



The Release of PHI to Congressional Offices

Introduction

This paper provides guidance on the release of personally identifiable information (PII) and protected health information (PHI), by a covered entity (CE) or its business associate (BA) to Congressional offices. Such disclosures are generally permitted so long as the appropriate authorizations are in place or if the disclosure is otherwise legally permitted.

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 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.

Personally Identifiable Information (PII): Information which can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, including any other personal information which is linked or linkable to a specified individual

Discussion

A CE or BA may disclose PII/PHI to a Congressional office, including a staff member, inquiring about an individual at the individual's request. The Congressional office should provide documentation to the CE or BA (e.g., letter or e-mail from the individual) verifying the individual has requested the Congressional office's assistance. If it is necessary to access an individual's PII/PHI to address the inquiry, it is strongly recommended – and standard practice within DHA – to obtain a signed, valid Health Insurance Portability and Accountability Act (HIPAA) authorization form (e.g. DD Form 2870) from the individual. Disclosures to a Congressional office at the request of a third party (e.g., spouse, friend) are not permitted unless the subject of the PHI authorizes the disclosure via a valid HIPAA authorization form, or if the third party has legal authority to act for the individual (e.g. parent of minor).





Discussion (continued)

Any disclosures involving PHI should be kept to the minimum necessary to fulfill the request. For example, a CE or BA should not disclose a copy of the individual's entire medical record unless expressly stated, in writing, by the individual. A CE or BA may rely on the Congressional office's request to be the minimum necessary; however, it is recommended to review the HIPAA authorization form provided by the individual to verify the limits of the request. A CE or BA may also opt to disclose the requested PHI directly to the individual and subsequently notify the Congressional office without providing the PHI to the Congressional member. Any disclosures made to a Congressional office by a CE or BA should be documented.

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 (or successor issuance), Chapter 7
DoD 5400.11.7, "Department of Defense Privacy Program," May 7, 2007 (or successor issuance)

