

Title: Use & Disclosure of Reproductive Health Care	Reference #: HA004
Section:	Date Effective/Revised: 12/20/24
Department (s): Healthcare Components	Approved By: Board of Supervisors

USE AND DISCLOSURE OF REPRODUCTIVE HEALTH CARE POLICY

I. POLICY

Covered Entity is committed to protecting the privacy of PHI related to reproductive health care in compliance with all applicable laws and regulations. This Policy is to ensure compliance with the HIPAA Privacy Rule to Support Reproductive Health Care Privacy, 89 Fed. Reg. 12472, Feb.16.2024.

II. PURPOSE

To ensure that Covered Entity does not inappropriately release records related to patient's reproductive health care.

III. REFERENCES/CROSS-REFERENCES

- 89 Fed. Reg. 12472, Feb. 16, 2024
- 45 C.F.R. § 160.103
- 45 C.F.R. § 164.502(a)(5)(iii)
- 45 C.F.R. § 164.509
- 45 C.F.R. § 164.512
- 45 C.F.R. §164.520

IV. PROCEDURE

A. Definition:

- 1) Reproductive Health Care: Health care that affects the health of an individual in all matters relating to the reproductive system and to its functions and processes.
- 2) "Seeking, obtaining, providing, or facilitating reproductive health care" includes, but is not limited to, any of the following: expressing interest in, using, performing, furnishing, paying for, disseminating information about, arranging, insuring, administering, authorizing, providing coverage for, approving, counseling about, assisting, or otherwise taking action to engage in reproductive health care; or attempting any of the same.

B. General Rule

- 1) "Regulated Entities" including HIPAA Covered Entities and Business Associates are **prohibited** from using or disclosing PHI for the purposes of the following "**Prohibited Reasons**":
 - a) conducting a criminal, civil, or administrative investigation into or imposing criminal, civil, or administrative liability on any person for the mere act of seeking, obtaining, providing, or facilitating reproductive health

Title: Use & Disclosure of Reproductive Health Care	Reference #: HA004
Section:	Date Effective/Revised: 12/20/24
Department (s): Healthcare Components	Approved By: Board of Supervisors

care, **where such health care is lawful under the circumstances in which it is provided; OR**

- b) identifying any person for the purpose of conducting a criminal, civil, or administrative investigation into or imposing criminal, civil, or administrative liability on any person for the mere act of seeking, obtaining, providing, or facilitating reproductive health care, **where such health care is lawful under the circumstances in which it is provided.**
- 2) Presumption: Regulated Entities may **presume** that reproductive health care provided by a person other than the Regulated Entity was lawful, **unless**:
- a) The Regulated Entity has actual knowledge that the reproductive health care was not lawful under the circumstances in which it was provided, **OR**
 - b) The Regulated Entity receives factual information from the person making the request for the use or disclosure of PHI that demonstrates a substantial factual basis that the reproductive health care was not lawful under the circumstances in which it was provided.
 - i. For example, the Regulated Entity may not presume that reproductive health care provided by a person other than the Regulated Entity was lawful if:
 - 1) An individual discloses to their doctor that they obtained reproductive health care from an unlicensed person and the doctor knows that the specific reproductive health care must be provided by a licensed health care provider.
 - 2) A law enforcement official provides a health plan with evidence that the information being requested is reproductive health care that was provided by an unlicensed person where the law requires that such health care be provided by a licensed health care provider.

C. General Requirements/Interventions

- 1) Trigger for Procedure: The procedure set forth in Paragraph B of this Section IV is applicable when Covered Entity receives a records request that is potentially related to Reproductive Health Care information for any of the following reasons:
 - a) Disclosure for health oversight activities as described in 45 CFR 164.512(d).
 - b) Disclosure for judicial and administrative proceedings as described in 45 CFR 164.512(e).
 - c) Disclosure for law enforcement purposes, where disclosure is not mandated by law as described in described in 45 CFR 164.512(f); **OR**
 - d) Disclosures to coroners and medical examiners about decedents as described in 45 CFR 164.512(g)(1).

