§ 160.102 APPLICABILITY

(a) Except as otherwise provided, the standards, requirements, and implementation specifications adopted under this subchapter apply to the following entities:

(1) A health plan.
(2) A health care clearinghouse.
(3) A health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.

§ 164.504 USES AND DISCLOSURES: ORGANIZATIONAL REQUIREMENTS

(b) Standard: health care component. If a covered entity is a hybrid entity, the requirements of this subpart, other than the requirements of this section, apply only to the health care component(s) of the entity, as specified in this section.

(g) Standard: requirements for a covered entity with multiple covered functions [or hybrid entity]

(1) A covered entity that performs multiple covered functions that would make the entity any combination of a health plan, a covered health care provider, and a health care clearinghouse, must comply with the standards, requirements, and implementation specifications of this subpart, as applicable to the health plan, health care provider, or health care clearinghouse covered functions performed.

(2) A covered entity that performs multiple covered functions may use or disclose the protected health information of individuals who receive the covered entity’s health plan or health care provider services, but not both, only for purposes related to the appropriate function being performed.

Does HIPAA apply to jails or prisons?

HIPAA applies to any entity that performs certain covered functions (the performance of which would by definition make the entity a health plan, health care provider, or health information clearinghouse). Any part of a jail or prison system that answers affirmative to all of the following questions may be subject to HIPAA and its requirements.

<table>
<thead>
<tr>
<th>(1) Does the entity (in whole or in part) perform any of the following covered functions...?</th>
<th>• provide [for] or pay the cost of medical care; • provide [direct] medical or health services (or furnish, bill, or receive payment for health care in the normal course of business); or • receive, process, or facilitate the processing of health information received from another entity into standard or nonstandard formats.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(2) Does the entity receive or transmit individually identifiable health information pertaining to...?</td>
<td>• health plan enrollment (or disenrollment); • health plan eligibility determinations; • health plan premium payments; • referral certification, authorization; • claim submissions (encounter info); • health plan benefit coordination; • claim status inquiries; • payment and remittance advices; • first report of injury; and/or • health claim attachments.</td>
</tr>
<tr>
<td>(3) Does the entity conduct any or all of these standard transactions electronically...?</td>
<td>• health plan enrollment (or disenrollment); • health plan eligibility determinations; • health plan premium payments; • referral certification, authorization; • claim submissions (encounter info); • health plan benefit coordination; • claim status inquiries; • payment and remittance advices; • first report of injury; and/or • health claim attachments.</td>
</tr>
</tbody>
</table>
§ 164.502(g) USES AND DISCLOSURES: PERSONAL REPRESENTATIVES

(1) As specified in this paragraph, a covered entity must, except as provided in paragraphs (g)(3) and (g)(5) of this section, treat a personal representative as the individual for purposes of this subchapter.

(2) *Implementation specification: adults and emancipated minors.* If under applicable law a person has authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care, a covered entity must treat such person as a personal representative under this subchapter, with respect to protected health information relevant to such personal representation.

(5) *Implementation specification: abuse, neglect, endangerment situations.* Notwithstanding a State law or any requirement of this paragraph to the contrary, a covered entity may elect not to treat a person as the personal representative of an individual if:

(i) The covered entity has a reasonable belief that:

(A) The individual has been or may be subjected to domestic violence, abuse, or neglect by such person; or
(B) Treating such person as the personal representative could endanger the individual; and

(ii) The covered entity, in the exercise of professional judgment, decides that it is not in the best interest of the individual to treat the person as the individual’s personal representative.

§ 164.512(a) USES AND DISCLOSURES REQUIRED BY LAW

(1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

(2) A covered entity must meet the requirements described in paragraph (c), (e), or (f) of this section for uses or disclosures required by law.

Effect on State Law

**GENERAL RULE**—A provision…requirement…or a standard or implementation specification adopted or established…shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

**EXCEPTIONS**—A provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall not supersede a contrary provision of State law, if the provision of State law—

(A) is a provision the Secretary determines—

(i) is necessary—

(I) to prevent fraud and abuse;

(II) to ensure appropriate State regulation of insurance and health plans;

(III) for State reporting on health care delivery or costs; or

(IV) for other purposes; or

(ii) addresses controlled substances; or

(B) subject to section 264(c)(2) of the Health Insurance Portability and Accountability Act of 1996, relates to the privacy of individually identifiable health information.

**PUBLIC HEALTH**—Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

**STATE REGULATORY REPORTING**—Nothing in this part shall limit the ability of a State to require a health plan to report, or to provide access to, information for management audits, financial audits, program monitoring and evaluation, facility licensure or certification, or individual licensure or certification.

§ 164.512(e) STANDARD: DISCLOSURES FOR JUDICIAL AND ADMINISTRATIVE PROCEEDINGS

(1) Permitted disclosures. A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:

(i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order; or

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or

(B) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iv) of this section, from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of paragraph (e)(1)(v) of this section.

