

**THE UNIVERSITY OF TEXAS SYSTEM ADMINISTRATION
HIPAA PRIVACY MANUAL**

Section 4.7: Making Notification Disclosures	Page: 1 of 2
Effective Date: September 23, 2013	

POLICY

System may make a Notification Disclosure if the Individual's agreement is obtained or can be implied under the circumstances.

4.7(1) Notification Disclosures Dependent on Express or Implied Approval.

System's ability to make a specific Notification Disclosure shall be subject to the express or implied approval of the Individual who is the subject of the PHI. Specifically, OEB may make a Notification Disclosure only if at least one of the following circumstances applies:

- a. The Individual is available to and has the capacity to make health care decisions, and OEB obtains the Individual's agreement to allow the Notification Disclosure;
- b. OEB provides the Individual the opportunity to object to the Notification Disclosure, and the Individual does not express an objection to such Notification Disclosure;
- c. The Individual is available to and has the capacity to make health care decisions, and OEB reasonably infers from the circumstances that the Individual does not object to the Disclosure;
- d. The Individual is not present to, or does not have the capacity to, make health care decisions, OEB determines in the exercise of reasonable judgment (considering potential harm to the Individual due to domestic violence, if applicable) that the Notification Disclosure is in the best interests of the Individual, and any Disclosure of PHI is directly relevant to the recipient's involvement with the Individual's health care; or
- e. The Notification Disclosure is made to an entity authorized by law or its charter to assist in disaster relief efforts, the Notification Disclosure is made regarding the Individual's location, general condition, or death, and OEB determines in the exercise of professional judgment that to depend on the Individual's approval would interfere with an adequate response to a present emergency.

Notwithstanding the above, System may make a Disclosure that qualifies as a Notification Disclosure if such Disclosure is permissible for reasons other than its

being a Notification Disclosure (for instance, because it qualifies as a Disclosure for OEB's Payment activities).

4.7(2) Documentation of Permissibility of Notification Disclosures.

In the event System makes a Notification Disclosure (that is a permissible Disclosure only because it is a Notification Disclosure), System shall document its determination that such Notification Disclosure is permissible. Any such documentation shall be retained in accordance with Section 9.2 of this Manual.

REFERENCES/CITATIONS

45 C.F.R. §§ 164.510(b), 164.522(a)