

## Law enforcement checklist

**INSTRUCTIONS:** The following is the text of 164.512 (f) (containing the requirements for disclosing protected health information for law enforcement purposes).

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.

**(f) Standard: disclosures for law enforcement purposes.** A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.

1.  Permitted disclosures: pursuant to process and as otherwise required by law. A covered entity may disclose protected health information:
  - i.  As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or
  - ii.  In compliance with and as limited by the relevant requirements of:
    - A.  A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
    - B.  A grand jury subpoena; or
    - C.  An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:
      1.  The information sought is relevant and material to a legitimate law enforcement inquiry;
      2.  The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
      3.  De-identified information could not reasonably be used.
2.  Permitted disclosures: limited information for identification and location purposes. Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:
  - i.  The covered entity may disclose only the following information:
    - A.  Name and address;
    - B.  Date and place of birth;
    - C.  Social security number;
    - D.  ABO blood type and rh factor;
    - E.  Type of injury;
    - F.  Date and time of treatment;
    - G.  Date and time of death, if applicable; and
    - H.  A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.
  - ii.  Except as permitted by paragraph (f)(2)(i) of this section, the covered entity may not disclose for the purposes of identification or location under paragraph (f)(2) of this section any protected health information related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

## Law enforcement checklist

3.  Permitted disclosure: victims of a crime. Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures that are subject to paragraph (b) or (c) of this section, if:
  - i.  The individual agrees to the disclosure; or
  - ii.  The covered entity is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:
    - A.  The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;
    - B.  The law enforcement official represents that immediate law 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; and
    - C.  The disclosure is in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.
4.  Permitted disclosure: decedents. A covered entity may disclose protected health information about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the covered entity has a suspicion that such death may have resulted from criminal conduct.
5.  Permitted disclosure: crime on premises. A covered entity may disclose to a law enforcement official protected health information that the covered entity believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the covered entity.
6.  Permitted disclosure: reporting crime in emergencies.
  - i.  A covered health care provider providing emergency health care in response to a medical emergency, other than such emergency on the premises of the covered health care provider, may disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:
    - A.  The commission and nature of a crime;
    - B.  The location of such crime or of the victim(s) of such crime; and
    - C.  The identity, description, and location of the perpetrator of such crime.
  - ii.  If a covered health care provider believes that the medical emergency described in paragraph (f)(6)(i) of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, paragraph (f)(6)(i) of this section does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to paragraph (c) of this section.