

1. Citation	2. Brief Summary of Pertinent Provision	3. Is There a HIPAA Counterpart?	4. Which Law Applies?	5. Why?
<p>MCL 28.258 (Information for LEIN)</p>	<p>[1.] Information relating to missing individuals and children shall be entered into the Law Enforcement Information Network (“LEIN”), information clearinghouse, and the National Crime Information Center.</p> <p>[2.] The information shall include, if available, the name, address, vital statistics (including physician description), date of disappearance and any other information that would assist in locating the missing person. If the missing person is a child, the following additional information shall be included: date and state of birth, mother’s maiden name and date the child turns 17 (“Minor Information”).</p>	<p>[1.] <u>Mandatory Disclosure to LEIN.</u> Yes, 164.512(a)(2) and 164.512(f)(2).</p> <p>[2.] <u>Information Disclosed to LEIN.</u> Yes, 164.510(b)(2) and 164.512(f)(2)(i).</p>	<p>[1.] <u>Mandatory Disclosure to LEIN.</u> Both.</p> <p>[2.] <u>Information Disclosed to LEIN.</u> Both, but see Column 5.</p>	<p>[1.] <u>Mandatory Disclosure to LEIN.</u> Both state law and the Rule apply because the Rule permits disclosure without consent or authorization where, as here, required by law. Note: To the extent that the state law mandated information is not protected health information as defined by the Rule (“PHI”), or the source of the information is not a covered entity, the Rule would not apply.</p> <p>[2.] <u>Information Disclosed to LEIN.</u> Both state law and the Rule apply because each permits disclosure of the name, address and vital statistics (including physical description) for law enforcement purposes. State law applies regarding date of disappearance and Minor Information because neither is PHI. Note: As noted above, if the information entered does not include PHI, or the source of the information is not a covered</p>

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	<p>[3.] Once the child turns 18, any information entered into the LEIN shall be retained and the child shall be considered an emancipated minor.</p> <p>[4.] Dental records may be entered into the National Crime Information Center 30 days after the initial required information is entered and the person is not found. If the dental records are requested for a missing person, the law enforcement agency conducting the investigation must obtain a written consent from the family or next-of-kin to contact the missing person's dentist to request the patient's dental records (MCL 333.28442).</p>	<p>[3.] <u>Retention of Minor Information.</u></p> <p>No.</p> <p>[4.] <u>Disclosure of Dental Records.</u></p> <p>Yes, 164.512(f)(2)(ii).</p>	<p>[3.] <u>Retention of Minor Information.</u></p> <p>State law.</p> <p>[4.] <u>Disclosure of Dental Records.</u></p> <p>Both.</p>	<p>entity, the Rule would not apply.</p> <p>[3.] <u>Retention of Minor Information.</u></p> <p>State law because no Rule counterpart exists.</p> <p>[4.] <u>Disclosure of Dental Records.</u></p> <p>Both state law and the Rule apply because each requires consent or authorization by the individual or personal representative for the disclosure of dental records.</p>

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<p>MCL 330.1748 (Confidentiality of Mental Health Records)</p>	<p>[7.] Confidential information may be disclosed to the recipient's attorney with the recipient's or recipient's guardian's, parent's or personal representative's consent.</p>	<p>[7.] <u>Disclosure to Attorney.</u> Yes, 164.502(a)(1)(iv), 164.502(g) and 164.508.</p>	<p>[7.] <u>Disclosure to Attorney.</u> Both.</p>	<p>[7.] <u>Disclosure to Attorney.</u> Both state law and the Rule apply because each permits disclosure with authorization. Note: 164.502(g)(5) describes when a personal representative cannot act in that capacity.</p>

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<p>MCL 333.2619 (Establishment of Cancer Registry)</p>	<p>[1.] A cancer registry must be established.</p> <p>[2.] All cancer and certain tumors must be reported to MDCH.</p> <p>[3.] Cancer registry reports maintained by MDCH shall be subject to the same confidentiality requirements as provided in MCL 333.2631 (reporting or sharing research information with MDCH), discussed below in this Matrix.</p>	<p>[1.] <u>Establishment of Registry.</u> No.</p> <p>[2.] <u>Disclosure to State Agencies.</u> Yes, 164.512(a)(1), 164.512(b)(1)(i) and 164.512(d).</p> <p>[3.] <u>Confidentiality.</u> <i>See analysis at MCL 333.2631 discussed below in this Matrix.</i></p>	<p>[1.] <u>Establishment of Registry.</u> State law.</p> <p>[2.] <u>Disclosure to State Agencies.</u> Both.</p> <p>[3.] <u>Confidentiality.</u> <i>See analysis at MCL 333.2631 discussed below in this Matrix.</i></p>	<p>[1.] <u>Establishment of Registry.</u> State law applies because no Rule counterpart exists regarding establishment of a cancer registry.</p> <p>[2.] <u>Disclosure to State Agencies.</u> Both state law and the Rule apply because each permits disclosure without consent or authorization for health oversight, for public health purposes and as required by law.</p> <p>[3.] <u>Confidentiality.</u> <i>See analysis at MCL 333.2631 discussed below in this Matrix.</i></p>

