiving satisfactory assurance if it makes reasonable efforts to provide notice to the individual or to seek a qualified protective order.
3. Uses and Disclosures for Law Enforcement. Certain disclosures of PHI may be required for law enforcement purposes. PHI may be disclosed to law enforcement agencies to make reports that are required by law, such as in response to Legal Process Documents, as outlined in this Section 3, or to report abuse as described in Section 4 below.
- a. Response to Legal Process: As a part of LifeMed ID's legal responsibilities, LifeMed ID may disclose PHI to law enforcement officials in response to a legal process or summons, as follows:
 - i. To comply with a court order or court-ordered warrant ordering disclosure to the law enforcement agency,
 - ii. To comply with a subpoena or summons issued by a grand jury, judicial officer or a private attorney,
 - iii. Pursuant to an official administrative request from a law enforcement agency (for instance, the Bureau of Alcohol, Tobacco and Firearms) provided that:
 - A. The PHI requested is relevant and material to a legitimate law enforcement inquiry,
 - B. The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought, and
 - C. De-identified information could not be reasonably used.

In order to confirm that items A – C are met, LifeMed ID will provide the agency with a copy of Appendix A: Official Statement Regarding Administrative Request for Information (included at the end of this policy) and request that it be completed and returned before the information is released.

- b. Identifying or Locating a Suspect, Fugitive, Material Witness or Missing Person: LifeMed ID may provide PHI to law enforcement agencies and officials who are attempting to identify or locate a suspect, fugitive, material witness, or missing person. The PHI may be provided in response to requests by a properly identified law enforcement officer or in response to a public bulletin issued by a law enforcement agency.
 - i. Only the following information about the individual may be provided:
 - A. Name and address,
 - B. Date and place of birth,
 - C. Social security number,



- D. ABO blood type and rh factor,
 - E. Type of injury,
 - F. Date and time of treatment,
 - G. Date and time of death (if applicable), and
 - H. Description of any distinguishing physical characteristics including height, weight, gender, race, hair and eye color, facial hair, scars, and tattoos.
- ii. No information related to DNA or a DNA analysis, dental records, samples or analysis of body fluids or tissues, or any other information beyond the information listed above will be disclosed unless the law enforcement officer presents a warrant, subpoena, or court order meeting the requirements of Section 2, above.
- c. Victims of Crime: If the individual is suspected of being the victim of an alleged crime, PHI may be disclosed upon request of a law enforcement official. The Privacy Officer, or designee, is responsible for reviewing the circumstances and determining whether disclosure will be made as follows:
 - i. A conscious, competent individual will be asked for permission to disclose PHI to law enforcement officials. The LifeMed ID Privacy Officer, or designee, will document as appropriate, the time, date, and name of the persons who witnessed the individual's agreement or refusal which may be oral or in writing. The Privacy Officer, or designee, will, if possible, obtain a valid Authorization signed by the individual. Refer to: Privacy Policy #12: Authorization to Use or Disclose Protected Health Information.
 - ii. If the individual is not competent, the individual's Personal Representative may agree orally or in writing to the disclosure of the individual's PHI. The Personal Representative's agreement will be appropriately documented. Refer to: Privacy Policy #13: Personal Representative. If no Personal Representative is available, the LifeMed ID Privacy Officer, or designee, will try to find a family member of the individual who may agree to contact law enforcement officials directly.
 - iii. In an emergency, or when no Personal Representative or family member of an individual is available, the PHI may be disclosed by the Privacy Officer, or designee, only if the law enforcement officer signs the statement included at Appendix B: Official Statement Regarding Need for Information About Possible Victim of Crime (at the end of this policy) and either the Privacy Officer, or designee, or the individual's attending physician determine that disclosure is in the individual's best interests. The determination will be appropriately documented.
 - d. Deaths: LifeMed ID may disclose suspicious deaths, including related PHI, to law enforcement agencies and officials, if the death is suspected of being the result of criminal conduct. The Privacy Officer, or designee, is responsible for reviewing the circumstances and determining whether disclosure will be made.
 - e. Suspected Criminal Activity on Premises: LifeMed ID may disclose evidence of suspected criminal conduct occurring on LifeMed ID's premises, including related PHI, to law enforcement agencies and officers. The Privacy Officer, or designee, is responsible for reviewing the circumstances and determining whether disclosure will be made.
 - f. Reports to Avert a Serious Threat: LifeMed ID may disclose information to law enforcement authorities to help identify or apprehend an individual if, in good faith, the LifeMed ID Privacy Officer, or designee, believes the use or disclosure is necessary to prevent or lessen a serious, imminent threat under the following circumstances:
 - i. The individual made a statement admitting participation in a violent crime that is reasonably believed to have caused serious physical harm to the victim,



