

Important Update:

Please review [AHIMA's fact sheet](#) on a recent court ruling that vacated the reproductive healthcare privacy attestation requirements contained within this rule. The situation remains fluid, so we strongly encourage you to consult the resource which outlines key facts and developments related to the court action.

Decision Tree for Completing Personal Health Information (PHI) Request in Support of Reproductive Health Care Final Rule

The Final Rule strengthens the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule by prohibiting the disclosure of protected health information related to lawful reproductive health care in certain circumstances. Specifically, if PHI is requested to conduct a criminal, civil or administrative investigation for mere act of seeking, obtaining, or facilitating reproductive health care or identifying any person for purpose of conducting such investigation is prohibited. For additional details, please refer to [HIPAA Privacy Rule to Support Reproductive Health Care Privacy Final Rule](#).

For additional guidance– refer to [AHIMA Process for Releasing Protected Health Information in Support of Reproductive Health Care Privacy Final Rule](#).

What is the Purpose of the PHI Request?

Treatment, Payment, or Healthcare Operations (TPO)

Follow normal operational process, state and federal guidance for [TPO disclosures](#)

Individual or Individual Representative Request

Follow normal operational process and state and federal guidance for [Individual Right to Access](#)

Other 3rd Parties:

- Health oversight activities
- Judicial/Admin proceedings
- Coroners and Medical Exam Disclosures
- Law Enforcement Purposes

Does the request contain Reproductive Healthcare Data?*

N

Follow normal operational process, state and federal guidance per [HIPAA Privacy Rule](#)

Has Individual or [Individual's Representative](#) completed an authorization?

Y

Follow normal operational process and state and federal guidance for [Individual Right to Access](#)

Has requester accurately completed and signed a valid attestation? ([Model Attestation](#))

N

STOP!
Requester must complete and sign a VALID attestation before disclosing info

Did the requester select box stating info will be used to investigate or impose liability because reproductive healthcare was NOT LAWFUL?

Y

Has requester supplied information that demonstrates a substantial factual basis that the reproductive health care was not lawful?

Y

N

STOP!
Requester must supply proof before disclosing any PHI

Maintain supporting docs with copy of attestation and follow other normal operational process, state and federal guidance per [HIPAA Privacy Rule](#)

Follow normal operational process, state and federal guidance per [HIPAA Privacy Rule](#)

Additional Information

If there are any questions whether information is a permitted or prohibited from disclosure – consult with your organization's legal counsel for guidance.

*OCR defines Reproductive health care as health care that affects the health of the individual in all matters relating to the reproductive system and to its functions and processes. The definition should not be construed to set forth a standard of care for or regulate what constitutes clinically appropriate reproductive health care. 45 CFR § 160.103 definition of "reproductive health care." Each organization should define their reproductive data set.