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<p>MCL 333.9207</p> <p>(Childhood Immunization Registry)</p>	<p>Information contained in the childhood immunization registry is subject to the confidentiality and disclosure requirements of MCL 333.2637 (MDCH's confidentiality procedures) and 333.2888 (inspection and disclosure of vital records), discussed above in this Matrix, as well as the rules promulgated under MCL 333.9227. MDCH may access the registry when necessary to fulfill its duties under the Public Health Code.</p>	<p>No.</p>	<p>State law.</p>	<p>State law applies because MDCH is not functioning as a covered entity in maintaining the childhood immunization registry.</p>

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<p>MCL 333.9307</p> <p>(Hearing and Vision Testing for School Registration)</p>	<p>[1.] Individual hearing and vision testing screening records are confidential.</p> <p>[2.] The principal or administrator shall provide a summary of hearing and vision reports to state and local health departments.</p> <p>[3.] Hearing and vision records shall be available to health agencies and other persons to assist in obtaining proper and necessary health and educational care, attention and treatment as permitted by MDCH.</p>	<p>[1.] <u>Confidentiality.</u> Yes, 164.502(a).</p> <p>[2.] <u>Summary of Hearing and Vision Testing.</u> No.</p> <p>[3.] <u>Record Availability to State Agencies.</u> No.</p>	<p>[1.] <u>Confidentiality.</u> Both.</p> <p>[2.] <u>Summary of Hearing and Vision Testing.</u> State law.</p> <p>[3.] <u>Record Availability to State Agencies.</u> State law.</p>	<p>[1.] <u>Confidentiality.</u> Both state law and the Rule apply because each contains compatible requirements that confidential health information be protected.</p> <p>[2.] <u>Summary of Hearing and Vision Testing.</u> State law applies because no Rule counterpart exists mandating such summary, and school administrators or principals are not covered entities.</p> <p>[3.] <u>Record Availability to State Agencies.</u> State law applies because MDCH is not functioning as a covered entity in this context.</p>

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<p>MCL 333.17015</p> <p>(Informed Consent for Abortion)</p>	<p>[1.] Absent an emergency as defined in this Section, a physician shall not perform an abortion otherwise permitted by law without the patient’s informed written consent provided freely and without coercion. Twenty-four hours prior to performing an abortion, a physician or qualified person assisting in performing an abortion must make certain clinical determinations as to the pregnancy; provide certain oral descriptions to the patient about the pregnancy, complications and access to pregnancy prevention information; explain the patient’s option to review a written summary of information regarding the procedure and provide the patient with a copy of a state-distributed pamphlet regarding pregnancy and prenatal care. Before performing an abortion, the physician must provide the patient with certain information and inform the patient of the right to withhold or withdraw consent to the abortion and orally describe risks of the procedure and of continued pregnancy. Before performing an abortion, a physician, among other things, must obtain the patient’s signature on a form prepared or approved by the MDCH consenting to the abortion and acknowledging the patient has received the required information and provide the patient with a copy of her written consent and acknowledgement. In medical emergency, a physician may perform an abortion without meeting various informed consent requirements in this Section.</p>	<p>[1.] <u>Informed Consent for Abortion.</u></p> <p>No.</p>	<p>[1.] <u>Informed Consent for Abortion.</u></p> <p>State law.</p>	<p>[1.] <u>Informed Consent for Abortion.</u></p> <p>State law applies because no Rule counterpart exists relating to informed consent procedures for abortions performed by a physician. Note: However, the Rule permits forms for use and disclosure of PHI for TPO to be combined with informed consent forms and emergency treatment without consent. <i>See</i> 164.506(a)(3)(i) and 164.506(b)(4).</p>

