

Request for PHI Disclosure Form

The U.S. Department of Health and Human Services (HHS) issued regulations implementing The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, or HIPAA). Known as the HIPAA Privacy Rule, the regulation establishes national standards to protect individuals' medical records and other personal health information and applies to health plans, healthcare clearinghouses and healthcare providers who conduct certain healthcare transactions electronically. The Rule requires appropriate safeguards to protect the privacy of personal health information and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The Rule also gives patient's rights over their health information, including rights to examine and obtain a copy of their health records, and to request corrections.

Section 164.502 of the HIPPA Privacy Rule establishes permitted uses and disclosures of PHI. The Privacy Rule authorizes healthcare practitioners to disclose PHI to law enforcement officials without a patient's written authorization under specific circumstances. Although DMVs should work with their legal counsel to develop a medical information request form that complies with the HIPPA Privacy Rule and any applicable state and local laws, following is a sample of an administrative request designed to comply with the relevant portions of the HIPPA Privacy Rule (reprinted below).

45 CFR 164.152 – Uses and disclosures for which 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) Pursuant to process as otherwise required by law. A covered entity may disclose protected health information:
 - (ii) In compliance with and as limited by the relevant requirements of:
 - (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.

45 CFR 164.502 – Uses and disclosures of protected health information: General rules.

- (b) Standard: Minimum necessary – Minimum necessary applies. When using or disclosing protected health information or when requesting protected health information from another covered entity or business associate, a covered entity or business associate must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

45 CFR 164.514 – Other requirements relating to uses and disclosures of protected health information.

(d)

- (1) Standard: minimum necessary requirements. In order to comply with § 164.502(b) and this section, a [covered entity](#) must meet the requirements of paragraphs (d)(2) through (d)(5) of this section with respect to a request for, or the [use](#) and [disclosure](#) of, protected health information.
- (2) Implementation specifications: Minimum necessary uses of protected health information.
 - (i) A [covered entity](#) must identify:
 - (A) Those [persons](#) or classes of [persons](#), as appropriate, in its [workforce](#) who need access to [protected health information](#) to carry out their duties; and
 - (B) For each such [person](#) or class of persons, the category or categories of [protected health information](#) to which access is needed and any conditions appropriate to such access.
 - (ii) A [covered entity](#) must make reasonable efforts to limit the access of such [persons](#) or classes identified in paragraph (d)(2)(i)(A) of this section to [protected health information](#) consistent with paragraph (d)(2)(i)(B) of this section.
- (3) Implementation specification: Minimum necessary disclosures of protected health information.
 - (i) For any type of [disclosure](#) that it makes on a routine and recurring basis, a [covered entity](#) must implement policies and procedures (which may be [standard](#) protocols) that limit the [protected health information](#) disclosed to the amount reasonably necessary to achieve the purpose of the [disclosure](#).
 - (ii) For all other disclosures, a [covered entity](#) must:
 - (A) Develop criteria designed to limit the [protected health information](#) disclosed to the information reasonably necessary to accomplish the purpose for which [disclosure](#) is sought; and
 - (B) Review requests for [disclosure](#) on an individual basis in accordance with such criteria.
 - (iii) A [covered entity](#) may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the [stated](#) purpose when:
 - (A) Making disclosures to public officials that are permitted under [§ 164.512](#), if the public official represents that the information requested is the minimum necessary for the [stated](#) purpose(s);
 - (B) The information is requested by another covered entity;
 - (C) The information is requested by a professional who is a member of its [workforce](#) or is a [business associate](#) of the [covered entity](#) for the purpose of providing professional services to the [covered entity](#), if the professional represents that the information requested is the minimum necessary for the [stated](#) purpose(s); or
 - (D) Documentation or representations that comply with the applicable requirements of § 164.512(i) have been provided by a [person](#) requesting the information for [research](#) purposes.

