

**UNIVERSITY OF MAINE SYSTEM
HIPAA POLICY #20
DISCLOSURES FOR JUDICIAL AND ADMINISTRATIVE PROCEEDINGS**

I. In General

Except as otherwise provided in UMS HIPAA Policies regarding Psychotherapy Notes, HIV and Substance Abuse Information, a Covered Component may disclose PHI in the course of any judicial or administrative proceeding:

- A. In response to a court order; or
- B. To a governmental entity in response to a subpoena, for health care information which the governmental entity is entitled according to statute or rules of court, and if:
 - i. The Covered Component receives satisfactory assurance as described below from the party seeking the PHI that reasonable efforts have been made to notify the individual of the request; or
 - ii. The Covered Component receives satisfactory assurance as described below from the party seeking the PHI that reasonable efforts have been made to secure a qualified protective order as defined below.

II. Satisfactory Assurances of Notice

A Covered Component receives satisfactory assurances from a party seeking PHI if the Covered Component receives from such party a written statement and documentation that:

- A. The party has made a good faith attempt to provide written notice to the individual;
- B. The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual to raise an objection in the court or tribunal; and
- C. The time for filing objections has lapsed and no objections were filed or all objections that were raised have been resolved by the court and disclosure is consistent with such resolution.

III. Satisfactory Assurances - Protective Order

A Covered Component receives satisfactory assurances from a party seeking PHI if the Covered Component receives from such party a written statement and documentation that:

- A. The parties to the dispute have agreed to a qualified protective order and have presented it to the court or tribunal; or
- B. The party seeking the PHI has requested a qualified protective order from such court or tribunal.

IV. Qualified Protective Order

A qualified protective order means an order of a court or administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

- A. Prohibits the parties from using or disclosing the PHI for any purpose other than the litigation or proceeding for which it was requested; and
- B. Requires the return to the Covered Component or the destruction of the PHI at the end of the litigation or proceeding.

V. Exception

Notwithstanding the above, a Covered Component may disclose PHI to a governmental entity in response to a subpoena, for health care information which the governmental entity is entitled according to statute or rules of court, if the Covered Component makes reasonable efforts to notify the individual of the request as specified above or the Covered Component makes reasonable efforts to seek a qualified protective order as described above.

These provisions do not supersede other provisions of 45 CFR 164.512 that otherwise permit or restrict other uses or disclosures of PHI or provisions of Maine law that restrict disclosures of PHI.

VI. Additional Requirements

Except in an emergency, a Covered Component shall consult with the Privacy Official and University Counsel prior to making a disclosure under this Policy.

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