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	<p>[2.] The information required to be disclosed by this Section shall not be disclosed in front of another patient.</p> <p>[3.] MDCH shall develop various informational materials regarding abortion and a consent form for an abortion that authorizes the physician to perform the abortion, acknowledges the length of the pregnancy, advises right to withdraw consent and acknowledges the receipt of specific information required by this Section.</p> <p>[4.] The consent required in this Section is presumed to be valid if signed by the patient, but the validity can be rebutted.</p>	<p>[2.] <u>Seclusion of Patient Receiving Information.</u></p> <p>Yes, 164.502(a) and 164.530(c)(1).</p> <p>[3.] <u>Content of Consent.</u></p> <p>No.</p> <p>[4.] <u>Validity of Consent.</u></p> <p>Yes, 164.506(b)(4) and Guidance of July 6, 2001.</p>	<p>[2.] <u>Seclusion of Patient Receiving Information.</u></p> <p>Both.</p> <p>[3.] <u>Content of Consent.</u></p> <p>State law.</p> <p>[4.] <u>Validity of Consent.</u></p> <p>Both.</p>	<p>[2.] <u>Seclusion of Patient Receiving Information.</u></p> <p>Both state law and the Rule apply because each contains compatible requirements that confidential health information be protected. The Rule also requires appropriate administrative, technical and physical safeguards to protect privacy of PHI, while state law merely applies such safeguards in the context of abortion-related information.</p> <p>[3.] <u>Content of Consent.</u></p> <p>State law applies because MDCH is not functioning as a covered entity in this context.</p> <p>[4.] <u>Validity of Consent.</u></p> <p>Both state law and the Rule apply because while the state law addresses informed consent and the Rule addresses consent for the use and disclosure of PHI, both presume the validity of a signed consent. State law</p>

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	<p>[5.] The identity and address of a patient who consents to an abortion or is provided information about pregnancy or abortion is confidential,</p> <p>[6.] subject to disclosure only with the consent of the patient or by judicial process.</p>	<p>[5.] <u>Confidentiality.</u> Yes, 164.502(a).</p> <p>[6.] <u>Disclosure with Patient Consent by Judicial Process.</u> Yes, 160.203(b), 164.502(a)(1)(ii), 164.502(a)(1)(iv), 164.506, 164.508 and 164.512(e).</p>	<p>[5.] <u>Confidentiality.</u> Both.</p> <p>[6.] <u>Disclosure with Patient Consent by Judicial Process.</u> State law.</p>	<p>expressly permits rebuttal of the validity of a patient’s signature in the context of informed consent to abortion, while the Rule is silent on this point.</p> <p>[5.] <u>Confidentiality.</u> Both state law and the Rule apply because each contains compatible requirements that confidential health information be protected.</p> <p>[6.] <u>Disclosure with Patient Consent by Judicial Process.</u> State law applies because it permits disclosure only with consent or pursuant to judicial process. The Rule not only would permit disclosure under these circumstances, but also would permit disclosure under other circumstances not permitted by state law (<i>e.g.</i>, public health purposes). Thus, state law is contrary to and more stringent than the Rule.</p>

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	<p>[7.] The local health department with a file identifying an abortion patient shall only disclose the identity and address of the patient to a physician or person assisting the physician to verify receipt of the required information.</p> <p>[8.] The information containing the name and address of the patient shall be destroyed within 30 days.</p>	<p>[7.] <u>Disclosure Limitations.</u></p> <p>Yes, 160.203(b), 164.502(b) and 164.514(d).</p> <p>[8.] <u>Record Destruction.</u></p> <p>No.</p>	<p>[7.] <u>Disclosure Limitations.</u></p> <p>State law.</p> <p>[8.] <u>Record Destruction.</u></p> <p>State law.</p>	<p>[7.] <u>Disclosure Limitations.</u></p> <p>State law applies because it is contrary to and more stringent than the Rule with regard to what information can be disclosed to the local health department for verification purposes.</p> <p>[8.] <u>Record Destruction.</u></p> <p>State law applies because the Rule does not require the destruction of patient records in this context.</p>
<p>MCL 333.17020 and 333.17520</p> <p>(Consent to Genetic Testing)</p>	<p>A physician or an individual to whom the physician has delegated authority must obtain a written informed consent from a test subject prior to performing a presymptomatic or predictive genetic test. The informed consent shall include who will have access to the sample taken from the test subject to conduct the tests and the test subject's right to confidential treatment.</p>	<p>Yes, 164.502(a)(1)(ii), 164.502(a)(1)(iv), 164.506 and 164.508.</p>	<p>Both.</p>	<p>Both state law and the Rule apply because each requires consent or authorization to the disclosure of confidential health information. Note: While this Section speaks to informed consent, it requires such consent forms to include provisions regarding the disclosure of confidential health information. The consent required by the Rule can be included with an informed consent form in certain circumstances. <i>See</i> 164.506(b)(4).</p>

