

HIPAA-08: State Law Preemption Policy

Effective Date:	12-01-2015	Last Revised:	7-17-2017
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Scope of Policy

This policy governs HIPAA Preemption and State Law for **TCS**. All personnel of **TCS** must comply with this policy. Demonstrated competence in the requirements of this policy is an important part of the responsibilities of every member of the workforce.

Assumptions

- TCS** must comply with HIPAA and the HIPAA implementing regulations concerning state law preemptions of HIPAA regulations, in accordance with the requirements at § 160.201 to § 160.205.
- HIPAA generally preempts state laws regarding medical or health privacy. However, state laws that provide stronger protections for confidential health data, or that provide for better patient and consumer access to health data than HIPAA, will generally preempt HIPAA regulations.
- HIPAA Covered Entities and Business Associates must follow both HIPAA law and state law when possible. If there is a conflict between the two, a preemption analysis and determination must be made to assess which laws (HIPAA, State Laws, or both) must be followed.

Policy Statement

- It is the Policy of **TCS** to comply, whenever possible, with both state law in the state(s) where we operate, as well as HIPAA law and regulations.

Procedures

- TCS's** designated Privacy Official shall analyze HIPAA preemption issues, in cooperation with legal counsel, and make preemption determinations.
- TCS's** designated Privacy Official shall create, modify, or amend organization policies to accurately reflect preemption determinations and provide guidance to management on HIPAA and state law preemption issues.
- If off-the-shelf or custom preemption analyses are obtained from external sources, it is the responsibility of the **TCS's** designated Privacy Official, in cooperation with legal counsel, to certify the validity and accuracy of such external preemption analyses before applying those analyses to **TCS** operations.
- TCS's** designated Privacy Official shall conduct ongoing research to monitor legislative changes in the state(s) where we operate that could affect HIPAA preemption issues.