

## **IS AUTHORIZATION REQUIRED TO SHARE INFORMATION WITH PUBLIC HEALTH?**

The Privacy Rule provides for a number of situations in which protected health information may be shared without an individual's authorization.

45 CFR 164.512, provides "A covered entity may use or disclose protected health information without written authorization of the individual, as described in §164.508, or the opportunity for the individual to agree object as described in §164.510, in the situations covered in this section, subject to the applicable requirements of this section..."

Such as the following situations:

- Uses and disclosures required by law. 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. (See 45 CFR §164.512(a)(1)).
- Uses and disclosures for public health activities. A covered entity may disclose protected health information for the public health activities and purposes to:
  - > A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions. (See 45 CFR §164.512(b)(1)(i)).
  - > A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect. (See 45 CFR §164.512(b)(1)(ii)).
  - > A person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity, for the purpose of activities related to quality, safety or effectiveness of such FDA-regulated product or activity. (See 45 CFR §164.512(b)(1)(iii)).
  - > A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if covered entity or public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation. (See 45 CFR §164.512(b)(1)(iv)).
  - > Workplace medical surveillance. (See 45 CFR §164.512(b)(1)(v)).
- Covered entities that are also public health authorities may use, as well as disclose, protected health information for the public health purpose provided in 45 CFR §164.512(b)(1). (See 45 CFR §164.512(b)(2)).

## **Resources:**

### **- HIPAA Administrative Simplification Statute and Rules**

are found at 45 C.F.R. Parts 160, 162, and 164.

<https://www.hhs.gov/hipaa/for-professionals/index.html>.

### **- Unofficial Version of the Combined Regulation**

text, as amended in March, 2013 is available at

<https://www.hhs.gov/sites/default/files/hipaa-simplification-201303.pdf>.

### **- The U.S. Department of Health and Human Services,**

#### **Office for Civil Rights (OCR)**

enforces the HIPAA Privacy and Security Rules. The OCR issues guidance on the HIPAA Privacy and Security Rules, available at

<https://www.hhs.gov/hipaa/index.html>.



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# **Public Health and**

# **HIPAA**

## *Legally Sharing Information with Public Health Agencies*



*This brochure is not intended to serve as legal advice, nor should it be considered an endorsement of the resources provided. If you have questions, be sure to contact your legal counsel to determine your own compliance with the law and appropriate policies and procedures.*

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, was established to improve the efficiency and effectiveness of the health care system in the United States included the Administrative Simplification provisions that establish standards and protections for health care systems. To implement the statute the U.S. Department of Health and Human Services (HHS) published a series of rules:

- **Privacy Rule**  
Governing the confidentiality of protected health information.
- **Security Rule**  
Governing the security and confidentiality of health information in electronic form.
- **Transaction and Code Set Rule**  
Governing the electronic transmission of health information and standardizing the billing codes for services.
- **Enforcement Rule**  
Provides standards for the enforcement of all the Administrative Simplification Rules.
- **National Provider Identifier Rule**  
Establishing a system for uniquely identifying all covered health care providers.
- **The Health Information Technology for Economic and Clinical Health (HITECH) Act**  
Strengthens the privacy and security protections for health information established under HIPAA.

## PRIVACY RULE'S IMPACT ON PUBLIC HEALTH

The HIPAA Privacy Rule establishes a set of standards for protected health information. The Privacy Rule covers the use and disclosure of protected health information of individuals and their privacy rights. A goal of the Privacy Rule is to allow the flow of health information needed to provide and promote health care and protect the public's health and well-being, while protecting the individual's health information.

While the Privacy Rule limits the sharing of protected health information, the Privacy Rule permits covered entities to disclose protected health information to public health authorities that are authorized by law to collect or receive such information to carry out their public health mission of protecting the health and safety of the public.

Public health reports made by covered entities is a vital way of identifying public health and safety threats. As such, the Privacy Rule allows covered entities to disclose protected health information without authorization for specified public health purposes.

[health.mo.gov](http://health.mo.gov)

## Key HIPAA Terms

### Public Health Authority

An agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate. (See 45 CFR §164.501).

### Covered Entity

A health plan, health care clearinghouse, or health care provider who transmits any health information in electronic form in connection with transactions for which HHS has adopted standards.

### Protected Health Information (PHI)

All individually identifiable health information held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral.

### Authorization

Detailed document containing the required elements of the Privacy Rule, completed by the individual authorizing a covered entity to disclose specified protected health information to a third party for specified purposes.

## DISCLOSURES REQUIRED BY MISSOURI LAW

*In Missouri, there are a number of disclosures that health care providers are required by law to make.*

*These mandatory disclosures are not changed by HIPAA.*

For example, hospitals/physicians must share information with the Missouri Department of Health and Senior Services (DHSS) for: communicable, environmental and occupational disease reporting (19 CSR 20-20.020); epidemiological studies (§192.067, RSMo); information about infant metabolic and genetic screenings (§191.331, RSMo); and information about quality of care and access to care (§192.068, RSMo). The provided examples are not a complete list of mandatory disclosures that health care providers are required to make.

### **The information gathered from required disclosures is still confidential.**

There are corresponding confidentiality requirements for the disclosures. §192.067, RSMo requires that DHSS maintain confidentiality of information gathered from patients' medical records. This information can be released *only* in aggregate form that prevents the identification of a patient or physician, unless that information is being shared with another public health authority. §192.317, RSMo protects the information DHSS gains about infant metabolic and genetic screenings. §192.068, RSMo provides that quality of care data is not classified as public information, and cannot be released in a way that identifies any patient.