

ATTACHMENT A TO FORMAL ATTORNEY GENERAL OPINION

**HIPAA PRIVACY MATRIX
DISCLOSURES TO LAW ENFORCEMENT**

Reason for Disclosure	HIPAA Cite	Required or Permitted	In Response or Voluntarily
Required by law	45 C.F.R. § 164.512(a) and 164.512(f)(1)(i) 45 C.F.R. § 164.512(f)(1)(ii)	<ul style="list-style-type: none"> • Required by Colorado law, C.R.S. § 12-36-135, to report at once to law enforcement, any injury a provider believes to be the result of a criminal act. Disclosure limited to information on observed injury. • Required by court order or warrant; subpoena or summons issued by a judicial officer; grand jury subpoena; administrative and civil subpoena; or civil or investigative demands authorized by law if the information sought is relevant, specific, limited and material to a law enforcement inquiry and de-identified information could not reasonably be used. 	Can volunteer under HIPAA must report under Colorado law.
To identify or locate a suspect, fugitive, material witness or missing person	45 C.F.R. § 164.512(f)(2)	Permitted to locate a suspect, fugitive, material witness or missing person but may only disclose name; address; date and place of birth; social security number; ABO blood type and rh factor; type of injury; date and time of treatment; date and time of death; and description of distinguishing physical characteristics including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars and tattoos. No DNA information may be disclosed.	In response to a law enforcement official's request to locate or identify a suspect, fugitive, material witness or missing person.

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Information about a victim or suspected victim of a crime	45 C.F.R. § 164.512(f)(3)	<ul style="list-style-type: none"> • Permitted to disclose information about a person who is or is suspected to be a victim of a crime if: Individual consents; or • Consent not possible because of incapacity or emergency circumstance and law enforcement represents that information is needed to determine whether a violation of law has occurred by a person other than the victim and the information is not intended to be used against the victim, immediate law enforcement activity depends on the disclosure that would be materially and adversely affected by waiting for the individual's consent, and in the exercise of the covered entity's professional judgment the disclosure is in the best interest of the victim. 	In response to law enforcement official's request
Disclosures about a Decedent where provider suspects criminal activity caused death	45 C.F.R. § 164.512(f)(4)	<ul style="list-style-type: none"> • Permitted under HIPAA if the covered entity has a suspicion that the death may have resulted from criminal conduct. • Colorado law requires the reporting of injuries believed to be the result of a criminal act. 	Can volunteer under HIPAA Must report under Colorado law
Crime on the premises of a covered entity	45 C.F.R. § 164.512(f)(5)	Permitted if the covered entity believes in good faith the protected health information constitutes evidence of criminal conduct occurring on the premises of the covered entity.	Can volunteer under HIPAA

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In a medical emergency, about the commission and nature of a crime, the location of the crime, crime victims, and the perpetrator of the crime.	45 C.F.R. § 164.512(f)(6)	Permitted if emergency is not on the covered entity's premises to alert law enforcement to the commission and nature of a crime; the location of the crime or the victim of crime; and the identity, description and location of the perpetrator of the crime.	Can alert law enforcement and volunteer
To report child abuse and neglect	45 C.F.R. § 164.512(b)(1)(ii)	Required to report under Colorado law, C.R.S. § 19-3-304, to county social services or local law enforcement agency. Permitted by HIPAA to a government authority authorized by law to receive reports of child abuse or neglect.	Can volunteer under HIPAA Must report under Colorado law

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To report abuse, neglect and domestic violence (other than child abuse)	45 C.F.R. § 164.512(c)	<ul style="list-style-type: none"> • Colorado law, C.R.S. 12-36-135, requires the reporting of injuries the provider believes resulted from a criminal act including domestic violence. • For disclosures beyond the observed injury, HIPAA permits disclosures to report a person the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority authorized by law to receive report of abuse if: <ol style="list-style-type: none"> 1. The individual consents, or 2. The disclosure is expressly authorized by statute and the CE believes the disclosure is necessary to prevent serious harm to the individual or other potential victims, or 3. The disclosure is expressly authorized by statute and the individual cannot agree because of incapacity and law enforcement official authorized to receive a report represents that disclosure will not be used against the individual, immediate law enforcement activity depends upon the disclosure and would be materially and adversely affected by waiting for the individual's consent. <p>Must inform the individual of these disclosures.</p>	Can volunteer under HIPAA Under Colorado law, must report injuries from criminal conduct including domestic violence

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To avert a serious threat to health or safety.	45 C.F.R. § 164.512(j)	<ul style="list-style-type: none"> • Permitted by HIPAA if the covered entity has a good faith belief the disclosure is necessary to prevent or lessen a serious and imminent threat to a person or public health or safety, and <ul style="list-style-type: none"> • Is to a person reasonably able to prevent or lessen the threat, including the target of the threat; or • Is necessary for law enforcement to identify or apprehend an individual: because of a statement by an individual admitting participation in a violent crime that the CE reasonably believes may have caused serious physical harm to the victim, or where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody. • Disclosures limited to the statement by the individual and the limited information in section 164.512(f)(2)(i). • Disclosure not permitted if statement is learned in the course of treatment to affect the propensity to commit criminal conduct, or through a request to initiate or be referred to treatment. • Colorado courts may impose a duty to warn third persons under <i>Tarasoff</i>. See <i>Ryder v. Mitchell</i>, 54 P.3d 885 (Colo. 2002). 	Can volunteer under HIPAA Colorado may impose a duty to warn

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Patient Authorization	45 C.F.R. § 164.508	Disclosure is permitted pursuant to the individual's HIPAA-compliant authorization form, except for certain uses of psychotherapy notes.	HIPAA permits, Colorado theft of medical records statute requires patient consent