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<p>MCL 408.1024 (Occupational Health Standards)</p>	<p>[1.] The Occupational Health Standards Commission prescribes standards that medical exams and tests are available at the employer’s expense to employees to determine if employees have been adversely affected to exposure to hazardous substances.</p> <p>[2.] The results of the examinations or tests furnished by an employer-retained physician shall be furnished to the employer,</p> <p>[3.] the employee, and</p> <p>[4.] upon the request of the employee, to the employee’s personal physician.</p>	<p>[1.] <u>Commission Standards.</u> No.</p> <p>[2.] <u>Disclosure to Employer.</u> Yes, 164.512(b)(1)(v).</p> <p>[3.] <u>Disclosure to Individual.</u> Yes, 164.502(a)(2)(i) and 164.512(a)(1).</p> <p>[4.] <u>Disclosure with Consent or Authorization.</u> Yes, 164.502(a)(1)(ii), 164.502(a)(1)(iv), 164.506 and 164.508.</p>	<p>[1.] <u>Commission Standards.</u> State law.</p> <p>[2.] <u>Disclosure to Employer.</u> Both.</p> <p>[3.] <u>Disclosure to Individual.</u> Both.</p> <p>[4.] <u>Disclosure with Consent or Authorization.</u> Both.</p>	<p>[1.] <u>Commission Standards.</u> State law applies because the Occupational Health Standards Commission is not functioning as a covered entity in this context.</p> <p>[2.] <u>Disclosure to Employer.</u> Both state law and the Rule apply because each permits disclosure to employers to evaluate work-related illness or injury and medical surveillance.</p> <p>[3.] <u>Disclosure to Individual.</u> Both state law and the Rule apply because each requires disclosure to the individual to whom the confidential health information pertains.</p> <p>[4.] <u>Disclosure with Consent or Authorization.</u> Both state law and the Rule apply because each permits disclosure with consent or authorization. The form of the request will be governed by the Rule’s requirements for consent and authorization.</p>

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	[5.] If requested, the employer must supply MDCH with these records.	[5.] <u>Disclosure to MDCH by Employer.</u> No.	[5.] <u>Disclosure to MDCH by Employer.</u> State law.	[5.] <u>Disclosure to MDCH by Employer.</u> State law applies because employers are not covered entities subject to the Rule. Note: The Rule expressly provides that state law governing reports of injury are not preempted. <i>See</i> 160.203(c).
MCL 550.934 (Confidentiality Obligations of TPAs)	[1.] A third party administrator (“TPA”) shall provide for the confidentiality of personal data identifying an individual covered by a plan. [2.] A TPA shall not disclose records containing personal information that may be associated with an identifiable individual covered by a plan to a person other than the individual to whom the information pertains.	[1.] <u>Confidentiality.</u> Yes, 164.502(a). [2.] <u>Disclosure to Individual.</u> Yes, 164.502(a)(1)(i) and 164.502(a)(2)(i).	[1.] <u>Confidentiality.</u> Both. [2.] <u>Disclosure to Individual.</u> Both.	[1.] <u>Confidentiality.</u> Assuming the TPA is a covered entity or a business associate of a covered entity, both state law and the Rule apply because each contains compatible requirements that confidential health information be protected. [2.] <u>Disclosure to Individual.</u> Both state law and the Rule apply because each permits disclosure to the individual to whom the PHI pertains.

