Appendix E: HIPAA Privacy Rule Decision Flow Chart
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AT A GLANCE – May I disclose protected health information for public health emergency preparedness purposes?

(From the perspective of the source of the information)

Disclosure to a Public Health Authority

START
Am I a covered entity? §160.103

NO

The Privacy rule does not apply to non-HIPAA covered entities

disclosures can be made without regard to the Privacy Rule

YES

Is the intended recipient a public health authority (PHA)? §164.501

Is the PHA authorized by law to collect or receive information for the purpose of preventing or controlling:
- disease,
- injury, or
- disability
including, for purposes of emergency preparedness? §164.512(b)(1)(i)

YES

NO

Disclosure related to treatment & public health

Is the intended recipient an agency that seeks information for public health purposes?

NO

Is the intended recipient a health care provider that uses or discloses information for treatment purposes?

NO

Is the disclosure by a provider and is the recipient another person or agency that would use or disclose information for treatment or certain health care operations?

NO

The disclosure may NOT be made unless there is a signed authorization

YES

Disclosure of a Limited Data Set

Are you disclosing only a limited data set (LDS)? §164.514(e)

NO

Are you disclosing only a limited data set (LDS)? §164.514(e)

YES

Do you have a data use agreement with the recipient of the information? §164.514(e)

YES

You may make a disclosure subject to minimum necessary §164.502(b), §164.514(d)

NO

NO

Disclosure with individual authorization

Obtain individual authorization, unless the disclosure is otherwise permitted by another provision of the Privacy Rule §164.508

The disclosure CAN be made

A-89
HIPAA Privacy Rule Decision Flow Chart Description

At a Glance – May I disclose protective health information for public health emergency preparedness purposes?

(From the perspective of the source of the information)

This flowchart is split into 4 sections: Section 1: Disclosure to a Public Health Authority; Section 2: Disclosures related to treatment & public health; Section 3: Disclosure of a Limited Data Set; and Section 4: Disclosure with individual authorization.

Start in Section 1: Disclosure to a Public Health Authority – Am I a covered entity? §160.103. If no, The Privacy Rule does not apply to non-HIPAA covered entities. Disclosures can be made without regard to the Privacy Rule.

If yes, Is the intended recipient a public health authority (PHA)? §164.501. If yes, Is the PHA authorized by law to collect or receive information for the purpose of preventing or controlling:

- Disease
- Injury, or
- Disability

Including, for purposes of emergency preparedness? §164.512(b)(1)(l).

If yes, skip to Section 3: Disclosure of a Limited Data Set – You may make a disclosure subject to minimum necessary, §164.502(b), §164.514(d).

If no, move to Section 3: Disclosure of a Limited Data Set – Are you disclosing only a limited data set (LDS)? §164.514(e). If yes, Do you have a data use agreement with the recipient of the information? §164.514(e). If yes, You may make a disclosure subject to minimum necessary. §164.502(b), §164.514(d). If no, move to Section 4: Disclosure with individual authorization – Obtain individual authorization, unless the disclosure is otherwise permitted by another provision of the Privacy Rule §164.508.

Back to Section 1: Disclosure to a Public Health Authority – Is the intended recipient a public health authority (PHA)? §164.501 If no, move to Section 2: Disclosures related to treatment & public health – Is the intended recipient an agency that seeks information for public health purposes?

If no, Is the intended recipient a health care provider that uses or discloses information for treatment purposes? If no, Is the disclosure by a provider and is the recipient another person or agency that would use or disclose information for treatment or certain health care operations? If no, The disclosure may NOT be made unless there is a signed authorization.

Section 2: Disclosures related to treatment & public health – Is the intended recipient a health care provider that uses or discloses information for treatment purposes? If yes, move to Section 4: Disclosure with individual authorization – The disclosure can be made.

Section 2: Disclosures related to treatment & public health – Is the disclosure by a provider and is the recipient another person or agency that would use or disclose information for treatment or certain health care operations? If yes, move to Section 3: Disclosure of a Limited Data Set – You may make a disclosure subject to minimum necessary. §164.502(b), §164.514(d).
Section 2: Disclosures related to treatment & public health – Is the intended recipient an agency that seeks information for public health purposes? If yes, move to Section 3: Disclosure of a Limited Data Set – Are you disclosing only a limited data set (LDS)? §164.514(e). If no, move to Section 4: Disclosure with individual authorization – Obtain individual authorization, unless the disclosure is otherwise permitted by another provision of the Privacy Rule. §164.508.

Section 3: Disclosure of a Limited Data Set – Are you disclosing only a limited data set (LDS)? §164.514(e). If yes, Do you have a data use agreement with the recipient of the information? §164.514(e). If yes, You may make disclosure subject to minimum necessary. §164.502(b), §164.514(d). If no, move to Section 4: Disclosure with individual authorization – Obtain individual authorization, unless the disclosure is otherwise permitted by another provision of the Privacy Rule. §164.508.