

# Uses and Disclosures When an Authorization Is Not Required

## Introduction

This paper provides guidance on the uses and disclosures of protected health information (PHI) where authorization from the patient is not required, provided certain conditions are met. In cases where a covered entity (CE) is required to notify the individual of a permitted use or disclosure, the notification and the individual's agreement may be given orally.

## Definitions

**Covered Entity:** A health plan or a health care provider who transmits any health information in electronic form in connection with a standard transaction.

**Disclosure:** The release, transfer, provision of access to, or divulging in any other manner of PHI outside the entity holding the information.

**Protected Health Information (PHI):** Individually identifiable health information that is transmitted or maintained by electronic or any other form or medium. PHI excludes individually identifiable health information in employment records held by a covered entity in its role as employer.

**Use:** With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

## Discussion

The below provides a brief overview of the uses and disclosures of PHI where a CE is not required to obtain a patient's authorization. Please note that this information is general and does not include all of the conditions and requirements for each use, disclosure, and notification. For specific information on each section, please click on the link provided.

- 1) **[As Required By Law](#):** A CE may use or disclose PHI when it is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law. Circumstances where a use or disclosure may be required by law include:
  - a. In cases of suspected abuse, neglect, or domestic violence
  - b. For the purposes of judicial or administrative proceedings
  - c. To law enforcement for authorized purposes



- 2) **Public Health Activities**: A CE may disclose PHI for the following public health activities: prevention/control of diseases, injuries, or disabilities; child abuse/neglect; communicable diseases; Food and Drug Administration-regulated products/activities; and work-related illnesses or injuries.
- 3) **Victims of Abuse, Neglect, or Domestic Violence**: A CE may disclose PHI about an individual whom the CE reasonably believes to be a victim of abuse, neglect, or domestic violence to an authorized Government authority, including a social service or protective services agency. This however, does not include reports of child abuse or neglect.
- 4) **Health Oversight Activities**: A CE may disclose PHI to a health oversight agency for oversight activities such as: audits; civil, administrative, or criminal proceedings or investigations; inspections; licensure or disciplinary actions.
- 5) **Judicial And Administrative Proceedings**: A CE may disclose PHI in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal, provided the CE discloses only the PHI authorized by such order; or 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 certain criteria are met.
- 6) **Law Enforcement Purposes**: A CE may disclose PHI to authorized law enforcement officials for the following purposes:
  - a. To report certain types of wounds or other physical injuries
  - b. For the purpose of identifying or locating a suspect, fugitive, material witness, or missing person
  - c. About an individual who is or is suspected to be a victim of a crime
  - d. To alert law enforcement of the death of an individual if the CE suspects the death may have resulted from criminal activity
  - e. If the CE believes the PHI is evidence of criminal activity on the CE's premises
  - f. If a provider, administering emergency medical care at an offsite location, believes the PHI is necessary to determine the nature and location of the crime; the location of the victim; and the identity, description, and location of the perpetrator of the crime
- 7) **About Decedents**: A CE may disclose PHI about decedents to:
  - a. A coroner or medical examiner, or a CE that also performs the duties of a coroner or medical examiner, for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law
  - b. Any official of the DoD authorized to perform functions under the authority of the Armed Forces Medical Examiner system
  - c. Funeral directors as necessary to carry out their duties concerning the decedent





- 8) **Cadaveric Organ, Eye or Tissue Donation Purposes**: A CE may use or disclose PHI to organ procurement organizations or other entities engaged in the location, banking, or transplantation of cadaver organs, eyes, or tissue.
- 9) **Research Involving Minimal Risk**: A CE may use or disclose PHI for research, regardless of the source of funding of the research, if one of the following requirements are met:
  - a. The CE obtains documentation and approval by an Institutional Review Board to alter or waive individual authorization
  - b. The CE obtains confirmation from the researcher that the PHI will be used for reviewing purposed to prepare a research protocol
  - c. The CE obtains confirmation from the researcher that the PHI will be used for decedent research
- 10) **To Avert a Serious Threat to Health or Safety**: A CE may disclose PHI if the CE believes in good faith the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. For example, a CE may report to an individual's Commanding Officer if the individual reveals intentions of harming himself/herself or others. This includes disclosing PHI to law enforcement authorities to identify or apprehend an individual the CE reasonably believes, based on a statement made by the individual, may have caused serious physical harm to the victim. PHI may also be disclosed if the CE believes the disclosure is necessary for law enforcement authorities to identify or apprehend an individual who has escaped from a correctional institution or lawful custody.
- 11) **Specialized Government Functions**:
  - a. **Armed Forces Personnel**: A CE (including a CE not part of or affiliated with the DoD) may use and disclose the PHI of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission. This also applies to foreign military personnel. *For additional information please see the information paper covering the Military Command Exception.*
  - b. **Military Separation/Discharge**: A DoD CE may disclose PHI to the Department of Veterans Affairs (DVA) for the purpose of determining an Armed Forces member's eligibility for or entitlement to benefits under DVA.
  - c. **National Security and Intelligence Activities**: A CE may disclose PHI to authorized DoD and other Federal officials to conduct intelligence, counter-intelligence, and other nation security activities authorized by the National Security Act.





- d. Protective Services: A CE may disclose PHI to authorized Federal officials for providing protective services to the President or other authorized persons.
  - e. Correctional Institutions: A CE may disclose PHI to a correctional institution or a law enforcement official having lawful custody of an inmate if the PHI is necessary for the provision of the individual's healthcare or for the health and safety of the individual, other inmates, officers, employees, or others at the correctional institution.
- 12) Workers Compensation: A CE may disclose PHI to comply with laws relating to workers' compensation or other similar programs that provide benefits for work-related injuries or illness.

## Resources/References

45 CFR 164.512, Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Chapter 7, DoD 6025.18-R, "DoD Health Information Privacy Regulation," January 24, 2003 (or successor issuance),  
DoD Directive 5154.24, "Armed Forces Institute of Pathology (AFIP)," October 3, 2001, Certified current as of April 23, 2007

*If you have any questions about any of the information above, please contact the DHA Privacy Office at:*  
[dha.ncr.pcl.mbx.dha-privacy-office-mail@mail.mil](mailto:dha.ncr.pcl.mbx.dha-privacy-office-mail@mail.mil)