- ii. It appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, and
- iii. The only information that may be disclosed is the individual's statement and the individual information described in Subsection 3(b)(i) above).

NOTE: No disclosure may be made if the information was learned while providing care support to the individual for the problems from which the crime arose or through a request by the individual to initiate or to be referred for treatment, counseling, or therapy for the problem.

- g. Verification of Identity and Authority: Before disclosing PHI to a law enforcement officer or agency, the officer or agency's identity and authority will be verified and documented. If the person is a police officer, LifeMed ID's workforce members will ask to see his or her badge and record the badge number. For persons who do not have a badge, LifeMed ID's workforce members will obtain their business card or other proof of their credentials. All requests received in writing must be on official letterhead. Refer to: Privacy Policy #27: Verification of Identity and Authority.

4. Disclosures of Abuse, Neglect or Domestic Violence.

- a. Notifications: If LifeMed ID's workforce members receive reports of suspected or confirmed abuse, neglect or domestic violence, the workforce member will notify LifeMed ID's Privacy Officer and will submit an incident report using the form provided by the Privacy Officer. The Privacy Officer will ensure notification to LifeMed ID's customer if required by LifeMed ID's customer contract.
- b. Permitted disclosures: LifeMed ID may disclose PHI about an individual that it reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:
 - i. To the extent the disclosure is required by law and the disclosure complies with, and is limited to, the relevant requirements of such law,
 - ii. If the individual agrees to the disclosure (the agreement may be given orally as long as it is appropriately documented), or
 - iii. To the extent the disclosure is expressly authorized by statute or regulation and:
 - A. LifeMed ID, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims, or
 - B. If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the PHI for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.
 - iv. LifeMed ID's workforce members, in consultation with the Privacy Officer, may refer to the following listings of state contacts charged with protective services for reporting purposes:
 - A. A current listing of state contacts charged with adult protection located at: http://ncea.aoa.gov/Stop_Abuse/Get_Help/State/index.aspx
 - B. A current listing of state contacts charged with child protection located at: http://www.childwelfare.gov/pubs/reslist/rl_dsp.cfm?rs_id=5&rate_chno=11-11172



- c. Informing the Individual: If LifeMed ID makes a disclosure permitted by Section 1 above, it must promptly inform the individual that such a report has been or will be made, unless:
 - i. In the documented professional opinion of a licensed professional affiliated with LifeMed ID, informing the individual would place the individual at risk of serious harm, or
 - ii. LifeMed ID would be informing a Personal Representative under the circumstances described in Section (d) below.
- d. Personal Representatives: LifeMed ID may elect not to treat a person as the Personal Representative of an individual if:
 - i. LifeMed ID has a reasonable belief that:
 - A. The individual has been or may be subjected to domestic violence, abuse, or neglect by the Personal Representative, or
 - B. Treating such person as the Personal Representative could endanger the individual; and
 - ii. In the documented professional opinion of a licensed professional affiliated with LifeMed ID, it is not in the best interest of the individual to treat the person as the individual's Personal Representative.
- e. Documentation: LifeMed ID's workforce member will appropriately document the following details of all abuse, neglect and/or domestic violence allegations and notify the Privacy Office:
 - i. Information received that indicates evidence of abuse or neglect,
 - ii. In cases of suspected or confirmed adult abuse, neglect or domestic violence, the workforce member's efforts to encourage the individual or the individual's caregiver to seek safety and/or contact a local agency, and
 - iii. Information regarding reporting to state and/or federal agencies.
5. Other Disclosures Required by Law. If a LifeMed ID workforce member becomes aware of any situation in which disclosure of an individual's PHI may be required by any state or federal law or regulation (other than the situations described in this Policy), the workforce member will notify the Privacy Officer and complete an incident/disclosure. LifeMed ID's Privacy Officer, in consultation with legal counsel, is responsible for the determination of whether the PHI is required to be disclosed.
6. Minimum Necessary. In making disclosures required by law, LifeMed ID's workforce members will limit the use or disclosure of PHI to the minimum necessary required by law and will follow the Policies and Procedures described in Privacy Policy #5: Minimum Necessary: Uses, Disclosures and Requests. LifeMed ID may rely on a statement by a public official that only the minimum necessary information has been requested. Such statement will be appropriately documented.
7. Accounting of Disclosure. All disclosures required by law will be included in the Accounting of Disclosures. Refer to: Privacy Policy #11: Accounting of Disclosures.

