

Mandatory and Permitted Disclosures Under Minnesota Law and HIPAA
For use by Providers

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Purpose of Disclosure	Required By Law?	Recipient(s)	Type of Data Disclosed	160.203 Exception?	HIPAA Provision (45 C.F.R. ___)	Conflict?	Controlling Law/Rule	Source of Authority	Comments	Acctng. Log?
To report suspected maltreatment of adults (M.S. 626.557, subd. 3)	Yes for mandated reporters, permitted for others	Common entry point; lead agency	Identity of the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected maltreatment; may include medical records to the extent necessary to comply.	Yes	164.512(c) 164.512(a) for mandated reporting	No 160.203	N/A	Statutory Authority (no patient authorization required)	The requirements of 45 C.F.R. 164.512(c)(2) concerning notice to the individual may apply. State law requires the confidentiality of the reporter.	Yes
To report missing children (M.S. 299C.56, subd. 1)	Yes	Person presenting written declaration signed by peace officer that complies with M.S. 299C. 56	Dental or skeletal X-rays, or both, and related information, previously created in the course of providing dental or medical care to a child who has now been reported as missing.	No	164.512(a) & (f)(1)(i)	No (?)	N/A	Statutory Authority (no patient authorization required)	164.512(f)(2) addresses permissive reporting	Yes
To report birth data (M.S. 144.215, subd. 1)	Yes	State Registrar	Record of each live birth	Yes	164.512(a), (b)(1)(i)	No	N/A	Statutory Authority (no patient authorization required)	Log for mother and child, but not for father?	Yes

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To report maltreatment of a minor or to provide information in connection with an investigation in response to a report (M.S. 626.556)	Yes for mandated reporters, permitted for others	Local welfare agency, or agency responsible for assessing or investigating the report, or police department, or county sheriff, or to coroner or medical examiner in cases of child death known or believed to have been caused by neglect or physical or sexual abuse	Report must identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter; collateral information supplied in connection with investigation may include medical records.	Yes	164.512(a), (b)(1)(ii)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To report prenatal exposure to a controlled substance (M.S. 626.5561, subd. 1)	Yes for mandated reporters, permitted for others	Local welfare agency	Identity of pregnant woman, nature and extent of use of controlled substance if known, and name and address of reporter.	?	164.152(a) for mandatory	No	N/A	Statutory Authority (no patient authorization required)		Yes
				?	Permissive?					

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To release MA recipients' records upon request (M.S. 256B.27, subd. 4 ; M.R. 9505.2185, subpart 1)	Yes	Department of Human Services	MA recipients' "health service records" and "personal medical records"	No	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)	If this is considered to be for TPO, then logging is not required.	Yes, unless this is for TPO
To release records to professional licensing boards (M.S. 147.131 ; M.S. 148.191 ; M.S. 153.20, .21 ; M.S. 148B.09, .11 ; 148B.66 ; M.S. 148.104; Minn. R. 6400.6710, subp. E; M.S. 147A.17, subd. 3; M.S. 148.91, subd.4; M.S. 146A.06; M.S.. 151.01)	Yes	Boards of Nursing Home Administrators, Psychology, Chiropractic, Dentistry, Medical Practice, Nursing, Podiatry, Social Work, Marriage and Family Therapy; Pharmacy; Office of Mental Health Practice; MDH Health Occupations Section	Various. Generally patient records must have identifying information redacted unless there is consent	No	164.512(a), (d)	Yes	State	Patient authorization (unless redacted)	Limited data set changes may apply -- see final rule.	Yes, unless the patient gives written authorization
To report certain suspicious wounds (M.S. 626.52, subd. 2)	Yes	Local police department or county sheriff	Information on gunshot wounds, bullet wounds, powder burns, and other wounds arising from discharge of a gun	Yes	164.512(a), (f)(1)(i)	No	N/A	Statutory Authority (no patient authorization required)		Yes

