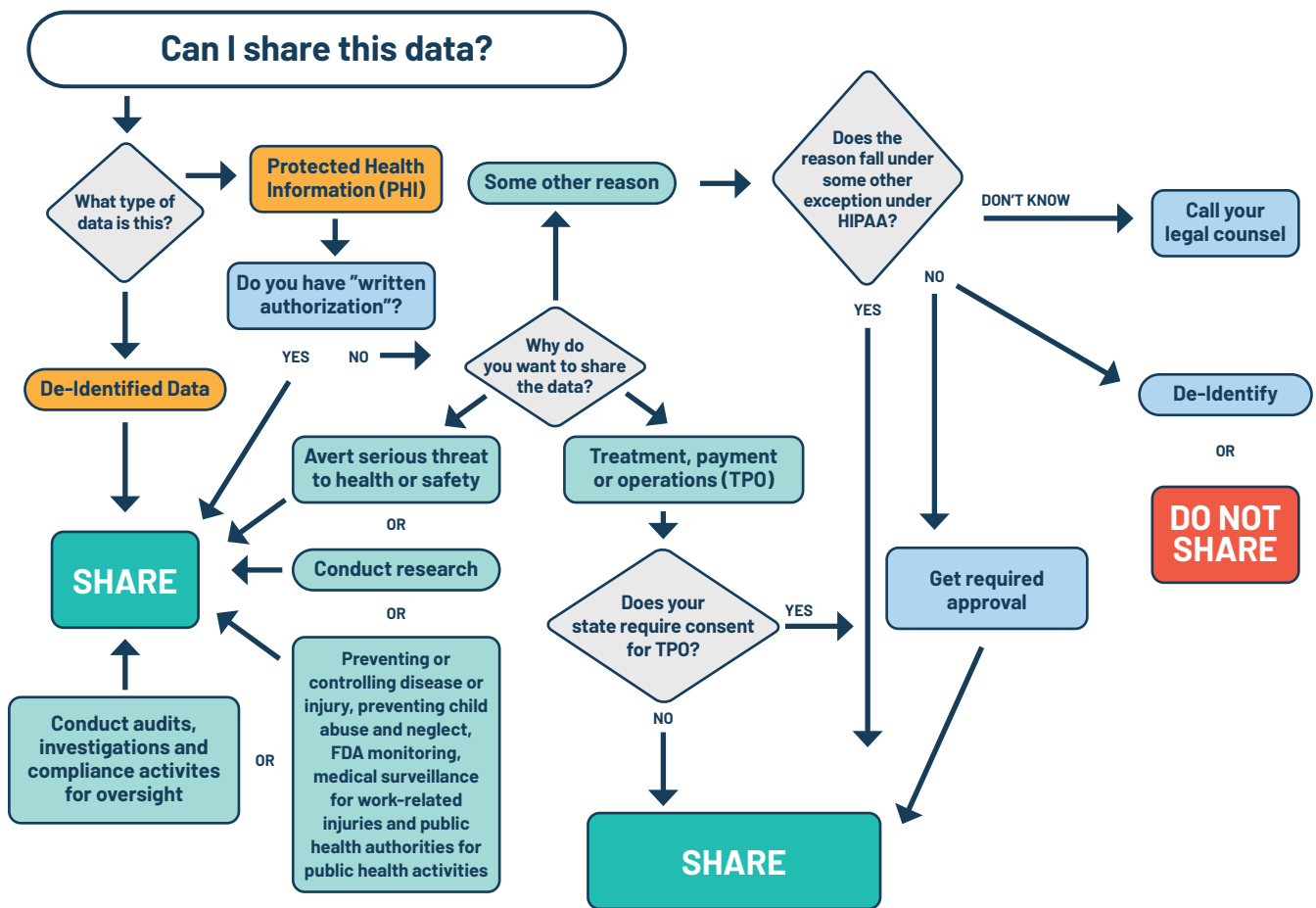


Health Data

Getting Started

Cross-sector data sharing and integration has become more routine and commonplace, as cross-sector data provide valuable insights to inform resource allocation and evaluate policies. Importantly, as health data is frequently shared and integrated, practitioners must decipher the Health Insurance Portability and Accountability Act (HIPAA) legal safeguards for sharing and integrating health data. The following matrix was designed to help practitioners begin to understand legal safeguards under HIPAA. To learn more about HIPAA and other legal considerations for data sharing, check out AISP's [Finding A Way Forward: How to Create a Strong Legal Framework for Data Integration](#) and [Yes, No, Maybe? Legal and Ethical Considerations for Informed Consent in Data Sharing and Integration](#).



IS THIS LEGAL?

This decision matrix provides a broad overview of key questions to ask to begin to answer the question of "Is it legal?" This matrix assumes the organization is a "covered entity" and HIPAA applies. This matrix is just a starting point and does not address all the potential scenarios, including any pertinent state laws, in which health data can or cannot be disclosed, as such it is always important to consult your legal counsel.

- ▶ **HIPAA protects the confidentiality of individual health information**
- ▶ **This matrix highlights common HIPAA exceptions for data sharing and integration**
- ▶ **This matrix is not intended as legal advice**

If you selected this:

Avert serious threat to health or safety



Then your use likely falls within the **Health or Safety Exception**

Health or Safety Exception

PHI can be disclosed to prevent or lessen an imminent threat to the public or a person when made to someone that can lessen the threat.

(45 CFR § 512(j))

If you selected this:

Conduct research



Then your use likely falls within the **Research Exception**

Research Exception

Under this exception, PHI can be disclosed to a researcher:

- if a waiver of authorization is approved by IRB;
- to prepare research protocol or purpose preparatory to research and the PHI is necessary;
- for research on decedents and PHI is necessary.

There are also additional requirements that a researcher must meet under this exception.

(45 CFR §§ 502(d) and 164.514(a)-(c))

If you selected this:

Treatment, payment or operations (TPO)



Then your use likely falls within the **TPO Exception**

TPO Exception

PHI can be disclosed for treatment, payment and health care operations. Under this exception, PHI can be shared to coordinate treatment, including referrals and consultations; billing, collection, preauthorization; and operational activities like quality assessments, legal services, auditing, etc. Note, that under this exception a Business Associate Agreement might be required and certain states might also require consent.

(45 CFR § 164.502)

If you selected this:

Conduct audits, investigations and compliance activities for oversight



Then your use likely falls within the Health Oversight Exception

Health Oversight Exception

PHI can be disclosed for health agency oversight activities authorized by law that include audits; civil, administrative, or criminal investigation; inspections; disciplinary actions; or civil, administrative or criminal actions to ensure compliance with government regulatory programs.

(45 CFR § 512(a))

If you selected this:

Preventing or controlling disease or injury, preventing child abuse and neglect, FDA monitoring, medical surveillance for work-related injuries and public health authorities for public health activities



Then your use likely falls within the Public Health Activity Exception

Public Health Activity Exception

Under this exception, PHI can be shared to:

- prevent or control disease, injury, or disability;
- prevent child abuse and neglect;
- FDA monitoring (such as product recalls);
- contact individuals exposed to communicable disease;
- work-place injury or illness surveillance;
- public health authorities for public health activities.

(45 CFR § 512(f))