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	<p>[3.] Except as necessary to comply with a court order, TPA shall not disclose personal data about an individual without prior consent of the individual.</p> <p>[4.] If the individual covered by a plan has authorized the release of information to a third person, the third person shall not release that information unless the individual executes, in writing, another consent authorizing the additional release.</p> <p>[5.] The confidentiality and disclosure restrictions noted above do not apply to information disclosed: for claims adjudication, claims verification or other proper plan administration; or</p>	<p>[3.] <u>Disclosure upon Court Order or with Authorization.</u></p> <p>Yes, 164.502(b)(1)(iv), 164.508 and 164.512(e)(1)(i).</p> <p>[4.] <u>Redisclosure.</u></p> <p>Yes, 160.203(b), 164.502(a)(1)(ii), 164.506, and 164.502(e)(1).</p> <p>[5.] <u>Disclosure for Claims Adjudication, Verification and Plan Administration.</u></p> <p>Yes, 164.501 (definitions of health care operations</p>	<p>[3.] <u>Disclosure upon Court Order or with Authorization.</u></p> <p>Both.</p> <p>[4.] <u>Redisclosure.</u></p> <p>State law.</p> <p>[5.] <u>Disclosure for Claims Adjudication, Verification and Plan Administration.</u></p> <p>Both.</p>	<p>[3.] <u>Disclosure upon Court Order or with Authorization.</u></p> <p>Both state law and the Rule apply because each permits disclosure pursuant to a court order and prior authorization (state law consent here is more like an authorization under the Rule).</p> <p>[4.] <u>Redisclosure.</u></p> <p>State law applies because state law is contrary to and more stringent than the Rule. While both state law and the Rule require authorization (see [3.] above) prior to disclosure, state law requires an additional authorization (see [3.] above) for redisclosure, whereas the Rule permits redisclosure for TPO or in connection with business associate contracts.</p> <p>[5.] <u>Disclosure for Claims Adjudication, Verification and Plan Administration.</u></p> <p>Both state law and the Rule apply because each allows</p>

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	<p>[6.] for an audit pursuant to ERISA and as required by law; or</p> <p>[7.] to an insurer for the purchase of excess loss insurance and for claims under such insurance; or</p>	<p>and payment), 164.502(a)(1)(ii) and 164.506(a).</p> <p>[6.] <u>Disclosure as Required by Law.</u></p> <p>Yes, 164.512(a)(1) and Rule Preamble at 65 Fed. Reg. 82481 and 82482.</p> <p>[7.] <u>Disclosure for Purchase of Insurance.</u></p> <p>Yes, 164.501 (definition of health care operations), 164.502(a)(1)(ii) and 164.506(a).</p>	<p>[6.] <u>Disclosure as Required by Law.</u></p> <p>Both.</p> <p>[7.] <u>Disclosure for Purchase of Insurance.</u></p> <p>The Rule.</p>	<p>disclosure for TPO by a health plan or its business associate.</p> <p>[6.] <u>Disclosure as Required by Law.</u></p> <p>Both state law and the Rule apply because the Rule permits disclosure where, as here, required by law, including federal law.</p> <p>[7.] <u>Disclosure for Purchase of Insurance.</u></p> <p>The Rule applies because it would require individual authorization if the stop loss policyholder is the employer (not a covered entity), but not if the policyholder is the group health plan (a covered entity). Disclosure for TPO pursuant to consent only is applicable to covered entities. Note: Group health plans could disclose PHI of participants and beneficiaries for payment and health care operations without consent under the Rule.</p>

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	<p>[8.] to the plan; or</p> <p>[9.] to the plan fiduciary; or</p> <p>[10.] to the OFIS Commissioner.</p>	<p>[8.] <u>Disclosure to Plan.</u></p> <p>Yes, 164.501 (definitions of health care operations and payment), 164.504(f) and 164.506(b)(2).</p> <p>[9.] <u>Disclosure to Plan Fiduciary.</u></p> <p>Yes, 164.501 (definitions of health care operations and payment), 164.502(a)(1)(ii), 164.506, and 164.504(f).</p> <p>[10.] <u>Disclosure to the OFIS Commissioner.</u></p> <p>Yes, 164.512(d)(1)(i).</p>	<p>[8.] <u>Disclosure to Plan.</u></p> <p>Both.</p> <p>[9.] <u>Disclosure to Plan Fiduciary.</u></p> <p>The Rule.</p> <p>[10.] <u>Disclosure to the OFIS Commissioner.</u></p> <p>Both.</p>	<p>[8.] <u>Disclosure to Plan.</u></p> <p>Both state law and the Rule apply because neither requires consent prior to disclosure for TPO. Note: Only health care providers, not health plans, are mandated to obtain consent under 164.506.</p> <p>[9.] <u>Disclosure to Plan Fiduciary.</u></p> <p>The Rule applies because it would prohibit disclosure to a plan fiduciary who is an employer sponsoring a group health plan administered by the TPA, while state law would permit such disclosure. Note: Both state law and the Rule would apply if the plan fiduciary is not the employer.</p> <p>[10.] <u>Disclosure to the OFIS Commissioner.</u></p> <p>Both state law and the Rule apply because each permits disclosure without consent or authorization for health oversight purposes.</p>