Title: Use & Disclosure of Reproductive Health Care	Reference #: HA004
Section:	Date Effective/Revised: 12/20/24
Department (s): Healthcare Components	Approved By: Board of Supervisors

- 2) Contact Privacy Officer: Any employee who receives a record request for any of the above-stated purposes, where the records request is potentially related to Reproductive Health Care, must not disclose the requested information, but instead, must immediately forward the request to the Privacy Officer .The Privacy Officer can be contacted by emailing arabe@iacoambulance.org.

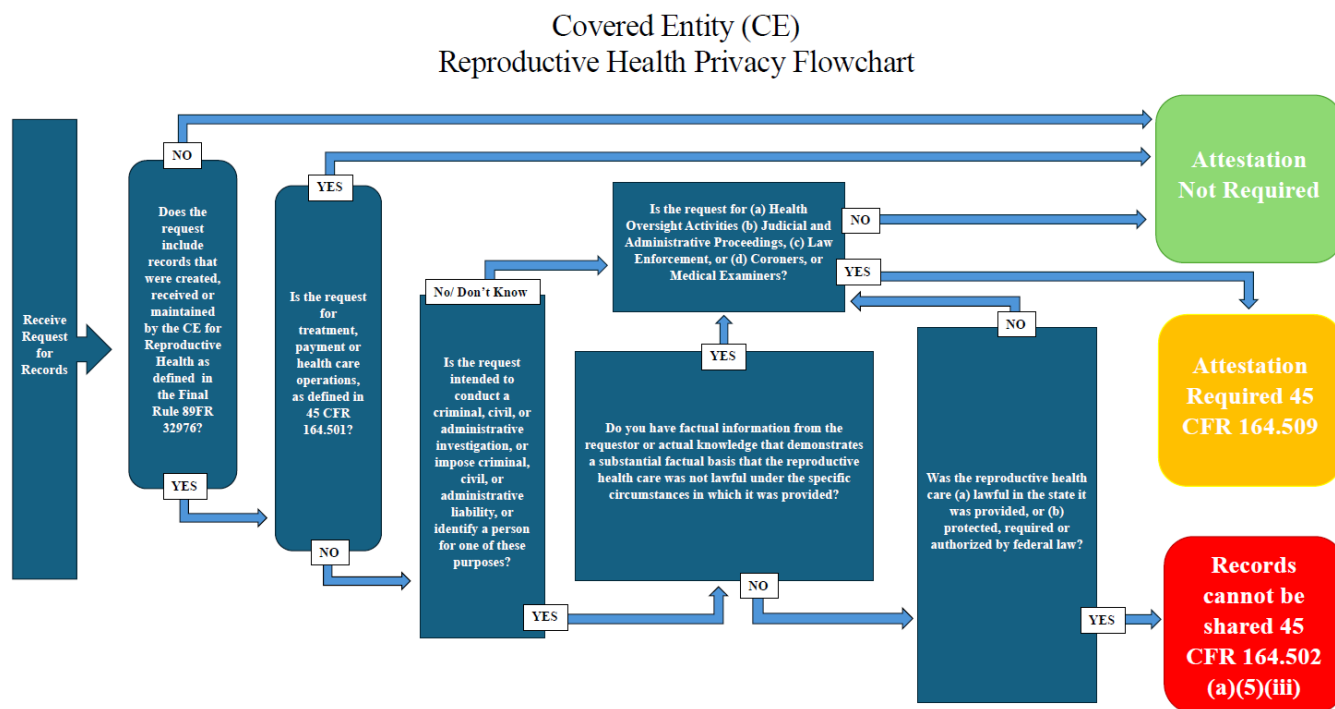
- 3) Denial of Request or Required Attestation Form: The Privacy Officer will consider whether the request is for any of the Prohibited Reasons described in Section III(A) of this Policy.
 - a) If clearly yes, the Covered Entity must refuse the record request.
 - b) If clearly no, the Covered Entity may address the request in accordance with HIPAA and the Covered Entity’s policies and procedures.
 - c) If unclear, the Covered Entity must obtain a signed attestation from the requesting party, in substantially the same form as the Template Attestation Form attached to this policy (the “Attestation”).
 - i. A signed Attestation is required even if the request does not *directly* relate to Reproductive Health Care, because “reproductive health care” is broadly defined by the HIPAA rules.
 - ii. Covered Entity will obtain a signed Attestation for each specific record request subject to the procedure described in Section IV of this policy.
 - iii. Covered Entity will maintain a copy of all written Attestations, and any other documentation related to any record request subject to the procedure described in Section IV of this policy. Such documentation will be saved in the record of the subject matter of the requested information, along with a copy of the request for records.

