HIPAA & DONATION

**How does HIPAA affect donation?**

- How does the Health Insurance Portability and Accountability Act (HIPAA) apply when OneLegacy is asking to see the patient’s chart or is asking a healthcare professional for information about the patient?
- Are you allowed to share the chart?
- Are you allowed to give information to OneLegacy about the patient?

These may be some questions you have been asking yourself and you are right to be concerned about your patients’ health information and maintaining confidentiality.

2. The broadest exemption is found at 45 CFR §164.512(h) which allows for information to be released to “OPOs or other entities involved in the procurement, banking or transplantation of ... organs, eyes, or tissue [from deceased donors] for the purposes 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.

**HIPAA and Organ Procurement Organizations (OPOs) such as OneLegacy**

The core functions of an OPO are subject to two regulatory exemptions in the HIPAA privacy regulations:

1. A health care provider may use or disclose information if and as required by law. The code of federal regulations (CFR) provided by Center for Medicare & Medicaid Services (CMS), also called the Conditions of Participation, require hospitals to refer all potential organ and tissue donors to the OPO and require OPOs to conduct medical record reviews for compliance. (42CFR §482.45)

**Is patient consent needed before OneLegacy can view the chart?**

As the organ and tissue donation process is governed by federal regulations, hospitals do not need to obtain patient consent for OPOs to do their core jobs: the coordination of donation and transplant, and the review of records. In fact, the timing of the donation conversation is extremely critical and the process of the donation conversation is regulated, therefore the patient’s (or LNOK’s) consent for chart review is not needed.

Reference: