

Health Information Compliance Alert

Reader Questions: When Does HIPAA Permit Incidental Disclosure?

Question: When does the HIPAA Privacy Rule allow an incidental healthcare disclosure?

Answer:Under HIPAA, an incidental disclosure is "a secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a result of another use or disclosure that is permitted by the HIPAA Rule."

HIPAA allows incidental disclosures in certain situations. According to a May 20 blog posting by attorney **Mary Beth Gettins** of **Gettins' Law**, HIPAA permits incidental disclosures:

- 1. If the disclosure is a by-product of a permissible or required use or disclosure, and
- 2. As long as the covered entity (CE) has applied reasonable safeguards, and
- 3. If the CE has implemented the minimum necessary standards, with respect to the permitted or required use or disclosure.

Resource: For more information on incidental uses and disclosures, go to www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/incidentalusesanddisclosures.html.