



Louisiana Health Care Review, Inc.

THE MEDICARE QUALITY IMPROVEMENT ORGANIZATION

Does HIPAA Apply During a Declared Emergency / Disaster?





What is a Covered Entity

- Determine if first a person, business, or government agency is a covered entity.





Covered Entity

- The Administrative Simplification standards adopted by Health and Human Services (HHS) under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) apply to any entity that is a Health care provider that conducts certain transactions in electronic form
- Covered Health Care Provider





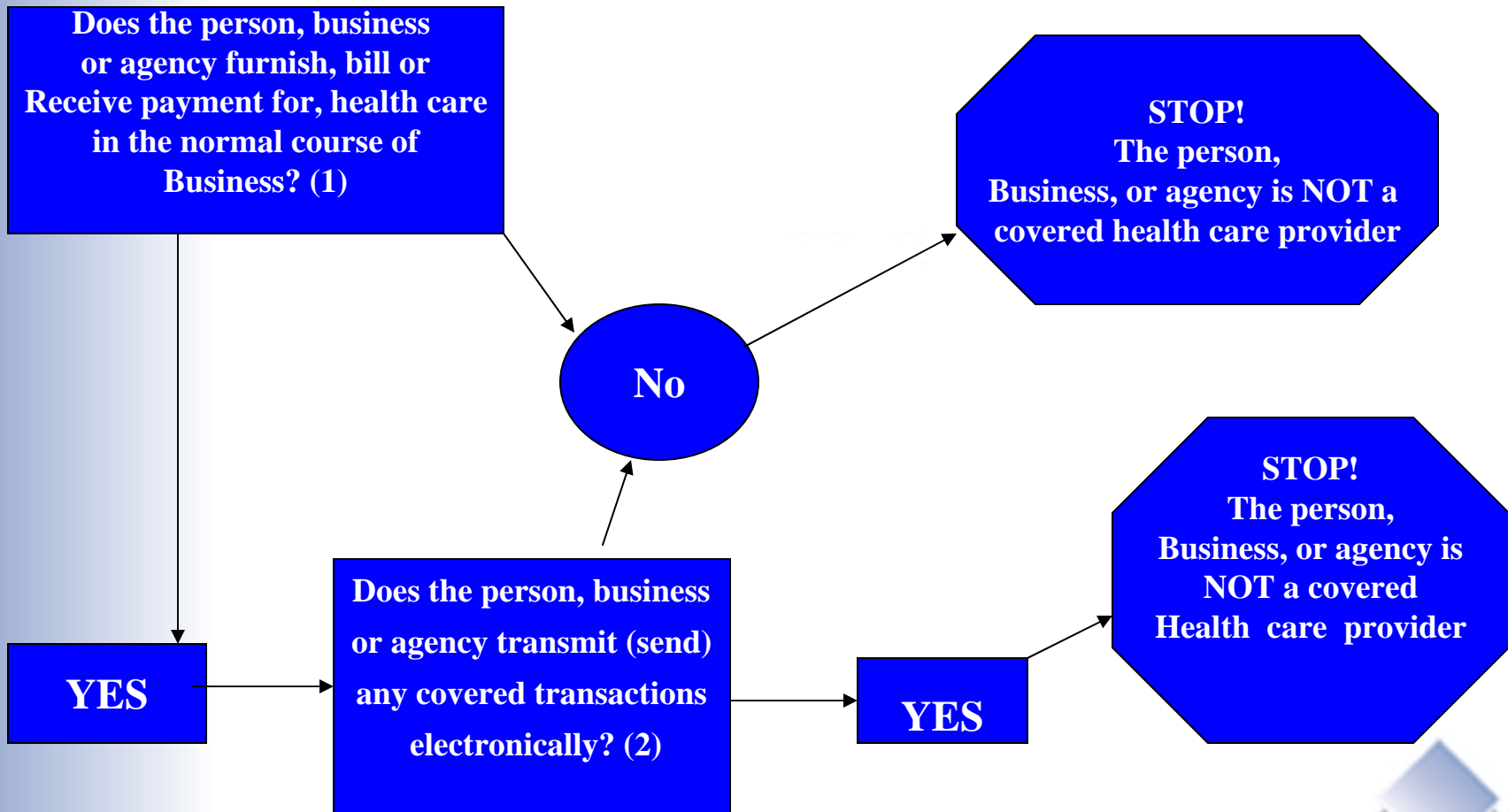
Covered Entity continued;

- Health Care Clearinghouse.
- Health Plan.
- An entity that is one or more of these types of entities is referred to as a "covered entity" in the Administrative Simplification regulations.