Documentation

This version of the policy, together with any forms and other documentation created or obtained in accordance with the policy, will be retained by LifeMed ID for a period of at least 6 years plus the current year from the date of creation or the date when last in effect, whichever is later.



Supporting References

- Appendix A: Official Statement Regarding Administrative Request for Information-
- Appendix B: Official Statement Regarding Need for Information about Possible Victim of Crime
- Appendix C: Description of Abuse, Neglect and Domestic Violence



Appendix A

Official Statement Regarding Administrative Request for Information

(To be completed by authorized representative of government enforcement agency)

Name of Individual: _____

I hereby certify that the information requested regarding the above-named individual is needed to carry out the purposes of an administrative request, such as an administrative subpoena or summons, a civil or investigative demand, or similar process authorized under law, and that all of the following statements are true:

1. The information being sought is relevant and material to a legitimate law enforcement inquiry;
2. The request for such information is specific and limited to the purpose for which the information is sought; and
3. The agency could not conduct the investigation using de-identified information. ("De-identified" means the removal of all information that could be used to identify the individual, either directly or in combination with other known information, and includes the individual's name, street address, city, county, zip code, date of birth (except for year), date of treatment (except for year), telephone, fax, e-mail, Social Security Number, medical record number, insurance or account numbers, photographs, and similar unique characteristics, numbers, and codes.)

Signed: _____ Date: _____

Print name: _____ Telephone: _____

Title: _____ Supervisor: _____

Name/address of law enforcement agency: _____



Appendix B

Official Statement Regarding Need for Information about Possible Victim of Crime

(To be completed by authorized representative of law enforcement agency)

Name of Individual: _____

I hereby certify that the information requested regarding the above-named individual is needed to determine whether a violation of law committed by someone else has occurred, and the information is not intended to be used against the victim.

I also certify that the investigation would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

Signed: _____ Date: _____

Print name: _____ Telephone: _____

Title: _____ Supervisor: _____

Badge Number: _____

Name/address of law enforcement agency: _____

Appendix C

Description of Abuse, Neglect and Domestic Violence

Abuse, Neglect and Domestic Violence include all of the following:

Adult abuse:

- Physical Abuse: Hitting, slapping, shoving, grabbing, pinching, biting, hair pulling, etc. are types of physical abuse. This type of abuse also includes denying a partner medical care or forcing alcohol and/or drug use upon him or her.
- Sexual Abuse: Coercing or attempting to coerce any sexual contact or behavior without consent. Sexual abuse includes, but is certainly not limited to, marital rape, attacks on sexual parts of the body, forcing sex after physical violence has occurred, or treating one in a sexually demeaning manner.
- Emotional Abuse: Undermining an individual's sense of self-worth and/or self-esteem is abusive. This may include, but is not limited to constant criticism, diminishing one's abilities, name-calling, or damaging one's relationship with his or her children.
- Psychological Abuse: Elements of psychological abuse include - but are not limited to - causing fear by intimidation; threatening physical harm to self, partner, children, or partner's family or friends; destruction of pets and property; and forcing isolation from family, friends, or school and/or work.

Sources: National Domestic Violence Hotline, National Center for Victims of Crime, and WomensLaw.org. <http://www.ovw.usdoj.gov/domviolence.htm>.

Child abuse and neglect:

- Any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act which presents an imminent risk of serious harm.¹
- The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or the rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children.²

¹ Child Abuse Prevention and Treatment Act Reauthorization Act of 2010 (P.L.111-320), §3.