- 4) Update to Notice of Privacy Practices - By February 16, 2026, the Privacy Officer will update the Notice of Privacy Practices to include the following information, and any additional information required by regulation of the Office for Civil Rights:
 - a) A description, including at least one example, of the types of uses and disclosures prohibited under this policy in sufficient detail for an individual to understand the prohibition.
 - b) A description, including at least one example, of the types of uses and disclosures for which an attestation is required under this policy.
 - c) A statement adequate to put the individual on notice of the potential for information disclosed pursuant HIPAA to be subject to redisclosure by the recipient and no longer protected by HIPAA.

**SEE ATTACHED REPRODUCTIVE HEALTH PRIVACY FLOWCHART AND
ATTESTATION FORM**

Title: Use & Disclosure of Reproductive Health Care	Reference #: HA004
Section:	Date Effective/Revised: 12/20/24
Department (s): Healthcare Components	Approved By: Board of Supervisors

COVERED ENTITY REPRODUCTIVE HEALTH PRIVACY FLOWCHART



Helpful definitions:

- 1) Reproductive Health Care means healthcare that affects the health of the individual in all matters relating to the reproductive system and to its functions and processes
- 2) Treatment means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.
- 3) Payment means:
 - a) The activities undertaken by:
 - i) Except as prohibited under § 164.502(a)(5)(i), a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or

Title: Use & Disclosure of Reproductive Health Care	Reference #: HA004
Section:	Date Effective/Revised: 12/20/24
Department (s): Healthcare Components	Approved By: Board of Supervisors

- ii) A health care provider or health plan to obtain or provide reimbursement for the provision of health care; and
- b) The activities in paragraph (1) of this definition relate to the individual to whom health care is provided and include, but are not limited to:
 - i) Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amount s), and adjudication or subrogation of health benefit claims;
 - ii) Risk adjusting amounts due based on enrollee health status and demographic characteristics;
 - iii) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop- loss insurance and excess of loss insurance), and related health care data processing;
 - iv) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;
 - v) Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and
 - vi) Disclosure to consumer reporting agencies of any of the following protected health information relating to collection of premiums or reimbursement:
 - (1) Name and address;
 - (2) Date of birth;
 - (3) Social security number;
 - (4) Payment history;
 - (5) Account number; and
 - (6) Name and address of the health care provider and/or health plan.
- 4) Health Care Operations means any of the following activities of the covered entity to the extent that the activities are related to covered functions:
 - a) Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; patient safety activities (as defined in 42 CFR 3.20); population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;

Title: Use & Disclosure of Reproductive Health Care	Reference #: HA004
Section:	Date Effective/Revised: 12/20/24
Department (s): Healthcare Components	Approved By: Board of Supervisors