Is a person, business, or agency a covered health care provider?





Sharing Information in a Disaster?

- Providers and health plans covered by the HIPAA Privacy Rule can share patient information in all of the following ways:
 - Treatment
 - Coordinating Patient Care





Treatment

- Health care providers can share patient information as necessary to provide treatment.





Treatment is Defined

- as 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.





Treatment Includes

- Sharing information with other providers (including hospitals and clinics),
- Referring patients for treatment (including linking patients with available providers in areas where the patients have relocated), and





Coordinating Patient Care

- Coordinating patient care with others (such as emergency relief workers or others that can help in finding patients appropriate health services)
- Providers can also share patient information to the extent necessary to seek payment for these health care services.





Minimum Necessary

- Disclosures are subject to minimum necessary standard Under HIPAA
- Minimum necessary means:
 - Whatever it takes, but just enough to do the job (treatment)
 - Can be the entire medical record if needed for treatment, payment or health care operations





Notification

- Health care providers can share patient information as necessary to identify, locate, and notify family members, guardians, or anyone else responsible for the individual's care of the individual's location, general condition, or death.





Verbal Communication

- The health care provider should get verbal permission from individuals, when possible
- If the individual is incapacitated or not available, providers may share information for these purposes if in their professional judgment, doing so is in the patient's best interest.





Local Officials

- Thus, when necessary, the hospital may notify the police, the press, or the public at large to the extent necessary to help locate, identify, or otherwise notify family members and others as to the location and general condition of their loved ones.





Relief Organizations

In addition, when a health care provider is sharing information with disaster relief organizations that, authorized by law or by their charters to assist in disaster relief efforts





American Red Cross

- The American Red Cross is authorized by law or by their charters to assist in disaster relief efforts, it is unnecessary to obtain a patient's permission to share the information if doing so would interfere with the organization's ability to respond to the emergency.





Bottom Line

It is unnecessary to obtain a patient's permission to share the information if doing so would interfere with the organization's ability to respond to the emergency.





Imminent Danger

- Providers can share patient information with anyone as necessary to prevent or lessen a serious and imminent threat to the health and safety of a person or the public -- consistent with applicable law and the provider's standards of ethical conduct.





Facility Directory

- Health care facilities maintaining a directory of patients can tell people who call or ask about individuals whether the individual is at the facility, their location in the facility, and general condition.





Federal Law vs. State Law

- The HIPAA Privacy Rule provides a Federal floor of privacy protections for individually identifiable health information where that information is held by a covered entity or by a business associate of the covered entity.





State Law

- State laws that are contrary to the Privacy Rule are preempted by the Federal requirements, unless a specific exception applies.





Exceptions to State Law

- These exceptions include if the State law
 - (1) relates to the privacy of individually identifiable health information and provides greater privacy protections or privacy rights with respect to such information,





Exceptions to State Law continued;

- (2) provides for the reporting of disease or injury, child abuse, birth, or death, or for public health surveillance, investigation, or intervention.





Exceptions to State Law continued;

- (3) requires certain health plan reporting, such as for management or financial audits. In these circumstances, a covered entity is not required to comply with a contrary provision of the Privacy Rule.





HIPAA Web Sites

- <http://www.hhs.gov/hipaafaq/index.html>
- <http://www.hhs.gov/ocr/hipaa/>
- <http://www.cms.hhs.gov/HIPAAGenInfo/>
- <http://www.hhs.gov/ocr/hipaa/decisiontool/>





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