

EXCEPTIONS THAT ALLOW DISCLOSURE OF PROTECTED HEALTH INFORMATION UNDER HIPAA

Prepared by: Office of General Counsel, Texas Department of State Health Services (April 18, 2006)

ISSUE: During a disaster, when may a health care provider or health plan use or disclose protected health information (PHI) for purposes other than “disaster relief” (locating persons)?

ANSWER: HIPAA contains a number of circumstances that allow use or disclosure of PHI without patient consent or authorization.

DISCUSSION: The HIPAA privacy regulations are found at 45 Code of Federal Regulations (CFR) Parts 160 and 164. (The US DHHS Office of Civil Rights previously issued bulletins related to hurricane response at www.hhs.gov/ocr/hipaa.) The regulations allow disclosure for disaster relief purposes (generally, notifying or locating family). In addition, the following uses or disclosures are allowed under HIPAA without patient consent or authorization and may apply during a disaster.

USE AND DISCLOSURE FOR TREATMENT: Section 164.506 allows use and disclosure as necessary to provide treatment, including coordination of care or referral.

USE AND DISCLOSURE REQUIRED BY LAW: Section 164.512(a) allows covered entities to use and disclose PHI if required by law.

USE AND DISCLOSURE FOR PUBLIC HEALTH ACTIVITIES: Section 164.512(b) permits covered entities to release PHI to a public health authority that is authorized by law to collect and receive information for preventing and controlling disease, injury, or disability. This information includes reporting of disease, injury, and vital statistics like births, deaths, marriages, and divorces and public health investigations, surveillance, and interventions.

USE AND DISCLOSURE FOR HEALTH OVERSIGHT ACTIVITIES: Section 164.512(d) permits covered entities to disclose PHI to a health oversight agency for oversight activities including audits; civil, administrative or criminal investigations; inspections; licensure or disciplinary actions; or other activities necessary for the oversight of the health-care system, government benefit programs, compliance with governmental regulation, or compliance with civil rights laws.

USE AND DISCLOSURE FOR LAW ENFORCEMENT PURPOSES: Section 164.512(f) permits disclosure of PHI to a law enforcement officer for certain law enforcement purposes, including locating missing persons.

USE AND DISCLOSURE TO AVERT A SERIOUS THREAT TO HEALTH OR SAFETY: Section 164.512(j) permits disclosure of PHI if a covered entity in good faith believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. The disclosure must be made to a person who is reasonably able to prevent or lessen the threat, or for identification and apprehension of an individual.

WAIVER OF LAW OR RULES: None

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