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To report certain serious burn injuries (M.S. 626.52, subd. 3)	Yes	State fire marshal	Written report on form provided by state fire marshal	Yes	164.512(a), (f)(1)(i)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To comply with statutory duty to warn (M.S. 148.975, subd. 2)	Yes	Potential victim, or law enforcement if cannot contact potential victim	Information necessary to communicate specific threat of physical violence to a clearly identified or identifiable potential victim	No	164.512(a), (f)(1), (j)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To provide workers compensation data (M.S. 176.138, subd. a)	Yes	Employee, employer or insurer who are parties to the claim, or department of labor and industry	Written medical data directly related to a current claim for compensation under MS Chapter 176; non-written medical data <u>may</u> be provided but is not required to be provided	No	164.512(a), (l)	No	N/A	Statutory Authority (no patient authorization required)	Possible that not all disclosures must be logged, but challenge is parsing. Perhaps this is a TPO disclosure.	Yes, unless this is for TPO
To report employment-related diseases (M.S. 144.34)	Yes	Minnesota Department of Health	Report stating the name, address and occupational of the patient, the name, address and business of the patient's employer, the nature of the disease, and other information requested by the department.	Yes, under 160.203(c)	164.512(a), (b)(1)	No	N/A	Statutory Authority (no patient authorization required)		Yes

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To report injuries compensable under workers compensation (M.S. 176.231, subd. 3)	Yes	Department of Labor and Industry	All facts relating to the nature and extent of the injury and disability and the treatment provided for the injury or disability; form is designated by commissioner	No	164.512(a), (l)	No	N/A	Statutory Authority (no patient authorization required)	With this and other reporting, need to evaluate difference between "reporting" and follow-up investigation, if any	Yes
To report certain communicable diseases (M.R. 4605.7030 - .7090)	Yes	Minnesota Department of Health	Various – see rules cited	Yes	164.512(a) for mandated 164.512(b)(i) for permissive (if there is such)	No	N/A	Statutory Authority (no patient authorization required)	Note that 144.05(1)(a) is a statement of authority to "collect" rather than a "reporting" requirement	Yes
To report provider HIV, HBV or HCV infection (M.S. 214.19, subd. 3 ; M.R. 4605.7030, .7040)	Yes for "regulated persons," permitted for others	Minnesota Department of Health	Diagnosis of a regulated person as infected with HIV, HBV or HCV	Yes	164.512(a) for mandated reporters 164.512(b) for permissive reporters	No	N/A	Statutory Authority (no patient authorization required)		Yes
To provide notice of possible exposure to bloodborne pathogen (M.S. 144.7401 - .7415)	Yes	Emergency medical service personnel	Source individual's bloodborne pathogen test results without source individual's name, address or other uniquely identifying information.	No	164.512(a), (b)(1)(iv)	No	N/A	Statutory Authority (no patient authorization required)		Yes

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To report certain sexually-transmitted diseases (M.R. 4605.7700)	Yes	Minnesota Department of Health	Various reports regarding cases of chlamydia trachomatis, syphilis, gonorrhea, or chancroid – see rule	Yes	164.512(a), (b)(1)(i)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To respond to requests regarding certain deaths and injuries (M.S. 245.94, subd. 2(a))	Yes	Mental Health Ombudsman	Report of death or serious injury of a client (only relates to reports on adults, not minors)	Yes	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To report certain deaths, and to make records available upon written request (M.S. 390.11, subd. 7)	Yes	Coroner	Report of certain types of deaths (violent, unusual, inmates, etc.); health-related records on written request of coroner	Yes	164.512(a), (g)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To report cases of tuberculosis (M.S. 144.4804, subd 1)	Yes	Minnesota Department of Health or Disease Prevention Officer	Certified copy of reportable person's medical records relating to carrier's tuberculosis.	Yes	164.512(a), (b)(1)(i)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To report cancer treated or seen by persons licensed to practice healing arts or by health institutions (M.S. 144.68, subds. 1 and 2 ; M.R. Ch. 4606)	Yes	Minnesota Department of Health	Record of each case of cancer treated or seen	Yes	164.512(a), (b)(1)	No	N/A	Statutory Authority (no patient authorization required)	Part of MN Cancer Surveillance System; note that other similar registries may exist	Yes

