

# Victims of Abuse, Neglect, or Domestic Violence

## Introduction

This paper provides guidance for uses and disclosures of personally identifiable information (PII) and protected health information (PHI) regarding victims of abuse, neglect, or domestic violence. Generally, such uses and disclosures are permitted by a covered entity (CE) or business associate (BA) without authorization from the individual, provided certain criteria are met. Because State law governs minors' health information privacy rights, this paper distinguishes between the use and disclosure of PII/PHI pertaining to adults and children.

## Definitions

Business Associate (BA): A person or entity that performs certain functions or activities that involve the use or disclosure of protected health information on behalf of, or provides services to, a covered entity.

Covered Entity (CE): A health plan or a health care provider who transmits any health information in electronic form in connection with a standard transaction.

Disclosure: The release, transfer, provision of access to, or divulging in any other manner of PHI outside the entity holding the information.

Domestic Violence: An offense involving the use, attempted use, or threatened use of force or violence against a person of the opposite sex who is a current or former spouse, a person with whom the abuser shares a child in common, or a current or former intimate partner with whom the abuser shares or has shared a common domicile.

Protected Health Information (PHI): Individually identifiable health information that is transmitted or maintained by electronic or any other form or medium. PHI excludes individually identifiable health information in employment records held by a CE in its role as employer.

Use: With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

## Discussion

### Adults

The victim's PII/PHI may be disclosed to an authorized government authority, such as law enforcement or social services, if:

- The individual agrees to the disclosure;
- The disclosure is required by law; or
- The disclosure is necessary to prevent serious harm to the individual or others.

If the individual is incapacitated or otherwise unable to agree, the disclosure may be made if:

- It is not intended to be used against the individual; and
- It is required for enforcement activity that would be negatively affected by waiting for agreement.

After the victim's PHI is disclosed, the CE/BA should immediately inform the individual or personal representative unless:

- Informing the individual would place him/her at risk of serious harm; or
- The personal representative is believed to be responsible for the abuse, neglect, or other injury, and informing him/her would not be in the individual's best interests.

### Children

A CE/BA may disclose PHI related to child abuse or neglect to an authorized government authority, such as law enforcement or social services, without consent from the individual or the individual's parent or legal guardian. Where State law permits CEs/BAs to report suspected child abuse cases, the HIPAA Privacy Rule is not preemptive. Therefore, CEs/BAs may report this information and not violate the State law or the HIPAA Privacy Rule.

## Resources/References

45 CFR 164.512(c), Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule  
DoD 6025.18-R, "DoD Health Information Privacy Regulation," January 24, 2003, C7.3  
DoDI 6400.06, Domestic Abuse Involving DoD Military and Certain Affiliated Personnel, August 21, 2007, Incorporating Change 1, September 20, 2011