Reporting Doctor Shopping to Law Enforcement 164.512(f)

Note: To understand the elements of "Doctor Shopping", please go to “Identifying and Reporting Doctor Shopping” on the DoctorsSafeguard.Com Podcast page.

Reporting “Doctor Shopping” that occurs in your clinic would probably fall under reporting a "crime on premises”. Put another way, if a patient commits a criminal offense (example: doctor shopping, theft of a prescription pad/sheet, threat made to staff member, assault, etc.) you may report that offense to law enforcement and provide the patient’s (offender’s) protected health information (PHI) if the information is germane to the investigation of the criminal offense and it occurred in your clinic or on the premises.

Prior to disclosing the patient’s PHI, be sure of the following:

1. The act committed by the patient constitutes a criminal offense in your state.
   
   Example: Doctor Shopping is illegal in most states, but not in all states. Also, the act of verbally threatening a person with physical harm is illegal in some states, but in other states this would only be illegal if the person acted out the threat by assaulting the person they threatened.

2. The act was committed on your premises.

Try it out on the following scenario:

Let’s say that your state has a doctor shopping law and you typically query each patient through your state’s prescription drug monitoring program (PDMP) prior to examination. During this process, you find that a patient had received a prescription for a controlled substance from another physician three days after the patient’s last appointment in your clinic. During the patient’s last visit, the patient received a 30-day prescription for a controlled substance. You contact the physician who wrote the most recent prescription and verified: (1) That the patient received the prescription from the physician; and (2) The patient did not disclose to the physician that the patient received a controlled substance prescription from you. You also contact the pharmacy and verify that the patient filled both the last prescription provided by you and the prescription provided by the other physician.

Question: Can you report this offense to law enforcement?

Answer: NO – Based on this scenario, the offense of doctor shopping was committed at the other clinician’s clinic, not at your clinic. In this case, the other doctor should report this offense to law enforcement.

Continuing the Scenario:

If the patient returns for the next appointment (after you have verified all of the above information) with the intent to obtain a refill of the controlled substance prescription and the patient fails to disclose the prior treatment with the other physician and this act constitutes doctor shopping in your state, you can report this offense to law enforcement and provide the minimum amount of PHI necessary to complete the report to law enforcement.