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To report traumatic brain or spinal cord injury (M.S. 144.663 ; M.R. Ch. 4643)	Yes	Minnesota Department of Health	Name, age and residence of injured person, date and cause of injury, initial diagnosis, and other information required by the commissioner	Yes	164.512(a), (b)(1)	No	N/A	Statutory Authority (no patient authorization required)		Yes
For purpose of completing a death certificate (M.S. 144.221, subds. 1 & 2)	Yes	State Registrar	Information as necessary to complete death certificate	Yes	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To supply data about women who die during pregnancy or within 12 months after end of pregnancy (M.S. 145.901, subd. 2)	Yes	Minnesota Department of Health	Medical data and health records, upon request of commissioner	Yes	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To report fetal deaths and infant deaths diagnosed as SIDS (M.S. 144.222)	Yes	State Registrar	Statutory report.	Yes	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)	Data on fetuses may not be PHI, but mother's info would be.	Yes
To report deaths occurring within a certain number of days after an abortion (M.S. 145.413)	Yes	Minnesota Department of Health	Report regarding death of any woman who has had an abortion within the preceding 30 days or who dies from any cause potentially related to an abortion within 90 days of the abortion	Yes	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)		Yes

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To file monthly report of abortions performed in an ambulatory facility (M.R. 4615.3600)	Yes	Department of Health	Patient or chart number, patient's city, county, or state of residence, certain other information	Yes	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To provide notice of a pending abortion (M.S. 144.343. subd. 2)	Yes	Parent, guardian or conservator	Written notice of pending abortion	No	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)	Is there an impact from the final HIPAA changes? Also, note that a judge may determine this notice is not required.	Yes
To report the finding of a live infant of unknown parentage (M.S. 144.216)	Yes	State Registrar	"[S]uch information as the commissioner may by rule require to identify the foundling."	Yes (birth records)	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)	See Minn. Rules Ch. 4601; purpose of this disclosure is to create birth certificate.	Yes (if includes PHI)
To report births out of wedlock within 24 hours after the birth (M.R. 4640.1400, subpart 1).	Yes	Department of Human Services	Report on a form furnished by the commissioner	See comment	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)	Unclear whether 160.203(c) applies.	Yes

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To report a newborn left at a hospital (M.S. 145.902)	Yes	Local welfare agency	Statutory Report.	N/A -- no PHI disclosed	N/A	N/A	N/A	N/A	N/A	No
To report the results of lead analysis (M.S. 144.9502, subd. 3)	Yes	Department of Health	Results of blood lead analysis of each specimen analyzed; see universal reporting form	Yes (public health surveillance)	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)		Yes
To report an optometrist's or ophthalmologist's diagnosis of legal blindness (M.S. 248.011, subd. 1)	Yes, with the client's consent	State services for the blind	Name of legally blind patient	No	164.512(a) (does not apply if patient authorization is obtained)	No	N/A	Statutory Authority (no HIPAA patient authorization required)	At least document oral consent; can use written authorization if desired	Yes, unless patient gives auth.
To provide screening team with access for prepetition commitment investigation for judicial commitment based on mental illness (M.S. 253B.07, subd. 1, (a)(iv) and (b))	Yes	Commitment screening team appointed by designated agency in county of residence or presence	All relevant medical records of proposed patients currently in treatment facilities	No	164.512(a) in conjunction with: 164.512(e)(1)(i) if a court order is obtained 164.512(e)(1)(ii) if no court order is obtained but process is lawful	No	N/A	Statutory Authority (no patient authorization required)		Yes

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To honor rights of a representative with regard to access, consent and receipt of notice (M.S. 144.335, subd. 1(a))	Yes	Parent or guardian of an unemancipated minor, or other representative	Health records	No	164.502(g)	No	N/A	Statutory Authority (no patient authorization required)	HIPAA defers to state and other law for determination of whether parent or other person is personal representative of individual. This interpretation assumes that "making decisions related to health care" includes making decisions to access records or exercise other rights under state law.	No (w/d be deemed a release to the indiv.)

