



Interstate Disclosure and Patient Consent Requirements

Indiana

Maine

Massachusetts

Minnesota

New
Hampshire

New York

Oklahoma

Rhode Island

Utah

Vermont

Wisconsin

Challenge Addressed

While the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule provides a federal floor for the privacy requirements that certain health care entities must meet with respect to use and disclosure of protected health information (PHI), it did not preempt or preclude state laws that were more privacy protective or provided greater privacy rights. As a result, many states have set a higher bar for certain responsibilities or protections compared to those required by HIPAA, and in some cases have passed new laws that provide greater privacy protections or rights. The natural variation that has occurred pursuant to this state and local preference, however, has made it difficult for organizations to determine—in the context of interstate electronic health information exchange—when appropriate disclosure requirements have been met at both the requesting and the providing organization. The Interstate Disclosure and Patient Consent Requirements Collaborative was formed to document the state law requirements for disclosure of health information for treatment purposes within and across state lines.

Approach Developed

Eleven states rigorously collected information on the frequency and type of disclosure and consent requirements using three scenarios: emergency treatment, non-emergency treatment, and public health. These results were analyzed for frequency of consent requirements and trends across states. Based on this analysis, the collaborative will develop a reference guide that displays and compares the requirements state by state. The collaborative will also offer recommendations regarding steps that could be taken to facilitate interstate health information exchange. These products provide the basis for creating a tool to reconcile varying PHI disclosure requirements for treatment purposes by identifying what elements are necessary to make a disclosure decision in a given treatment situation.

Target Audience

- Entities implementing requirements for disclosure of health information
- State and federal policy makers
- Organizations exchanging health information across state lines

Expected Final Deliverables

- Final Report: Analysis of state law disclosure and consent requirements across the participating states
- State law reference guide for organizations and policy makers
- Blank templates for other states to complete for analysis of state law disclosure and consent requirements
- Recommendations for next steps to facilitate interoperable health information exchange