



The National Association of Medical Examiners®

15444 Chinnereth Est, Savannah, MO 64485
660-734-1891 Fax: 888-370-4839 Email: name@thename.org

Re: Updates on the 2024 HIPAA Privacy Rule (Reproductive Health Care)
Authored by M.J. Menendez, J.D.
Published by the NAME Executive Committee
July 8, 2025

This summary is for education and guidance only; it is not legal advice.

Introduction:

Over the first half of 2025, NAME membership raised questions about the “attestation” requirement instituted in the 2024 HIPAA Privacy Regulations Supporting Reproductive Health Care Privacy. Not only did this cause significant delays in receiving medical records, but medical examiners and coroners could now be held criminally liable if there was a potential breach of information. This threat of criminal liability was unprecedented, and caused reluctance in signing the required attestation.

While we were researching and preparing a guidance document with suggestions for navigating the HIPAA requirements, the 2024 HIPAA Privacy Regulation and its attestation requirement were struck down in a federal district court case that entered a “universal” or national injunction. While the 2024 HIPAA Privacy Act changes are now stricken and in the past, we provide a summary and explanation of the HIPAA process and abrogation to aid in your understanding of this rather confounding area of regulation and judicial or “case-made” law.

Summary:

The HIPAA Privacy Rule Amendment Supporting Reproductive Health Care Privacy, referred to herein as the 2024 Privacy Rule, prohibited the use or disclosure of protected health information (PHI) related to lawful reproductive healthcare in certain circumstances, with Health and Human Services (HHS) specifically mandating a very broad interpretation of the term “reproductive healthcare”. The 2024 Privacy Rule restricted the use of PHI for investigations, or for identifying individuals for legal proceedings, and for imposing liability related to reproductive healthcare when the reproductive health care is lawful. The 2024 Privacy Rule took effect on June 25, 2024.

The 2024 Privacy Rule included an attestation requirement at 45 Code of Federal Regulation 164.509. The HHS 2024 Privacy Rule was issued with a mandatory template for the form and content of the attestation. Under the threat of personal criminal liability for wrongful disclosure, the attestation requirement required medical examiners and coroners to sign a document attesting that, “...[t]he purpose of the use or disclosure of protected health information is **not** to investigate or impose liability on any person for the mere act of seeking, obtaining, providing, or facilitating reproductive health care or to identify any person for such purposes.”

In other words, the attestation shifted potential liability for direct and attenuated disclosure of identifiable health information to medical examiners and coroners, and such liability potentially could have attached despite the legality and appropriateness of the Medical Examiner or Coroners request. Practically, the forensic pathology community reported the attestation requirement dramatically delayed receipt of medical records needed for cause and manner determinations.

A number of lawsuits were filed against the Department Health and Human Services by states in early 2025. The first case filed alleging the regulation was illegal, arbitrary, and capricious was filed by an individual clinician, Dr. Carmen Purl, in December 2024. The U.S. District Court for the Northern District of Texas heard arguments in Carmen Purl, et.al. Plaintiffs, v. US Department of Health and Human Services, Defendants, Court Case number 2:24-CV-228-Z. The federal court issued an order on June 18, 2025, vacating the Reproductive Health Care HIPAA Privacy Rule. The court found that the rule unlawfully limits state public health laws, redefines terms like “person” and “healthcare,” and was adopted without congressional authority. The ruling applies nationwide and vacates the entire 2024 Reproductive Healthcare Privacy Rule, except for amendments to substance abuse disorder regulations. The HIPAA Privacy Rule attestation is no longer required to be signed by medical examiner and coroner offices to obtain medical records.

Nationwide Injunctions (Trump v. CASA decision):

On June 27, 2025, the U.S. Supreme Court held in a 6-3 decision in Trump v. CASA, Inc. that federal courts lack the authority to issue universal injunctions under the Judiciary Act of 1789. In so ruling, the Court granted the government’s applications to partially stay the preliminary injunctions prohibiting it from enforcing President Trump’s Executive Order No. 14160 which purports to abrogate birthright citizenship. Of important note, the CASA decision limited universal or national injunctions in cases involving executive orders.

The CASA ruling does not change the abrogation and vacation of the 2024 HIPAA Privacy Rule Relating to Reproductive Rights which is drafted, implemented, amended, and challenged under the Administrative Procedures Act. In the CASA opinion, the Supreme Court stated: “Nothing [in its decision] resolves the distinct question whether the Administrative Procedure Act (APA) authorizes courts to vacate federal agency action. The APA specifically provides that courts may “set aside” unlawful regulations, for example, as well as stay those regulations from taking effect pending the outcome of the case. Accordingly, plaintiffs may continue to challenge agency action under the APA and obtain the broad relief of vacatur, which by its very nature also affords relief to nonparties to the case.”

Respectfully submitted by:

M.J. Menendez, J.D.
NAME Executive Vice President

Michelle Jorden, M.D.
NAME 2025 Vice President

Reade Quinton, M.D.
NAME 2025 President