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To release results of independent medical examination (M.S. 144.335, subd. 3c)	No	Third party requestor of examination	Health records created as part of an independent medical examination	No	164.508(a)(1) (general auth. requirement)	No	N/A	Authorization	State law does not require consent; HIPAA requires auth. Note role of 164.508(b)(4) (iii)	No
To support a petition for commitment of a sexually dangerous person (M.S. 253B.185, subd. 1b)	Yes	County attorney	Facts to support petition; health records	No	164.512(a) & (e)(1)	No	N/A	Court order (for disclosure of health records)	Minn. statute requires county attorney to obtain a court order to get access to health records	Yes
In connection with complaint investigation or inspection by Minnesota Department of Health (M.S. 144.054)	Yes	Minnesota Department of Health	Medical records of patients and residents	Yes	164.512(a)	No	N/A	Statutory Authority (no patient authorization required)		No

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In connection with matter under examination by mental health ombudsman (M.S. 245.91)	Yes	Mental Health Ombudsman	Records related to a matter within the scope of the ombudsman's authority, and pertaining to clients with mental retardation or a related condition, or on decedents who were receiving services for mental illness, mental retardation or a related condition, or emotional disturbance.	Yes	164.512(a) Health Oversight Agency	"Consent" is Ch. 144 consent (written and signed)	If the patient is mentally retarded, then no consent is needed If the patient is mentally ill and there is no legal determ. of incomp. then consent is required - less clear if ombudsman concludes patient is incompetent		Katie to take this back for review	
In connection with matter under investigation in response to a vulnerable adult report (M.S. 626.557, subd. 9b)	Yes	Lead agency conducting vulnerable adult investigation	Medical records under M.S. 144.335 as necessary for the lead agency to conduct its investigation.	Maybe	164.512(a); 164.512(d)	No	N/A	Statutory Authority (no patient authorization required)	Not covered under 164.512(c) because this is not a report of suspected abuse, but rather an investigation	Yes

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In connection with a review of domestic violence deaths by the domestic fatality review team (2002 Minn. Laws, Ch. 266, Sec. 1 et seq.) (4th Judicial District only)	Yes	Domestic Fatality Review Team	Medical records under M.S. 144.335; child maltreatment records under 626.556; other as set forth at 200 Minn. Laws, Ch. 468, Secs. 29 to 32.	Yes (reports of injury, death)	164.512((a) & (c))	No	N/A	Statutory Authority (no patient authorization required)		Yes
For a medical emergency when patient consent cannot be obtained (M.S. 144.335(3a)(b)(1))	No	Various	Health records	No	164.506	No	N/A	Statutory Authority (no patient authorization required)	Notice duty is not affected by this exception to authorization	No
To prevent serious jeopardy to health of an unemancipated minor or a minor who has received confidential services (M.S. 144.346)	No	Parent or guardian of the minor	Health records *Professional judgment of health care provider to prevent harm to minor.	No	164.502(g)(3)	No	N/A	Statutory Authority (no patient authorization required)		Yes

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To release health records for the patient's current treatment purposes (M.S. 144.335 , subd 3a(b)(2))	No	Related health care entity	Health records	No	164.520(c)(2)(ii) 164.506(c)(2)	Yes, if diff patient or not current tx No, if same patient and current tx	MN	Statutory Authority (no patient authorization required)	Per statutory history, "related health care entity" does not require legally affiliation	No
		Unrelated health care entity	Health records	No	164.520(c)(2)(ii) 164.506(c)(2)	Yes	MN	Consent		
To comply with a court order (M.S. 144.335 , subd. 3a(a))	Yes	Various	As required by court order	No	164.512(e)(1)(i)	No	N/A	Statutory Authority (no patient authorization required)	No 144.335 consent req. b/c authorized by law	Yes
To comply with a federal or state subpoena	Yes	Various	Various -- HIPAA allows subpoena to be sufficient, MN law does not for health records	No	164.512(e)(1)(ii)	Yes, as to health records	MN	Statutory Authority (no patient authorization required) as to non-health records Consent under M.S. 144.335 as to health records	*Assumption that PHI does not equal health records but from practical perspective easier to get consent	Yes