- b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;
 - c) Except as prohibited under § 164.502(a)(5)(i), underwriting, enrollment, premium rating, and other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance), provided that the requirements of § 164.514(g) are met, if applicable;
 - d) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
 - e) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and
 - f) Business management and general administrative activities of the entity, including, but not limited to:
 - i) Management activities relating to implementation of and compliance with the requirements of this subchapter;
 - ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that protected health information is not disclosed to such policy holder, plan sponsor, or customer.
 - iii) Resolution of internal grievances;
 - iv) The sale, transfer, merger, or consolidation of all or part of the covered entity with another covered entity, or an entity that following such activity will become a covered entity and due diligence related to such activity; and
 - v) Consistent with the applicable requirements of § 164.514, creating de-identified health information or a limited data set, and fundraising for the benefit of the covered entity.
- 5) Health Oversight Activities - see 45 CFR § 164.512(d) and 'Health Oversight Agency' defined in 45 CFR § 164.501
- 6) Judicial and Administrative Proceedings - see 45 CFR § 164.512(e)
- 7) Law Enforcement - see 45 CFR § 164.512(f) and 'Law Enforcement Official' defined in 45 CFR § 164.103
- 8) Coroners and Medical Examiners - see 45 CFR § 164.512(g)(1)

Title: Use & Disclosure of Reproductive Health Care	Reference #: HA004
Section:	Date Effective/Revised: 12/20/24
Department (s): Healthcare Components	Approved By: Board of Supervisors



MODEL ATTESTATION FOR A REQUESTED USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION POTENTIALLY RELATED TO REPRODUCTIVE HEALTH CARE

When a HIPAA covered entity¹ or business associate² receives a request for protected health information (PHI)³ potentially related to reproductive health care,⁴ it must obtain a signed attestation that clearly states the requested use or disclosure is not for the prohibited purposes described below, where the request is for PHI for any of the following purposes:

- Health oversight activities⁵
- Judicial or administrative⁶ proceedings
- Law enforcement⁷
- Regarding decedents, disclosures to coroners and medical examiners⁸

Prohibited Purposes. Covered entities and their business associates may not use or disclose PHI for the following purposes:

- (1) To conduct a criminal, civil, or administrative investigation into any person for the mere act of seeking, obtaining, providing, or facilitating lawful reproductive health care.
- (2) To impose criminal, civil, or administrative liability on any person for the mere act of seeking, obtaining, providing, or facilitating lawful reproductive health care.
- (3) To identify any person for any purpose described in (1) or (2).⁹

The prohibition applies when the reproductive health care at issue (1) is lawful under the law of the state in which such health care is provided under the circumstances in which it is provided, (2) is protected, required, or authorized by Federal law, including the United States Constitution, under the circumstances in which such health care is provided, regardless of the state in which it is provided, or (3) is provided by another person and presumed lawful.¹⁰

Model Instructions

Information for the Person Requesting the PHI

- By signing this attestation, you are verifying that you are not requesting PHI for a prohibited purpose and acknowledging that criminal penalties may apply if untrue.¹¹
- You may not add content that is not required or combine this form with another document except where another document is needed to support your statement that the requested disclosure is not for a prohibited purpose.¹² For example, if the requested PHI is potentially related to reproductive health care that was provided by someone other than the covered entity or business associate from whom you are requesting the PHI, you may submit a document that supplies information that demonstrates a substantial factual basis that the reproductive health care in question was not lawful under the specific circumstances in which it was provided.¹³

Title: Use & Disclosure of Reproductive Health Care	Reference #: HA004
Section:	Date Effective/Revised: 12/20/24
Department (s): Healthcare Components	Approved By: Board of Supervisors

Information for the Covered Entity or Business Associate

- You may not rely on the attestation to disclose the requested PHI if any of the following is true:
 - It is missing any required element or statement or contains other content that is not required.¹⁴
 - It is combined with other documents, except for documents provided to support the attestation.¹⁵
 - You know that material information in the attestation is false.¹⁶
 - A reasonable covered entity or business associate in the same position would not believe the requestor's statement that the use or disclosure is not for a prohibited purpose as described above.¹⁷
- If you later discover information that reasonably shows that any representation made in the attestation is materially false, leading to a use or disclosure for a prohibited purpose as described above, you must stop making the requested use or disclosure.¹⁸
- You may not make a disclosure if the reproductive health care was provided by a person other than yourself and the requestor indicates that the PHI requested is for a prohibited purpose as described above, unless the requestor supplies information that demonstrates a substantial factual basis that the reproductive health care was not lawful under the specific circumstances in which it was provided.¹⁹
- You must obtain a new attestation for each specific use or disclosure request.²⁰
- You must maintain a written copy of the completed attestation and any relevant supporting documents.²¹

¹ See 45 CFR 160.103 (definition of "Covered entity").

