

Question (Q1)

Can a covered entity disclose protected health information to family, friends, or others directly involved in the patient's or member's care or payment?

Answer

HIPAA permits covered entities to disclose certain information to a family member, relative, close friend, or other person identified by the individual. Only the protected health information directly relevant to such person's involvement with the individual's care (or payment related to the individual's health care) may be shared. If the individual is present and has the capacity to make health care decisions, the covered entity may disclose information to those involved in providing care to the individual if the covered entity does any one of the following:

- Obtains the individual's agreement either orally or in written form;
- Provides the individual with the opportunity to opt out; or reasonably infers from the circumstances, based on the exercise of professional judgment, that the individual does not object.

If an individual objects, the covered entity is prohibited from sharing health information with the patient's friends or relatives. When the individual is not present, the covered entity may use its best professional judgment and experience with common practice in deciding whether a disclosure is appropriate. A pharmacist, for example, generally may allow a person to act on behalf of the individual to pick up a prescription.

Note: There are special state laws which further restrict some disclosure of mental health and HIV/AIDS PHI to family, friends or others. Please check the state's preemption matrix at <http://www.wvdhhr.org/hipaa/preemption.asp> before disclosing such information.