# **Disclosure of Decedent's Records**

Generally, protected health information of a decedent is treated the same as when the decedent was alive. After death, the personal representative or other person authorized by law to act on behalf of the decedent takes on the role of the decedent under the HIPAA regulations and may exercise the rights of the decedent. The only significant exception to this rule is release of a decedent's protected health information for research purposes. See the questions below for more information.

**Frequently Asked Questions**

* How long must a covered entity protect a decedent's protected health information? For as long as it maintains the information. The regulations require covered entities to keep patient protected health information for at least 6 years.
* Must a covered entity account for uses and disclosures of a decedent's protected health information? Yes, in the same manner as required for living individuals. The personal representative may exercise the decedent's rights in this regard.
* When and how can I release information to the coroner or funeral director? The regulations allow covered entities to release protected health information to a coroner or funeral director without consent or authorization as is necessary to carry out their duties with respect to the decedent. These releases are allowed both after and in anticipation of death.
* How is a decedent's protected health information used and disclosed for research purposes under HIPAA? Use and disclosure of a decedent's information for research purposes is permitted without the consent or authorization of the personal representative, and without written documentation of IRB or privacy board approval. The regulations require, however, the covered entity to take certain protective measures prior to release of the decedent's information for research purposes. Specifically, the regulations require the covered entity to obtain representation that:
* The use or disclosure is sought solely for research on the protected health information of the deceased; and
* The protected health information for which use or disclosure is sought is necessary for the research purpose.

**State Law Preemption:**Oregon law contains special protections for use of genetic information for research purposes and the 2001 legislative assembly adopted new confidentiality protections, found in Oregon Laws chapter 588, for research on human subjects and blood relatives of research subjects. As more protective of the privacy of information, it is likely Oregon law prevails over HIPAA as it relates to genetic research.