



HIPAA FACT SHEET: EMERGENCY MEDICAL SERVICES

Public Health Activities Protected by HIPAA

The comments to the preamble of the Privacy Rule explicitly protect state public health laws by making it clear that “nothing in this [Rule] shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth or death, public health surveillance, or public health investigation or intervention.”

HIPAA Does Not Preempt State Public Health Laws

The Privacy Rule specifically states that it does not preempt contrary state public health laws, including state procedures established under such laws that provide for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation, or intervention. [45 CFR 160.203 (a)(1)(iv)&(c)]

Public Health Authorities Defined

Public health authorities include state public health agencies (e.g., state public health departments, divisions, districts or regions); local public health agencies; and anyone performing public health functions under a grant of authority from a public health agency. [45 CFR 164.501]

Disclosures Required by Law

The Privacy Rule permits covered entities to disclose protected health information, without authorization, to public health authorities who are authorized by law to receive such reports for the purpose of preventing or controlling disease, injury, or disability and for conducting public health surveillance, investigations, or interventions. This includes federal, tribal, local or state laws (or state procedures established under such law) that provide for receiving reporting of disease, injury or conducting public health surveillance, investigation, or intervention. [45 CFR 164.512 (a)&(b)]

Public Health Authorities are Not Business Associates of Covered Entities

Public health authorities receiving information from covered entities as required or authorized by law [See 45 CFR 164.512 (a)&(b)] are not business associates of the covered entities and therefore are not required to enter into business associate agreements. [CDC MMWR, Vol. 52, page 8 (May 2003)]

Minimum Necessary Rule

Generally, a covered entity must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request. [45 CFR 164.502 (b)]. However, covered entities are not required to make a minimum necessary determination for public health disclosures that are required by law. [45 CFR 164.502 (b)]. For disclosures to a public health authority, covered entities may reasonably rely on a requested disclosure, as the minimum necessary if the public health authority represents that the information requested is the minimum necessary for the stated purpose. [45 CFR 164.514 (d)(3)(iii)]

Accounting for Public Health Disclosures

The Privacy Rule provides for a simplified means of accounting because the vast amount of data exchanged between covered entities and public health authorities is made through ongoing regular reporting. For example, ambulance service providers are required by law to regularly submit copies of prehospital care reports to regional offices that are part of the state public health authority. In such cases, the covered entity need only identify the recipient of such repetitive disclosures (regional public health



authority), the purpose of the disclosure (required for injury control and prevention), and describe the protected health information routinely disclosed. The date of each disclosure need not be tracked. Rather, the accounting may include the date of the first and last such disclosure during the accounting period (June 1, 2003 to July 1, 2003), and a description of the frequency or periodicity (monthly) of such disclosures. Therefore, the covered entity would not need to annotate each patient's medical record whenever a routine public health disclosure was made. [CDC MMWR, Vol. 52, page 9 (May 2003)]

Relevant State Laws:

O.C.G.A. § 31-11-5; Rules and Regulations for Ambulance Services
O.C.G.A. § 31-12-6; Records of Ambulance Services
DHR Rules and Regulations, Chapter 290-5-30; Emergency Medical Services

Sources:

U.S. Department of Health and Human Services
Office of Civil Rights
HIPAA Privacy - Disclosure for Public Health Activities (Revised April 3, 2003)
Summary of the HIPAA Privacy Rule (May 2003)
<http://www.hhs.gov/ocr/hipaa/privacy.html>

U.S. Department of Health and Human Services
Centers for Disease Control and Prevention
Morbidity and Mortality Weekly Report
Vol. 52 Supplement (May 2, 2003)
http://www.cdc.gov/mmwr/preview/ind2003_su.html