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

(A) The party requesting such information has made a good faith attempt to provide written notice to the individual (or, if the individual’s location is unknown, to mail a notice to the individual’s last known address);

(B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and

(C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:

(1) No objections were filed; or

(2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

(iv) For the purposes of paragraph (e)(1)(ii)(B) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information, if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

(A) The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or

(B) The party seeking the protected health information has requested a qualified protective order from such court or administrative tribunal.

(v) For purposes of paragraph (e)(1) of this section, a qualified protective order means, with respect to protected health information requested under paragraph (e)(1)(ii) of this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

(A) Prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested; and

(B) Requires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding.
Notwithstanding paragraph (e)(1)(ii) of this section, a covered entity may disclose protected health information in response to lawful process described in paragraph (e)(1)(ii) of this section without receiving satisfactory assurance under paragraph (e)(1)(ii)(A) or (B) of this section, if the covered entity makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of paragraph (e)(1)(iii) of this section or to seek a qualified protective order sufficient to meet the requirements of paragraph (e)(1)(iv) of this section.

(2) Other uses and disclosures under this section. The provisions of this paragraph do not supersede other provisions of this section that otherwise permit or restrict uses or disclosures of protected health information.

§ 164.512(f) STANDARD: USES AND DISCLOSURES FOR LAW ENFORCEMENT PURPOSES

A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.

(1) Permitted disclosures: pursuant to process and as otherwise required by law. A covered entity may disclose protected health information:

(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or

(ii) In compliance with and as limited by the relevant requirements of:

(A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
(B) A grand jury subpoena; or
(C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;
(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
(3) De-identified information could not reasonably be used.

(2) Permitted disclosures: limited information for identification and location purposes. Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official’s request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:

(i) The covered entity may disclose only the following information:

(A) Name and address;
(B) Date and place of birth;
(C) Social security number;
(D) ABO blood type and rh factor;
(E) Type of injury;
(F) Date and time of treatment;
(G) Date and time of death, if applicable; and
(H) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

(ii) Except as permitted by paragraph (f)(2)(i) of this section, the covered entity may not disclose for the purposes of identification or location under paragraph (f)(2) of this section any protected health information related to the individual’s DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.
(3) **Permitted disclosure: victims of a crime.** Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official’s request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures that are subject to paragraph (b) or (c) of this section, if:

(i) The individual agrees to the disclosure; or

(ii) The covered entity is unable to obtain the individual’s agreement because of incapacity or other emergency circumstance, provided that:

   (A) The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;

   (B) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and

   (C) The disclosure is in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

(4) **Permitted disclosure: decedents.** A covered entity may disclose protected health information about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the covered entity has a suspicion that such death may have resulted from criminal conduct.

(5) **Permitted disclosure: crime on premises.** A covered entity may disclose to a law enforcement official protected health information that the covered entity believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the covered entity.

(6) **Permitted disclosure: reporting crime in emergencies.**

   (i) A covered health care provider providing emergency health care in response to a medical emergency, other than such emergency on the premises of the covered health care provider, may disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

   (A) The commission and nature of a crime;

   (B) The location of such crime or of the victim(s) of such crime; and

   (C) The identity, description, and location of the perpetrator of such crime.

   (ii) If a covered health care provider believes that the medical emergency described in paragraph (f)(6)(i) of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, paragraph (f)(6)(i) of this section does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to paragraph (c) of this section.

§ 164.512(j) **STANDARD: USES AND DISCLOSURES TO AVERT A SERIOUS THREAT TO HEALTH OR SAFETY**

(1) **Permitted disclosures.** A covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure:

   (i) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and

   (B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or
(ii) Is necessary for law enforcement authorities to identify or apprehend an individual:

(A) Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or

(B) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in § 164.501.

(2) Use or disclosure not permitted. A use or disclosure pursuant to paragraph (j)(1)(ii)(A) of this section may not be made if the information described in paragraph (j)(1)(ii)(A) of this section is learned by the covered entity:

(i) In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure under paragraph (j)(1)(ii)(A) of this section, or counseling or therapy; or

(ii) Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy described in paragraph (j)(2)(i) of this section.

(3) Limit on information that may be disclosed. A disclosure made pursuant to paragraph (j)(1)(ii)(A) of this section shall contain only the statement described in paragraph (j)(1)(ii)(A) of this section and the protected health information described in paragraph (f)(2)(i) of this section.

(4) Presumption of good faith belief. A covered entity that uses or discloses protected health information pursuant to paragraph (j)(1) of this section is presumed to have acted in good faith with regard to a belief described in paragraph (j)(1)(i) or (ii) of this section, if the belief is based upon the covered entity’s actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.

