



Oklahoma State University

Title: Disclosures for Judicial and Administrative Proceedings	Policy #: PRV-06.05
Category: HIPAA Compliance	Authority: 45 CFR § HIPAA SECTION: 164.512(e)
Standard: Disclosures for Judicial and Administrative Proceedings	Responsibility: Health Care Components
Effective Date: 4/14/2003	Page 1 of 3
Approved By: OSU Legal Counsel	Revised: 7/01/2013

PURPOSE:

To identify when OSU can disclose information in relation to Judicial and Administrative Proceedings

POLICY:

Permitted Disclosures – OSU may disclose protected health information in the course of any judicial or administrative proceeding: *§164.512(e)(1)*

1. In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order; or *§164.512(e)(1)(i)*
2. In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if: *§164.512(e)(1)(ii)*
 - a. OSU receives satisfactory assurance, as described in paragraph 3 of this policy, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or *§164.512(e)(1)(ii)(A)*
 - b. OSU receives satisfactory assurance, as described in paragraph 4 of this policy, from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of paragraph 5 of this policy. *§164.512(e)(1)(ii)(B)*
3. For the purposes of paragraph 2a of this policy, OSU receives satisfactory assurances from a party seeking protected health information if OSU receives from such party a written statement and accompanying documentation demonstrating that: *§164.512(e)(1)(iii)*
 - a. The party requesting such information has made a good faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address); *§164.512(e)(1)(iii)(A)*
 - b. The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and *§164.512(e)(1)(iii)(B)*
 - c. The time for the individual to raise objections to the court or administrative tribunal has elapsed, and: *§164.512(e)(1)(iii)(C)*



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- i. No objections were filed; or *§164.512(e)(1)(iii)(C)(1)*
 - ii. All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution. *§164.512(e)(1)(iii)(C)(2)*
4. Notwithstanding paragraph 2 of this policy, OSU may disclose protected health information in response to lawful process described in paragraph 2 of this policy without receiving satisfactory assurance under paragraph 2 a or b of this policy, if OSU makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of paragraph 3 of this policy or to seek a qualified protective order sufficient to meet the requirements of paragraph 5 of this policy. *§164.512(e)(1)(iv)*
 - a. The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or *§164.512(e)(1)(iv)(A)*
 - b. The party seeking the protected health information has requested a qualified protective order from such court or administrative tribunal. *§164.512(e)(1)(iv)(B)*
5. For purposes of the Permitted Disclosures paragraph of this policy, a qualified protective order means, with respect to protected health information requested under paragraph 2 of this policy, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that: *§164.512(e)(1)(v)*
 - a. Prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested; and *§164.512(e)(1)(v)(A)*
 - b. Requires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding. *§164.512(e)(1)(v)(B)*
6. Notwithstanding paragraph 2 of this policy, OSU may disclose protected health information in response to lawful process described in paragraph 2 of this policy without receiving satisfactory assurance under paragraph 2 a or b of this policy, if OSU makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of paragraph 3 of this policy or to seek a qualified protective order sufficient to meet the requirements of paragraph 4 of this policy. *§164.512(e)(1)(vi)*

Other Uses and Disclosures under this section - The provisions of this paragraph do not supersede other provisions of this policy that otherwise permit or restrict uses or disclosures of protected health information. *§164.512(e)(2)*



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PROCEDURE:

OSU shall disclose only the protected health information as requested in a court order, subpoena or other legal document we receive.

Any request for disclosure that is not accompanied by an order of the court or an administrative tribunal, OSU shall seek to obtain satisfactory assurances that all reasonable efforts have been made that the individual's whose records are being requested have been properly notified or good faith attempt has been made to notify in writing the individual of such disclosure.

If OSU is unable to determine if a good faith effort or reasonable assurances have been made to obtain a written record of the individual, OSU shall seek to obtain written documentation from the individual.

If any OSU agent is unable to determine or obtain the aforementioned assurances have been made, the OSU agent shall contact the HIPAA Compliance Office for help. If the HIPAA Compliance Office is unable to determine, the Compliance Office may seek advice from legal counsel.