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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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