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For voluntary report of a health threat (M.S. 144.4175, subd. 1)	No	Department of Health	Knowledge or belief that a person is a health threat to others	Yes (public health intervention)	164.512(b)	No	Both	Statutory Authority (no patient authorization required)		Yes
To share immunization data for various purposes with persons who provide services on behalf of the patient (M.S. 144.3351)	No	Providers, child care facilities, schools, boards of health, community action agencies, and the Department of Health	Immunization data	Yes (public health surveillance intervention)	164.512(b)	No	N/A	Statutory Authority (no patient authorization required)		Yes
For physicians' voluntary reporting of impaired drivers (M.S. 171.131, subd. 1)	No	Commissioner of Public Safety	Driver's name and other relevant information	No	164.512(j)(1)(A)	No	Both	Statutory Authority (no patient authorization required)		Yes
For voluntary warning of imminent serious harm (M.S. 148.975, subd. 7; M.R. 7200.4700) Psychologists	No Permissive	Appropriate professional workers, public authorities, the potential victim, or the family of the client	Information revealed during a professional relationship between a psychologist and client as necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client	No	164.512(j)(1)	No		Statutory Authority	Duty to warn by psychologist would meet 144.335 Other professionals must get consent although impractical	

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For voluntary reporting of prenatal exposure to alcohol abuse M. S. (626.5563, subd. 2)	No	Local welfare agency or maternal child substance abuse project	Identity of pregnant woman, nature and extent of abuse of alcohol, any health risk associated with the abuse f known, and name and address of reporter.	Yes (public health intervention)	164.512(b) 164.412(j)	No	N/A	Statutory Authority (no patient authorization required)		Yes
For research by an external researcher (M.S. 144.335, subd. 3a(d))	No	External researcher	Health records	No	164.508 and 164.512(i)	Yes (as to disclosure, not use)	See separate analysis	See separate analysis	See separate analysis	Yes (special rules for research disclosures)

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Facility directory information (45 C.F.R. 164.510(a))	No	Clergy	Individual's name, location in the facility, condition in general terms, and religious affiliation	N/A	None	No	N/A	Statutory Authority (no patient authorization required)	This is not health record information.	No
		Non-clergy who ask for individual by name	Individual's name, location in the facility, condition in general terms	N/A	None	No				
To comply with an valid request for access	Yes	Individual or individual's personal representative	Designated record set information	No	M.S.A. 144.335 for health records	No	N/A	Statutory Authority (no patient authorization required)	More detailed analysis on process is needed	No

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To notify next of kin of a patient's death (45 C.F.R. 164.510(b)(1))	No	Next of kin	Notice of death (not health record info, and not cause of death; must limit to information that in the exercise of professional judgment is relevant)	No	None	No	N/A	Statutory Authority (if patient does not object in advance)	No account 164.528(a)(1)(v)	No if provisions in notice
To identify available and appropriate long-term care placement (treatment -- 45 C.F.R. 164.506)	No	Long-term care facilities that will potentially receive patient for care	Various PHI	No	M.S.A. 144.335 for health records	No	Both	Statutory Authority (no patient authorization required) under HIPAA Consent required under state law (does not expire for continuity of care)		No
To bill for care or to facilitate payment for care (payment -- 45 C.F.R. 164.506)	No	Insurer, governmental payor, or other payor	Health records and other information needed to facilitate payment	No	M.S.A. 144.335 for health records	No	Both	Statutory Authority (no patient authorization required) under HIPAA Consent required under state law for health records		No

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Authorization means a HIPAA authorization.

