



## *What you need to know about HIPAA and LINKS*

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rule governs the use and disclosure of protected health information. It applies to health plans, health care clearinghouses, and health care providers who transmit claims information electronically. These entities are considered covered entities (CE) under the rule. The rule also applies indirectly to business associates who perform certain functions and activities on behalf of the CE such as legal or accounting services. Business associates are bound by the rule through written contract or memorandum of understanding.

A CE must obtain consent for uses and disclosures for reasons other than treatment, payment or health care operations. The rule also specifies the uses and disclosures for which an authorization for an opportunity for an individual to agree or object is required.

### *Disclosures to Public Health*

According to the preamble of the HIPAA rules, “Nothing in this part shall be construed to invalidate or limit the authority, power or procedures established under any law providing for the reporting of disease or injury, child abuse, birth or death, public health surveillance, or public health investigation or intervention.” Section 164.512 of Title 45 of the Code of Federal Regulation addresses the uses and disclosures for which consent, an authorization, or an opportunity to agree or object is **not** required. A CE may disclose protected health information (PHI) to public health authorities without consent or authorization in two cases:

1. If reporting is mandated by law [45 CFR 164.512(a)(1)]; and
2. For public health activities for which the public health authority is authorized by law to collect, for the prevention and control of disease, to conduct public health surveillance, public health investigations, and public health interventions [45 CFR 164.512(b)(1)(i)].

### *Do Private Physicians and Health Plans need to Obtain Consent Prior to Reporting Information to LINKS?*

No. The Louisiana Department of Health is considered a public health authority as defined in 45 CFR 164.501 of the HIPAA privacy rule, and is authorized under Louisiana Revised Statutes 40:31.11-16 to collect this information and re-disclose information to authorized users without consent. Furthermore, an immunization record is not considered protected health information under Louisiana law. LINKS is used for the purposes of disease prevention and control, surveillance and public health interventions. **Based on these factors, Covered Entities (health plans, health care clearinghouses, and health care providers) DO NOT need to obtain consent or authorization - before reporting information to LINKS.**

If you have additional concerns about HIPAA and disclosure to LINKS, consult your legal counsel or other confidentiality expert.