² See 45 CFR 160.103 (definition of "Business associate").

³ See 45 CFR 160.103 (definition of "Protected health information").

⁴ See 45 CFR 160.103 (definition of "Reproductive health care").

⁵ See 45 CFR 164.512(d).

⁶ See 45 CFR 164.512(e).

⁷ See 45 CFR 164.512(f).

⁸ See 45 CFR 164.512(g)(1).

⁹ See 45 CFR 164.502(a)(5)(iii)(A).

¹⁰ See 45 CFR 164.502(a)(5)(iii)(B), (C). For more information on the presumption and when it applies, see 45 CFR 164.502(a)(5)(iii)(C).

¹¹ See 42 U.S.C. 1320d-6.

¹² See 45 CFR 164.509(b)(3) and (c)(iv).

¹³ See 45 CFR 164.502(a)(5)(iii)(B)(3), (C)(2).

¹⁴ See 45 CFR 164.509(b)(2)(ii).

¹⁵ See 45 CFR 164.509(b)(3).

¹⁶ See 45 CFR 164.509(b)(2)(iv).

¹⁷ See 45 CFR 164.509(b)(2)(v).

¹⁸ See 45 CFR 164.509(d).

¹⁹ See 45 CFR 164.502(a)(5)(iii)(B)(3), (C)(2).

²⁰ See 89 FR 32976, 33031.

²¹ See 45 CFR 164.530(j).

This attestation document may be provided in electronic format, and electronically signed by the person requesting protected health information when the electronic signature is valid under applicable Federal and state law

Iowa County, Iowa
Policy Manual

Title: Use & Disclosure of Reproductive Health Care	Reference #: HA004
Section:	Date Effective/Revised: 12/20/24
Department (s): Healthcare Components	Approved By: Board of Supervisors

Model Attestation Regarding a Requested Use or Disclosure of Protected Health Information Potentially Related to Reproductive Health Care

The entire form must be completed for the attestation to be valid.

Name of person(s) or specific identification of the class of persons to receive the requested PHI. <i>e.g., name of investigator and/or agency making the request</i>
Name or other specific identification of the person or class of persons from whom you are requesting the use or disclosure. <i>e.g., name of covered entity or business associate that maintains the PHI and/or name of their workforce member who handles requests for PHI</i>
Description of specific PHI requested, including name(s) of individual(s), if practicable, or a description of the class of individuals, whose protected health information you are requesting. <i>e.g., visit summary for [name of individual] on [date]; list of individuals who obtained [name of prescription medication] between [date range]</i>

I attest that the use or disclosure of PHI that I am requesting is not for a purpose prohibited by the HIPAA Privacy Rule at 45 CFR 164.502(a)(5)(iii) because of one of the following (check one box):

- The purpose of the use or disclosure of protected health information is **not** to investigate or impose liability on any person for the mere act of seeking, obtaining, providing, or facilitating reproductive health care or to identify any person for such purposes.
- The purpose of the use or disclosure of protected health information **is** to investigate or impose liability on any person for the mere act of seeking, obtaining, providing, or facilitating reproductive health care, or to identify any person for such purposes, but the reproductive health care at issue was **not lawful** under the circumstances in which it was provided.

I understand that I may be subject to criminal penalties pursuant to 42 U.S.C. 1320d-6 if I knowingly and in violation of HIPAA obtain individually identifiable health information relating to an individual or disclose individually identifiable health information to another person.

Signature of the person requesting the PHI

_____ Date _____

If you have signed as a representative of the person requesting PHI, provide a description of your authority to act for that person.

This attestation document may be provided in electronic format, and electronically signed by the person requesting protected health information when the electronic signature is valid under applicable Federal and state law.