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Purpose of Disclosure	Required By Law?	Recipient(s)	Type of Data Disclosed	160.203 Exception?	HIPAA Provision (45 C.F.R. ___)	Conflict?	Controlling Law/Rule	Source of Authority	Comments	Acctng. Log?
For organ, eye or tissues donation or transplantation	Yes for hospital organ-transplant-related data (see 42 C.F.R. 482.45) No for others	Organ procurement org. or others engaged in procurement, banking or transplantation of organs, eyes or tissues		No	164.512(h)	No	State Law	Stat. Authority (no patient authorization)	Patient or family MN. 525.9212 525.92	Yes
For judicial or administrative proceedings without a court order (health care operations -- 45 C.F.R. 164.512(e))	No	Various	Various	No	M.S.A. 144.335	No	State law for health records HIPAA auth requirement for other PHI	Consent required under state law for health records Statutory authorization for other PHI	Use of HIPAA-compliant authorization form is recommended	No, if a signed HIPAA auth is given

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Purpose of Disclosure	Required By Law?	Recipient(s)	Type of Data Disclosed	160.203 Exception?	HIPAA Provision (45 C.F.R. ___)	Conflict?	Controlling Law/Rule	Source of Authority	Comments	Acctng. Log?
To an attorney for purposes other than under judicial or administrative proceedings (health care operations -- 45 C.F.R. 164.506)	No	Attorney for the patient	Various	No	M.S.A. 144.335	No	N/A	Authorization		No
		Attorney for the covered entity	Various	No	None	No	N/A	Statutory authority (no patient authorization required)	For disclosure to CE's attorney, need BA contract	No
		Attorney for a third party	Various	No	M.S.A. 144.335	No	N/A	Authorization		No
For voluntary reporting of adverse drug reactions to the FDA (45 C.F.R. 164.512(b)(iii))	No	Food and Drug Administration	Adverse drug reaction form – includes SSN and other patient data	No	M.S.A. 144.335 ("as authorized by law")	No	N/A	Statutory authority (no patient authorization required)		Yes

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Purpose of Disclosure	Required By Law?	Recipient(s)	Type of Data Disclosed	160.203 Exception?	HIPAA Provision (45 C.F.R. ___)	Conflict?	Controlling Law/Rule	Source of Authority	Comments	Acctng. Log?
Media coverage (e.g., birth announcements, news stories, other disclosures beyond facility directories)	No	Media organizations – newspapers, radio, etc.	Various	No	M.S.A. 144.335	No	N/A	Authorization		No
To a funeral director 164.512(g)(2)	No	Funeral director	PHI as necessary for funeral director to carry out their duties with respect to the decedent	No	Mn. Stat. 140A.90 Mn. Rule 4601.1500, 4601.1600, 4601.1700	No		Statutory		Yes
To coroner or medical examiner to identify deceased person, determining cause of death, or other legally authorized duties 164.512(g)(l)	No (except see M.S. 626.556)	Coroner	PHI	No	Mn. Stat. 390.11 383B.	No	N/A	Statutory & authorization	We would only release to coroner under these circumstances	Yes
To a person involved in the individual's care or payment for care 164.510(b) Patient's Bill of Rights	No	Family member, other relative, close personal friend, or other person identified by the individual	PHI directly relevant to the person's involvement with the individual's care or payment for care	No	144.335	Possibly	N/A		Use professional judgment. Addl. Diligence is required for payment	

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Purpose of Disclosure	Required By Law?	Recipient(s)	Type of Data Disclosed	160.203 Exception?	HIPAA Provision (45 C.F.R. ___)	Conflict?	Controlling Law/Rule	Source of Authority	Comments	Acctng. Log?
To corrections/law enforcement if the individual is in custody (see HIPAA criteria) 164.512(f)	No	Correctional institution or law enforcement official having custody of an inmate or other individual	PHI about that individual	No	144.335	No		N/A		

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