

Abuse reporting checklist

INSTRUCTIONS: The following is the text of 164.512 (c) (containing the requirements for disclosing protected health information about victims of abuse, neglect or domestic violence).

Check off each element if disclosing PHI for these purposes or trying to determine if you need to use an authorization.

§ 164.512 Uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required.

(c) Standard: disclosures about victims of abuse, neglect or domestic violence.

1. Permitted disclosures. Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:
 - i. To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;
 - ii. If the individual agrees to the disclosure; or
 - iii. To the extent the disclosure is expressly authorized by statute or regulation and:
 - A. The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or
 - B. If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.
2. Informing the individual. A covered entity that makes a disclosure permitted by paragraph (c)(1) of this section must promptly inform the individual that such a report has been or will be made, except if:
 - i. The covered entity, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or
 - ii. The covered entity would be informing a personal representative, and the covered entity reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.