

New York State Office of Mental Health

Health Care Portability and Accountability Act (HIPAA)

Preemption Analysis

The New York State Office of Mental Health HIPAA Preemption Analysis is designed to examine the interplay between the HIPAA Privacy regulations (45 CFR Parts 160 and 164) and a variety of New York State statutes, regulations, and other precedent most commonly referred to when using and disclosing mental health treatment information. Readers are cautioned that, while comprehensive in scope, the Analysis does not represent a complete overview of all legal precedent that may impact such uses and disclosures, but it does attempt to address those most often utilized. Furthermore, this Analysis is not intended to substitute as legal advice, and readers are urged to consult with their attorneys when developing HIPAA compliance strategies or when considering specific legal questions.

This Analysis reflects New York State and federal laws and regulations as of September 23, 2013, and does reflect amendments adopted by the Department of Health and Human Services and published as of that date. However, as both federal and state law are constantly changing, and the body of knowledge and interpretive guidance around these regulations are continually evolving, this Analysis remains subject to modification by the Office of Mental Health.

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