



Policy #: DHHS-04-16

Issue Date: April 11, 2016

I. SUBJECT

HIPAA Privacy: Disclosures Permitted or Required by Law

II. POLICY STATEMENT

The Maine Department of Health and Human Services (the Department) is permitted by the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule to use and disclose Protected Health Information (PHI) for treatment, payment and healthcare operations (TPO), and other limited purposes generally required or permitted by law without obtaining individual permission or an opportunity for the individual to agree or object.

III. PURPOSE

This policy describes the circumstances, other than TPO, and other than disclosures permitted by client Authorization to Release confidential information, under which we are permitted to use and disclose PHI or other confidential client records (together "Protected Information" or "PI") without client permission.

IV. GENERAL RULE

1. In general, any request for PI shall be reviewed and either approved or denied by the appropriate program official, in consultation with the General Counsel and/or Director of Healthcare Privacy. A statement of legal authority/verification underlying the request should be requested.
2. When PI in any format is disclosed under this policy, it should be restricted to the minimum necessary amount of information needed for the stated purpose, except when and as required by law.
3. Prior to disclosing PI, the following information must be documented and maintained in the Department file: the nature of the PI; the date; to whom (with title) the PI was given and/or to what entity it was released; and a copy or summary of the PI released.
4. The original record is not to be provided unless ordered by a court.

V. PROCEDURE

The General Counsel and or Director of Healthcare Privacy must be consulted whenever a demand or request for disclosure is made for PI and law enforcement/legal/judicial/outside governmental processes such as the following are involved:

- Court orders;
- Court-ordered warrants; subpoenas or summons;
- Grand jury, inspector general, or administrative subpoena or demand;
- Any investigative demand or request;
- Attorney request for discovery or any other document containing PI and related to a civil, criminal, workers compensation or other legal matter.

Note: Although we will make reasonable attempts to validate legal and law enforcement documentation, *our workforce should never physically interfere with the execution of a search warrant.*

VI. PUBLIC HEALTH AND PUBLIC BENEFIT DISCLOSURES

The General Counsel and or Director of Healthcare Privacy must be consulted whenever the following demands or requests for disclosure are made:

- To provide PI regarding military and veterans' activities as deemed necessary by military command authorities to ensure proper execution of a mission;
- To authorized federal officials conducting lawful intelligence, counterintelligence, or other national security activities authorized under the National Security Act;
- To authorized federal officials providing protective services to the President of the United States, or other authorized persons, or for authorized investigations;
- To correctional institutions or law enforcement officials about lawfully detained individuals if necessary to provide care to the individual or to protect the health and safety of the individual, other inmates, officers, or workforce, either at the institution or while transporting the individual. This does not apply to PI about inmates released on parole, probation, or who are no longer in custody.

VII. PUBLIC HEALTH AND PUBLIC BENEFIT DISCLOSURES BY OUR HIPAA COVERED ENTITIES

The following public health or public benefit-type disclosures of PHI *by our HIPAA-covered entities* do not require General Counsel approval (but consultation with the General Counsel and/or Director of Healthcare Privacy is advisable where questions or concerns around confidentiality exist):

- To report disease, injury, and vital events statistics (e.g., births and deaths), public health surveillance activities, investigations, and interventions;
- To report child or elder abuse or neglect as required by state law;
- To the Food and Drug Administration (FDA): For reports about the quality, safety, or effectiveness of an FDA regulated product or activity, to report adverse events to food or dietary supplements, product defects or problems (including the use or labeling of a product), or biological product deviations, to track products, to enable product recalls, repairs, or replacements, including locating and notifying individuals who have received the product, or to conduct required post-marketing surveillance;
- To respond in matters of health oversight activities, including: inspections, licensure, or disciplinary actions;
- Disclosures for certain law enforcement purposes, such as to report a crime on the premises or report an imminent threat to the health or safety of the individual or another;
- To provide information regarding decedents: To coroners and medical examiners made to assist in identifying a deceased person, to determine cause of death, or for other duties authorized by law, or for all other uses related to decedent information, if authorized by the executor or administrator of the estate;
- To funeral directors as necessary to perform their duties, including disclosures made in reasonable anticipation of the individual's death;
- For organ donation purposes: To organ procurement organizations to facilitate organ, eye or tissue donation and transplantation;
- For research purposes where an Institutional Review Board or HIPAA Privacy Board has waived certain authorization requirements and we have received valid documentation to that effect. Note that all research related disclosures are to be referred to the Director of Healthcare Privacy before fulfilled;

- To federal, state, or local disaster management agencies coordinating response activities to assist them in locating or identifying victims or to assist in obtaining medical care needed as a result of emergency, disaster or bioterrorist acts.

VIII. DEFINITION

Protected Health Information (PHI) is information about a patient, including demographic information that may identify a patient, which relates to the patient's past, present or future physical or mental health or condition, related health care services or payment for such services.

IV. DISTRIBUTION

All Staff via e-mail and posting on the Department Intranet.

4/16/14
Date

Mary C. Mayhew
Mary C. Mayhew
Commissioner