



Uses and Disclosures of Protected Health Information (PHI) - Family Members and Friends

Introduction

This paper provides guidance on uses and disclosures of PHI to an individual's family members, friends, or other persons involved in the individual's care or healthcare payment. In certain circumstances, such uses and disclosures are permitted if the individual does not object or if the covered entity (CE) or its business associate (BA) reasonably concludes from the situation that the individual does not object. If the individual is not present or is incapacitated, the CE or BA may use professional judgment to disclose PHI for the individual's best interest.

Definitions

Business Associate (BA): A person or entity that performs certain functions or activities that involve the use or disclosure of protected health information on behalf of, or provides services to, a covered entity.

Covered Entity (CE): 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 CE or BA 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

CEs or BAs may disclose PHI to an individual's family member, friend, or another person identified by the individual, if the PHI is directly relevant to such person's involvement with the individual's care or payment for healthcare if Sections 1 or 2, below, are satisfied.





CEs or BAs may also use or disclose PHI to notify, or to assist in notifying an individual's family member, personal representative, or another person responsible for the individual's care of the individual's location, general condition, or death if Sections 1, 2, or 3, below, are satisfied.

Section 1: When the Individual is Present

A CE or BA may use or disclose an individual's PHI, if:

- The individual agrees to the disclosure;
- The individual is provided with an opportunity to object and does not; or
- It is reasonably inferred, using professional judgment, that the individual does not object.

Section 2: When the Individual Is Not Present

Incapacity or Emergency Circumstances

A CE or BA may use or disclose PHI if the individual is not present or cannot agree or object because of incapacity or an emergency circumstance. This can be done if, using professional judgment, it is determined the disclosure is in the individual's best interests. In such cases, only the PHI directly relevant to the person's involvement with the individual's healthcare should be disclosed.

Picking Up Prescriptions, Medical Supplies, etc.

A CE or BA may use professional judgment to allow a person to act on behalf of the individual and pick up prescriptions, medical supplies, X-rays, or other similar forms of PHI.

Section 3: Use and Disclosures for Disaster Relief Purposes

A CE or BA may use or disclose PHI to an authorized public or private entity to assist in disaster relief efforts. The requirements in Sections 1 and 2, above, apply if the CE or BA, using professional judgment, determines they do not interfere with responding to emergency situations.

Resources/References

45 CFR 164.510(b), Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule

DoD 6025.18-R, "DoD Health Information Privacy Regulation," January 24, 2003, C6.2
"Disclosures to Friends and Family," Department of Health and Human Services Health

Information Privacy Frequently Asked Questions:

http://www.hhs.gov/ocr/privacy/hipaa/faq/disclosures_to_friends_and_family/index.html

For additional questions, please contact the DHA Privacy Office at: dha.ncr.pcl.mbx.dha-privacy-office-mail@mail.mil