§ 164.512(k)(5) STANDARD: USES AND DISCLOSURES FOR CORRECTIONAL INSTITUTIONS AND OTHER LAW ENFORCEMENT CUSTODIAL SITUATIONS

(k) Standard: uses and disclosures for specialized government functions.

(5) Correctional institutions and other law enforcement custodial situations.

(i) Permitted disclosures. A covered entity may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual protected health information about such inmate or individual, if the correctional institution or such law enforcement official represents that such protected health information is necessary for:

(A) The provision of health care to such individuals;
(B) The health and safety of such individual or other inmates;
(C) The health and safety of the officers or employees of or others at the correctional institution;
(D) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;
(E) Law enforcement on the premises of the correctional institution; and
(F) The administration and maintenance of the safety, security, and good order of the correctional institution.

(ii) Permitted uses. A covered entity that is a correctional institution may use protected health information of individuals who are inmates for any purpose for which such protected health information may be disclosed.

(iii) No application after release. For the purposes of this provision, an individual is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.
§ 164.520  NOTICE OF PRIVACY PRACTICES FOR PROTECTED HEALTH INFORMATION

(a) **Standard: notice of privacy practices.**

   (1) **Right to notice.** Except as provided by paragraph (a)(2) or (3) of this section, an individual has a right to adequate notice of the uses and disclosures of protected health information that may be made by the covered entity, and of the individual’s rights and the covered entity’s legal duties with respect to protected health information.

   (3) **Exception for inmates.** An inmate does not have a right to notice under this section, and the requirements of this section do not apply to a correctional institution that is a covered entity.

§ 164.524  ACCESS OF INDIVIDUALS TO PROTECTED HEALTH INFORMATION

(a) **Standard: access to protected health information**

   (1) **Unreviewable grounds for denial.** A covered entity may deny an individual access without providing the individual an opportunity for review, in the following circumstances.

      (ii) A covered entity that is a correctional institution or a covered health care provider acting under the direction of the correctional institution may deny, in whole or in part, an inmate’s request to obtain a copy of protected health information, if obtaining such copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or of other inmates, or the safety of any officer, employee, or other person at the correctional institution or responsible for the transporting of the inmate.

§ 164.528  ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

(a) **Standard: right to an accounting of disclosures of protected health information.**

   (1) An individual has a right to receive an accounting of disclosures of protected health information made by a covered entity in the six years prior to the date on which the accounting is requested, except for disclosures:

      (i) To carry out treatment, payment and health care operations as provided in § 164.506;
      (vii) To correctional institutions or law enforcement officials as provided in § 164.512(k)(5);
      (ix) That occurred prior to the compliance date for the covered entity.

This document contains selected text from the HIPAA Privacy Rule [45 CFR Parts 160 and 164]. It is not a complete analysis nor is it legally binding. Covered entities are advised to seek legal counsel for answers to legal questions.
**DEFINITIONS**

**Business associate**:  
(1) Except as provided in paragraph (2) of this definition, *business associate* means, with respect to a covered entity, a person who:  
   (i) On behalf of such covered entity or of an organized health care arrangement (as defined in § 164.501 of this subchapter) in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, performs, or assists in the performance of:  
      (A) A function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or  
      (B) Any other function or activity regulated by this subchapter; or  
   (ii) Provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation (as defined in § 164.501 of this subchapter), management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized health care arrangement in which the covered entity participates, where the provision of the service involves the disclosure of individually identifiable health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement, to the person.  
(2) A covered entity participating in an organized health care arrangement that performs a function or activity as described by paragraph (1)(i) of this definition for or on behalf of such organized health care arrangement, or that provides a service as described in paragraph (1)(ii) of this definition to or for such organized health care arrangement, does not, simply through the performance of such function or activity or the provision of such service, become a business associate of other covered entities participating in such organized health care arrangement.  
(3) A covered entity may be a business associate of another covered entity.

**Correctional institution** means any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. *Other persons held in lawful custody* includes juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.

**Covered entity** means:  
(1) A health plan.  
(2) A health care clearinghouse.  
(3) A health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.

**Covered functions** means those functions of a covered entity the performance of which makes the entity a health plan, health care provider, or health care clearinghouse.

**Direct treatment relationship** means a treatment relationship between an individual and a health care provider that is not an indirect treatment relationship.

**Disclosure** means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

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* 45 CFR § 160.103  
† 45 CFR § 164.501  
‡ 45 CFR § 164.504
Health care clearinghouse* means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and “value-added” networks and switches, that does either of the following functions:

(1) Processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction.

(2) Receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

Health care component† means a component or combination of components of a hybrid entity designated by the hybrid entity in accordance with paragraph (c)(3)(iii) of this section.

