HIPAA Privacy Rule – Access to Deceased Patients’ PHI

Use the following decision tree to help determine how you may use and disclose PHI regarding deceased individuals in accordance with the HIPAA Privacy Rule.

Based on request or as part of your duties, you consider using or disclosing decedent Protected Health Information (PHI).

Are you a covered entity performing the duties of a coroner or medical examiner as authorized by law, or disclosing protected health information to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law?

Yes

Use or disclose decedent PHI.

No

Are you disclosing protected health information to a funeral director as necessary to carry out their duties with respect to the decedent, consistent with applicable law?

Yes

Use or disclose decedent PHI.

No

Is the request for the PHI made by the deceased individual's legally authorized executor or administrator, or a person who is otherwise legally authorized to act on the behalf of the deceased individual?

Yes

Disclose decedent PHI.

No

Is the disclosure request from a health care provider for the purpose of treating a surviving relative of the deceased?

Yes

Disclose decedent PHI.

No

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HIPAA Privacy Rule – Access to Deceased Patients’ PHI (continued)

Use the following decision tree to help determine how you may use and disclose PHI regarding deceased individuals in accordance with the HIPAA Privacy Rule.

- **Is the disclosure request from a public health authority that is legally authorized to receive such reports?**
  - **Yes**
    - Disclose decedent PHI.
  - **No**
    - **Is the disclosure request from a researcher (for the purposes of research) who has provided (1) oral or written representations that the use and disclosure is sought solely for research on the PHI of decedents, (2) oral or written representations that the PHI for which use or disclosure is sought is necessary for the research purposes, and (3) documentation of the death of the individual whose PHI is sought by the researchers?**
      - **Yes**
        - Disclose decedent PHI.
      - **No**
        - Do not disclose decedent PHI.