² 42 U.S.C.A. §5106g(4) (2010).



- Physical abuse is generally defined as “any nonaccidental physical injury to the child” and can include striking, kicking, burning, or biting the child, or any action that results in a physical impairment of the child.
- Neglect is frequently defined as the failure of a parent or other person with responsibility for the child to provide needed food, clothing, shelter, medical care, or supervision to the degree that the child’s health, safety, and well-being are threatened with harm.
- Injury to the psychological capacity or emotional stability of the child as evidenced by an observable or substantial change in behavior, emotional response, or cognition.

Source: https://www.childwelfare.gov/systemwide/laws_policies/statutes/define.pdf

Domestic violence: A pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

Source: <http://www.ovw.usdoj.gov/domviolence.htm>

Elder Abuse: Any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult. Legislatures in all 50 states have passed some form of elder abuse prevention laws. Laws and definitions of terms vary considerably from one state to another, but broadly defined, abuse may be:

- Physical Abuse—inflicting physical pain or injury on a senior, e.g. slapping, bruising, or restraining by physical or chemical means.
- Sexual Abuse—non-consensual sexual contact of any kind.
- Neglect—the failure by those responsible to provide food, shelter, health care, or protection for a vulnerable elder.
- Exploitation—the illegal taking, misuse, or concealment of funds, property, or assets of a senior for someone else’s benefit.
- Emotional Abuse—inflicting mental pain, anguish, or distress on an elder person through verbal or nonverbal acts, e.g. humiliating, intimidating, or threatening.
- Abandonment—desertion of a vulnerable elder by anyone who has assumed the responsibility for care or custody of that person.
- Self-neglect—characterized as the failure of a person to perform essential, self-care tasks and that such failure threatens his/her own health or safety.

Source: http://www.aoa.gov/AoA_programs/elder_rights/EA_prevention/whatisEA.aspx



Regulatory Authority

45 C.F.R. §164.512 Uses and disclosures for which an authorization or opportunity to agree or object is not required.

A covered entity may use or disclose protected health information without the written authorization of the individual, as described in §164.508, or the opportunity for the individual to agree or object as described in §164.510, in the situations covered by this section, subject to the applicable requirements of this section. When the covered entity is required by this section to inform the individual of, or when the individual may agree to, a use or disclosure permitted by this section, the covered entity's information and the individual's agreement may be given orally.

(a) Standard: *Uses and disclosures required by law.*

(1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

(2) A covered entity must meet the requirements described in paragraph (c), (e), or (f) of this section for uses or disclosures required by law.

(c) Standard: *Disclosures about victims of abuse, neglect or domestic violence*

(1) Permitted disclosures. Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:

(i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;

(ii) If the individual agrees to the disclosure; or

(iii) To the extent the disclosure is expressly authorized by statute or regulation and:

(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or

(B) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

(2) Informing the individual. A covered entity that makes a disclosure permitted by paragraph (c)(1) of this section must promptly inform the individual that such a report has been or will be made, except if:



(i) The covered entity, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or

(ii) The covered entity would be informing a personal representative, and the covered entity reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

(e) Standard: Disclosures for judicial and administrative proceedings

(1) Permitted disclosures. A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:

(i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order; or

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or

(B) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iv) of this section, from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of paragraph (e)(1)(v) of this section.

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protecting health information if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

(A) The party requesting such information has made a good faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address);

(B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and

(C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:

(1) No objections were filed; or



(2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

(iv) Notwithstanding paragraph (e)(1)(ii) of this section, a covered entity may disclose protected health information in response to lawful process described in paragraph (e)(1)(ii) of this section without receiving satisfactory assurance under paragraph (e)(1)(ii)(A) or (B) of this section, if the covered entity makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of paragraph (e)(1)(iii) of this section or to seek a qualified protective order sufficient to meet the requirements of paragraph (e)(1)(v) of this section.

(A) The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or

(B) The party seeking the protected health information has requested a qualified protective order from such court or administrative tribunal.

(v) For purposes of paragraph (e)(1) of this section, a qualified protective order means, with respect to protected health information requested under paragraph (e)(1)(ii) of this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

(A) Prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested; and

(B) Requires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding.