- (4) Implementation specifications: Minimum necessary requests for protected health information.
- (i) A [covered entity](#) must limit any request for [protected health information](#) to that which is reasonably necessary to accomplish the purpose for which the request is made, when requesting such information from other covered entities.
 - (ii) For a request that is made on a routine and recurring basis, a [covered entity](#) must implement policies and procedures (which may be [standard](#) protocols) that limit the [protected health information](#) requested to the amount reasonably necessary to accomplish the purpose for which the request is made.
 - (iii) For all other requests, a [covered entity](#) must:
 - (A) Develop criteria designed to limit the request for [protected health information](#) to the information reasonably necessary to accomplish the purpose for which the request is made; and
 - (B) Review requests for [disclosure](#) on an [individual](#) basis in accordance with such criteria.
- (5) Implementation specification: Other content requirement. For all uses, disclosures, or requests to which the requirements in paragraph (d) of this section apply, a [covered entity](#) may not use, disclose or request an entire medical record, except when the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the [use](#), [disclosure](#), or request.
- (h)
- (1) *Standard: Verification requirements.* Prior to any [disclosure](#) permitted by this subpart, a [covered entity](#) must:
- (i) Except with respect to [disclosures](#) under [§ 164.510](#), verify the identity of a [person](#) requesting [protected health information](#) and the authority of any such [person](#) to have access to [protected health information](#) under this subpart, if the identity or any such authority of such [person](#) is not known to the [covered entity](#); and
 - (ii) Obtain any documentation, statements, or representations, whether oral or written, from the [person](#) requesting the [protected health information](#) when such documentation, statement, or representation is a condition of the [disclosure](#) under this subpart.
- (2) *Implementation specifications: Verification -*
- (i) *Conditions on disclosures.* If a [disclosure](#) is conditioned by this subpart on particular documentation, statements, or representations from the [person](#) requesting the [protected health information](#), a [covered entity](#) may rely, if such reliance is reasonable under the circumstances, on documentation, statements, or representations that, on their face, meet the applicable requirements.
 - (A) The conditions in [§ 164.512\(f\)\(1\)\(ii\)\(C\)](#) may be satisfied by the administrative subpoena or similar process or by a separate written statement that, on its face, demonstrates that the applicable requirements have been met.

- (B) The documentation required by [§ 164.512\(i\)\(2\)](#) may be satisfied by one or more written statements, provided that each is appropriately dated and signed in accordance with [§ 164.512\(i\)\(2\)\(i\) and \(v\)](#).
- (ii) *Identity of public officials.* A [covered entity](#) may rely, if such reliance is reasonable under the circumstances, on any of the following to verify identity when the [disclosure](#) of [protected health information](#) is to a public official or a [person acting](#) on behalf of the public official:
- (A) If the request is made in [person](#), presentation of an agency identification badge, other official credentials, or other proof of government status;
- (B) If the request is in writing, the request is on the appropriate government letterhead; or
- (C) If the [disclosure](#) is to a [person acting](#) on behalf of a public official, a written statement on appropriate government letterhead that the [person](#) is [acting](#) under the government's authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the [person](#) is acting on behalf of the public official.
- (iii) *Authority of public officials.* A [covered entity](#) may rely, if such reliance is reasonable under the circumstances, on any of the following to verify authority when the [disclosure](#) of [protected health information](#) is to a public official or a [person acting](#) on behalf of the public official:
- (A) A written statement of the legal authority under which the information is requested, or, if a written statement would be impracticable, an oral statement of such legal authority;
- (B) If a request is made pursuant to legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.
- (iv) *Exercise of professional judgment.* The verification requirements of this paragraph are met if the [covered entity](#) relies on the exercise of professional judgment in making a [use](#) or [disclosure](#) in accordance with [§ 164.510](#) or [acts](#) on a good faith belief in making a [disclosure](#) in accordance with [§ 164.512\(j\)](#).

Request for PHI Disclosure Form

Requestor, Agency, and Contact Information	Date:	
LE agency:	Phone #:	
LE officer:	Unit:	ID#:

[45 CFR 164.514(h)]

I am the Law Enforcement Officer identified above, and I am conducting an investigation of:

Individual's full name:	
Date of birth:	
Other identifying information:	

I am requesting a summary listing of this individual's **current diagnoses and medications**, in addition to the following:

The above information is relevant and material to my investigation; I have limited its scope to the specific components delineated above as the minimum necessary [ref.: 45 CFR 164.502(b), 164.514(d)], and de-identified information will not suffice in this investigation. When deemed reasonable, the CE may rely upon my representations above, as a public officer, as to what is the minimum necessary for my lawful purpose [45 CFR 164.514(d)(3)(iii)(A)].

As PHI disclosures are required to be documented by CEs, the copy of this form is being provided for inclusion in the individual's records, according to your facility's policies.

(Requesting Law Enforcement Officer Signature)