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Nevada Office
1495 Ridgeview Dr., Ste. 90
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Main Line
888.570.9400

Donor Referral Hotline
1.800.55DONOR

Tax ID 94-3062436

Title:	HIPAA and Patient Privacy Related to Organ and Tissue Donation
Purpose:	This document describes how HIPAA laws allow covered entities (e.g. hospitals, skilled care facilities, Dr.'s offices, etc.) to provide protected patient information to Donor Network West as an Organ and Tissue Procurement Organization.
HIPAA Allowances:	<p>The authors of HIPAA recognized that, in order to facilitate organ and tissue transplantation, covered entities need to freely share potential donors' protected health information (PHI) with organ and tissue procurement organizations. There are a number of elements in HIPAA and its preamble that accommodate this need.</p> <ul style="list-style-type: none"> • HIPAA allows a health care provider to use or disclose information if, and as, required by law. This exemption allows hospitals and OPOs to comply with the Medicare Conditions of Participation, 42CFR §482.45. These conditions specifically require that hospitals notify OPOs of potential donors in a timely manner, OPOs review medical information to determine donor eligibility, families of potential donors are given options to donate, etc. • At §164.512(h), HIPAA regulations allow HIPAA-covered entities to release information to organ procurement organizations or other entities involved in the procurement, banking, or transplantation of deceased donor organs, eyes, or tissue for the purpose of facilitating organ, eye, or tissue donation and transplantation. This allows the release of information by, and to, donor hospitals, transplant hospitals, UNOS, tissue banks, and laboratories. • Centers for Medicare and Medicaid Services (CMS) responses to comments on the regulations clearly indicate that OPOs are not 'business partners' of hospitals. The response states, in pertinent part: "...organ procurement organizations and tissue banks are generally not business associates of hospitals." Thus, OPOs do not need to enter into business partner agreements with hospitals, unless they are acting as something other than OPOs. • The preamble to the final rule also states that OPOs are not "health care providers" when they are engaged in the procurement or banking of organs, blood, or tissues. Thus, with regard to hospital affiliations, OPOs are neither covered entities, nor business partners, and are specifically permitted to perform their core functions with stringent confidentiality, but outside the ambit of HIPAA. • Pursuant to the above exemptions, HIPAA-covered entities do not need to obtain patient authorization for OPOs to do their core jobs: the coordination of donation and transplantation and the review of records.

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<p>Donor Network West Obligations:</p>	<p>Organ and Tissue Procurement Organizations are required to stringently protect patient information. Donor Network West requires all personnel to sign a confidentiality agreement. Employees are trained to understand what is defined as PHI and how to prevent verbal, paper-based, or electronic disclosure. Employees are instructed to only share PHI on a need to know basis. All communication outside of Donor Network West will be transmitted securely.</p>
<p>Donor Network West-Allowed Disclosures:</p>	<p>Donor Network West may disclose PHI to third parties such as Coroners, Doctor's Offices, Police, Funeral Homes, etc. to facilitate donor screening and transplant. This is done only as needed, and the information shared should be limited to that which is necessary.</p>
<p>Common Scenarios:</p>	<p>Obtaining hospital records on a referral to establish medical suitability to determine if case remains active or rule out; obtaining records from jails or extended care facilities to establish medical suitability, etc.</p>
<p>Resources:</p>	<p>Donor Network West has added bookmarks to HIPAA Regulations, indicating OPOs are not covered entities, and language that allows covered entities to share information with organ and tissue banks.</p>