(vi) Notwithstanding paragraph (e)(1)(ii) of this section, a covered entity may disclose protected health information in response to lawful process described in paragraph (e)(1)(ii) of this section without receiving satisfactory assurance under paragraph (e)(1)(ii)(A) or (B) of this section, if the covered entity makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of paragraph (e)(1)(iii) of this section or to seek a qualified protective order sufficient to meet the requirements of paragraph (e)(1)(iv) of this section.

(2) Other uses and disclosures under this section. The provisions of this paragraph do not supersede other provisions of this section that otherwise permit or restrict uses or disclosures of protected health information.

(f) Standard: Disclosures for law enforcement purposes. A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.

(1) Permitted disclosures: Pursuant to process and as otherwise required by law. A covered entity may disclose protected health information:



(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or

(ii) In compliance with and as limited by the relevant requirements of:

(A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

(B) A grand jury subpoena; or

(C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;

(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and

(3) De-identified information could not reasonably be used.

(2) Permitted disclosures: Limited information for identification and location purposes. Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:

(i) The covered entity may disclose only the following information:

(A) Name and address;

(B) Date and place of birth;

(C) Social security number;

(D) ABO blood type and rh factor;

(E) Type of injury;

(F) Date and time of treatment;

(G) Date and time of death, if applicable; and

(H) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

(ii) Except as permitted by paragraph (f)(2)(i) of this section, the covered entity may not disclose for the purposes of identification or location under paragraph (f)(2) of this section any protected health information related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.



(3) Permitted disclosure: Victims of a crime. Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures that are subject to paragraph (b) or (c) of this section, if:

(i) The individual agrees to the disclosure; or

(ii) The covered entity is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:

(A) The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;

(B) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and

(C) The disclosure is in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

(4) Permitted disclosure: Decedents. A covered entity may disclose protected health information about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the covered entity has a suspicion that such death may have resulted from criminal conduct.

(5) Permitted disclosure: Crime on premises. A covered entity may disclose to a law enforcement official protected health information that the covered entity believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the covered entity.

(6) Permitted disclosure: Reporting crime in emergencies.

(i) A covered health care provider providing emergency health care in response to a medical emergency, other than such emergency on the premises of the covered health care provider, may disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

(A) The commission and nature of a crime;

(B) The location of such crime or of the victim(s) of such crime; and

(C) The identity, description, and location of the perpetrator of such crime.

(ii) If a covered health care provider believes that the medical emergency described in paragraph (f)(6)(i) of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, paragraph (f)(6)(i) of this section does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to paragraph (c) of this section.

(j) Standard: *Uses and disclosures to avert a serious threat to health or safety*



(1) Permitted disclosures. A covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure:

(i) (A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and

(B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or

(ii) Is necessary for law enforcement authorities to identify or apprehend an individual:

(A) Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or

(B) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in §164.501.

(2) Use or disclosure not permitted. A use or disclosure pursuant to paragraph (j)(1)(ii)(A) of this section may not be made if the information described in paragraph (j)(1)(ii)(A) of this section is learned by the covered entity:

(i) In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure under paragraph (j)(1)(ii)(A) of this section, or counseling or therapy; or

(ii) Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy described in paragraph (j)(2)(i) of this section.

(3) Limit on information that may be disclosed. A disclosure made pursuant to paragraph (j)(1)(ii)(A) of this section shall contain only the statement described in paragraph (j)(1)(ii)(A) of this section and the protected health information described in paragraph (f)(2)(i) of this section.

(4) Presumption of good faith belief. A covered entity that uses or discloses protected health information pursuant to paragraph (j)(1) of this section is presumed to have acted in good faith with regard to a belief described in paragraph (j)(1)(i) or (ii) of this section, if the belief is based upon the covered entity's actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.



References

Internal

1. Privacy Policy #5, Minimum Necessary: Uses, Disclosures and Requests
2. Privacy Policy #11, Accounting of Disclosures
3. Privacy Policy #12, Authorization to Uses or Disclose Protected Health Information
4. Privacy Policy #13, Personal Representatives
5. Privacy Policy #27, Verification of Identity and Authority

External

1. Omnibus Final Rule: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=a1031c979126e6440b522063b7bba578&rgn=div5&view=text&node=45:1.0.1.3.78&idno=45%20>