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Common Mistakes in Seeking and  
Disclosing Medical Information

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Common Mistakes in Seeking and Disclosing Medical Information



## OVERVIEW

- Summarize the laws governing the disclosure of medical information
- Review HIPAA privacy and security rules and how they impact the use and disclosure of medical information
- Review what needs to be done to comply with HIPAA
- Discuss consequences of non-compliance
- Review specific situations
- Answer your questions



## LAWS REGULATING EMPLOYER USE AND DISCLOSURE OF MEDICAL INFORMATION

- Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- Genetic Information Nondiscrimination Act
- Texas Medical Records Privacy Act
- Texas Business & Commerce Code
- Texas Education Code
- Texas Labor Code
- Texas Insurance Code



## HIPAA HISTORY AND BACKGROUND

- Coverage, access, and portability rights -1996
- Administrative “simplification” – April 2003
  - Standards to enable electronic exchange of information
  - Security standards
  - Privacy rules
- Final HIPAA privacy and security rules –effective September 23, 2013
- Enforced by Health and Human Services (“HHS”) Office for Civil Rights
- HIPAA Privacy Audits Begin – March 2016



## WHO IS SUBJECT TO HIPAA

- Health care providers, health plans and health care clearing houses (“**Covered Entities**”)
  - An employer is not directly subject to HIPAA (unless it is also a health care provider), but may become subject via agreement if it sponsors a group health plan (“**GHP**”)
- Business Associates (“**BAs**”) of Covered Entities, both directly and through a business associate agreement (“**BAA**”)

## WHAT IS A GHP?

- Medical, dental, and vision plans
- Health flexible spending arrangements (Health FSA)
- Long-term care benefits
- Employee assistance plans
- Texas occupational injury benefit plans

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