Health information* means any information, whether oral or recorded in any form or medium, that:

(1) Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and

(2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

Health oversight agency‡ means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

Health care provider* means a provider of services (as defined in section 1861(u) of the Act, 42 U.S.C. 1395x(u)), a provider of medical or health services (as defined in section 1861(s) of the Act, 42 U.S.C. 1395x(s)), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

Health plan* means an individual or group plan that provides, or pays the cost of, medical care (as defined in section 2791(a)(2) of the PHS Act, 42 U.S.C. 300gg-91(a)(2)).

(1) Health plan includes the following, singly or in combination:

(i) A group health plan, as defined in this section.
(ii) A health insurance issuer, as defined in this section.
(iii) An HMO, as defined in this section.
(iv) Part A or Part B of the Medicare program under title XVIII of the Act.
(v) The Medicaid program under title XIX of the Act, 42 U.S.C. 1396, et seq.
(vi) An issuer of a Medicare supplemental policy (as defined in section 1882(g)(1) of the Act, 42 U.S.C. 1395ss(g)(1)).
(vii) An issuer of a long-term care policy, excluding a nursing home fixed-indemnity policy.
(viii) An employee welfare benefit plan or any other arrangement that is established or maintained for the purpose of offering or providing health benefits to the employees of two or more employers.
(ix) The health care program for active military personnel under title 10 of the United States Code.
(x) The veterans health care program under 38 U.S.C. chapter 17.
(xi) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)(as defined in 10 U.S.C. 1072(4)).
(xii) The Indian Health Service program under the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.
(xiv) An approved State child health plan under title XXI of the Act, providing benefits for child health assistance that meet the requirements of section 2103 of the Act, 42 U.S.C. 1397, et seq.

* 45 CFR § 160.103
† 45 CFR § 164.501
‡ 45 CFR § 164.504
(xvi) A high risk pool that is a mechanism established under State law to provide health insurance coverage or comparable coverage to eligible individuals.

(xvii) Any other individual or group plan, or combination of individual or group plans, that provides or pays for the cost of medical care (as defined in section 2791(a)(2) of the PHS Act, 42 U.S.C. 300gg-91(a)(2)).

(2) **Health plan** excludes:

(i) Any policy, plan, or program to the extent that it provides, or pays for the cost of, excepted benefits that are listed in section 2791(c)(1) of the PHS Act, 42 U.S.C. 300gg-91(c)(1); and

(ii) A government-funded program (other than one listed in paragraph (1)(i)-(xvi)of this definition):

(A) Whose principal purpose is other than providing, or paying the cost of, health care; or

(B) Whose principal activity is:

(1) The direct provision of health care to persons; or

(2) The making of grants to fund the direct provision of health care to persons.

**Hybrid entity**\textsuperscript{\dagger} means a single legal entity:

(1) That is a covered entity;

(2) Whose business activities include both covered and non-covered functions; and

(3) That designates health care components in accordance with paragraph (c)(3)(iii) of this section.

**Indirect treatment relationship**\textsuperscript{\dagger} means a relationship between an individual and a health care provider in which:

(1) The health care provider delivers health care to the individual based on the orders of another health care provider; and

(2) The health care provider typically provides services or products, or reports the diagnosis or results associated with the health care, directly to another health care provider, who provides the services or products or reports to the individual.

**Individually identifiable health information**\textsuperscript{*} is information that is a subset of health information, including demographic information collected from an individual, and:

(1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and

(2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and

(i) That identifies the individual; or

(ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

**Inmate**\textsuperscript{\dagger} means a person incarcerated in or otherwise confined to a correctional institution.

**Law enforcement official**\textsuperscript{\dagger} means an officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to:

(1) Investigate or conduct an official inquiry into a potential violation of law; or

(2) Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

**Plan administration functions**\textsuperscript{\dagger} means administration functions performed by the plan sponsor of a group health plan on behalf of the group health plan and excludes functions performed by the plan sponsor in connection with any other benefit or benefit plan of the plan sponsor.
**Protected health information†** means individually identifiable health information:

1. Except as provided in paragraph (2) of this definition, that is:
   a. Transmitted by electronic media;
   b. Maintained in any medium described in the definition of electronic media at § 162.103 of this subchapter; or
   c. Transmitted or maintained in any other form or medium.

2. **Protected health information** excludes individually identifiable health information in:
   a. Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g;
   b. Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and
   c. Employment records held by a covered entity in its role as employer.

**Public health authority†** means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

**Required by law†** means a mandate contained in law that compels an entity to make a use or disclosure of protected health information and that is enforceable in a court of law. **Required by law** includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

**Trading partner agreement*†** means an agreement related to the exchange of information in electronic transactions, whether the agreement is distinct or part of a larger agreement, between each party to the agreement. (For example, a trading partner agreement may specify, among other things, the duties and responsibilities of each party to the agreement in conducting a standard transaction.)

**Treatment†** means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

**Use†** means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.