

THE PRIVACY RULE AND HIPAA



Adapted from: Centers for Disease Control and Prevention. (2003). *MMWR. HIPAA privacy rule and public health: Guidance for CDC and the U.S. Department of Health and Human Services*. Retrieved from <http://www.cdc.gov/mmwr/preview/mmwrhtml/m2e411a1.htm>

National Institute of Health. (Revised: 2003). *Disclosures for public health activities*. Retrieved from http://privacyruleandresearch.nih.gov/pdf/ocr_publichealth.pdf

WHAT IS HIPAA?

The U.S. Department of Health and Human Services (“HHS”) instituted the Privacy Rule which enabled HHS to implement the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

HIPAA is the mandate that requires minimum standards to be met by covered entities when using and disclosing a person’s confidential health information (commonly called, protected health information or PHI).

HIPAA ensures that an individual’s PHI is protected while still maintaining the flow of health information needed to provide that individual high quality healthcare and, when needed, the health safety of the general public.

HOW DOES THE PRIVACY RULE EFFECT PUBLIC HEALTH?

The Privacy Rule recognizes:

- the legitimate need for public health authorities and others responsible for ensuring the public’s health and safety to have access to PHI; and
- the importance of public health reporting by covered entities to identify threats to both the public and individuals.

Additionally the Privacy Rule permits:

- PHI disclosure by a covered entity without a written patient authorization to public health authorities legally authorized to collect and receive the information for specified public health purposes; and
- Disclosure of PHI by the public health authorities that are required by tribal, local, state or federal laws [45 CFR 164.512(a)].

WHEN CAN A PUBLIC HEALTH AUTHORITY DISCLOSE PHI FOR A PUBLIC HEALTH PURPOSE?

There are several instances when a public health authority must disclose an individual's PHI under a tribal, local, state or federal law [45 CFR 164.512(a)]:

- Receiving/reporting of disease or injury
- Child abuse
- Births
- Deaths
- Conducting public health surveillance, investigation or intervention activities

WHAT IS THE DEFINITION OF A “PUBLIC HEALTH AUTHORITY”

A “public health authority” is an agency or authority of the United States government, a State, a territory, a political subdivision of a State or territory, or Indian tribe that is responsible for public health matters as part of its official mandate, as well as a person or entity acting under a grant of authority from, or under a contract with, a public health agency [45 CFR 164.501].

WHAT ARE THE CORRESPONDING NEVADA LAWS FOR THE PRIVACY RULE?

Nevada Administrative Code (NAC)

- **NAC 441A.935**, Reporting of additional information to system upon request by health authority; information of personal nature deemed confidential medical information.
- **NAC 441A.940**, Provisions do not prohibit health authority from acquiring information from other sources for inclusion in system.

Nevada Revised Statutes (NRS)

- **NRS 441A.167**, Investigation: Law enforcement agencies and political subdivisions authorized to share certain information and medical records with state and local health authorities.
- **NRS 441A.220**, Confidentiality of information; permissible disclosure.
- **NRS 441A.230**, Disclosure of personal information prohibited without consent

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