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Federal Court Vacates HIPAA Reproductive Health Rule

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As anticipated, a Texas federal district court has vacated the HIPAA Reproductive Health Rule (the “Rule”) nationwide. (Memorandum Opinion and Order, *Purl v. HHS*, 2:24-CV-228-Z (N. Dist. Tex (Jun. 18, 2025), available here). Consequently, healthcare providers can now disregard the Rule's rather burdensome requirements and unwind the actions they took to implement the Rule.

The *Purl* Decision. In the wake of *Dobbs v. Jackson Women's Health Organizations*, the Biden Administration promulgated the HIPAA Reproductive Health Rule to prohibit the disclosure of reproductive health information for purposes of investigating or prosecuting the provision of reproductive healthcare if the healthcare was legal where performed.¹ In *Purl*, the district court held that HHS exceeded its authority and violated procedural requirements in promulgating the Rule. Consequently, the district court vacated the entire Rule as it pertains to special standards or requirements relating to reproductive health information. Although HHS could appeal the district court's decision, it is very unlikely that HHS will do so given existing Trump Administration policies. HHS has not requested a stay of the decision, thereby signaling that it has no intention of appealing.

The Net Effect for Providers. Except as otherwise provided below, HIPAA reverts back to its form that existed before the Reproductive Health Rule took effect in December 2024, *i.e.*,

- Reproductive health information is treated just as any other protected health information (PHI) under HIPAA. Like other PHI, providers generally may not use or disclose reproductive health information without the patient's authorization unless a HIPAA exception applies, *e.g.*, the disclosure is for treatment, payment or healthcare operations; to report child abuse and for certain public health activities; in response to a court order, warrant, or subpoena if certain conditions are satisfied; disclosures required by law; *etc.* (See generally 45 C.F.R. §§ 164.506, 164.510, and 164.512).
- HIPAA no longer requires that a provider obtain an attestation to confirm that the disclosure is not for purposes of investigating or prosecuting an offense relating to the provision of reproductive healthcare. A provider would still need to confirm conditions that would otherwise permit disclosure under existing HIPAA exceptions, including but not limited to verifying the identity and authority of persons requesting PHI. (See 45 C.F.R. § 164.502 to 164.514).

- Although HIPAA would **permit** disclosures of PHI under an applicable HIPAA exception, HIPAA generally does not **require** that providers disclose the PHI. (See 45 C.F.R. 164.502(a)(2)). Thus, under HIPAA, providers may generally decline to disclose reproductive health information along with other PHI. Of course, other laws or court orders, subpoenas, or warrants may require the disclosures even if HIPAA does not. If so, HIPAA will not protect a provider who fails to disclose per other law or court processes.
- Providers should withdraw and modify their policies and practices to remove the special protections applicable to reproductive health information. Stated another way, providers should generally undo everything they did to comply with the Reproductive Health Rule.

Remember State Laws. *Purl* only applies to HIPAA; it does not affect state laws that may impose more stringent laws on reproductive health information than HIPAA. Some states may have more restrictive laws and, if so, providers should generally comply with such laws where applicable.

SUD Provisions Not Affected by the *Purl* Decision. The *Purl* decision only applies to those provisions of the Rule that pertain to reproductive health information. It does not affect portions of the rule that require providers to update their notices of privacy practices to address substance use disorder (SUD) records. (See 45 C.F.R. § 164.520). Providers will still need to amend their Notice of Privacy Practices to address SUD records by February 2026 unless that portion of the regulation is changed.

¹ For information about the Rule, see our article at <https://www.hollandhart.com/the-new-hipaa-reproductive-health-rule-what-you-need-to-know>.

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