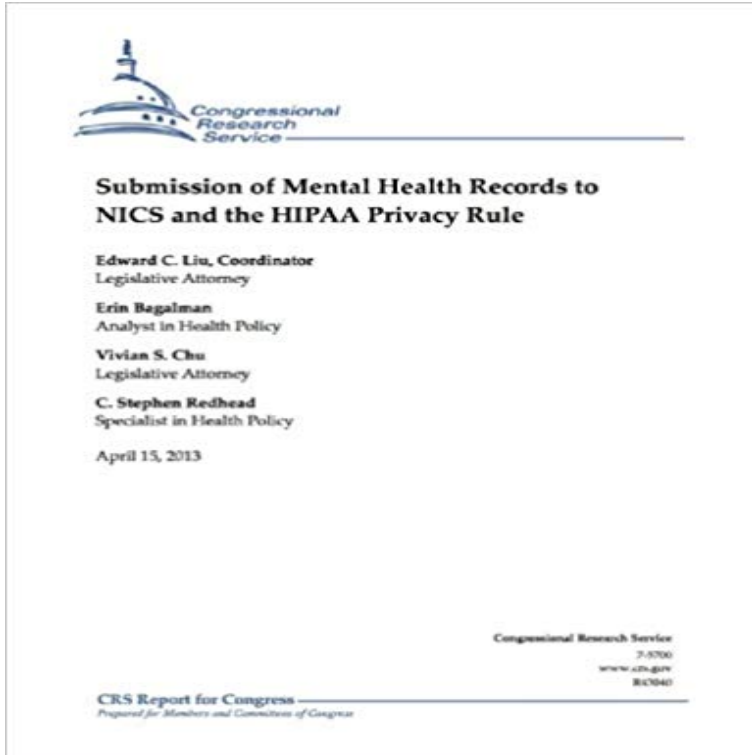


Submission of Mental Health Records to NICS and the HIPAA Privacy Rule



Questions about the scope and efficacy of the background checks required during certain firearm purchases have gained prominence following recent mass shootings. These background checks are intended to identify whether potential purchasers are prohibited from purchasing or possessing firearms due to one or more prohibiting factors, such as a prior felony conviction or a prior involuntary commitment for mental health reasons. Operationally, such background checks primarily use information contained within the National Instant Criminal Background Check System (NICS) and a particular focus of the debate in Congress has been whether federal privacy standards promulgated under the Health Insurance Portability and Accountability Act (i.e., the HIPAA privacy rule) or state privacy laws are an obstacle to the submission of mental health records to NICS. Under the Gun Control Act of 1968 (GCA), as amended, persons adjudicated to be mentally defective or who have been committed to a mental institution are prohibited from possessing, shipping, transporting, and receiving firearms and ammunition. Neither a diagnosis of a mental illness nor treatment for a mental illness is sufficient to qualify a person as adjudicated as a mental defective. Rather, an individual's adjudication as a mental defective relies upon a determination or decision by a court, board, commission, or other lawful authority. The definition of committed to a mental institution may apply only to inpatient settings. At least one federal court has held that the Supreme Court's recent recognition of an individual's right to possess a firearm suggests that some emergency hospitalization or commitment procedures, that may not have as many procedural safeguards as formal commitment, should not be included within the meaning of involuntary commitment for purposes of the GCA. In 2007,

Congress passed the NICS Improvement Amendments Act (NIAA), which authorizes the Attorney General to make additional grants to states to improve electronic access to records as well as to incentivize states to turn over records of persons who would be prohibited from possessing or receiving firearms. In 2012, the Government Accountability Office (GAO) reported that a variety of technological, coordination, and legal (i.e., privacy) challenges limit the states ability to report mental health records to NICS. The HIPAA privacy rule, which applies to most health care providers, regulates the use or disclosure of protected health information. On February 14, 2013, HHS announced that it will seek to amend the HIPAA privacy rule to remove any potential impediments to state reporting of mental health records to NICS. The privacy rule is most relevant as a potential obstacle where information used to generate mental health records on individuals prohibited from gun possession under the GCA is held by health care providers in states that do not expressly require disclosure of such records to NICS. Courts and health care providers that generate such prohibiting mental health records may also be subject to state health privacy laws that may be more restrictive than the HIPAA privacy rule.

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Health Insurance Portability and Accountability Act (HIPAA) Privacy R43040 Submission of Mental Health Records to NICS and the HIPAA Privacy Rule. **HIPAA rule change part of move to fight gun violence - Modern** Submission of Mental Health Records to NICS and the HIPAA Privacy Rule [February 20, 2014] [open pdf - 470 KB]. Questions about the **New HIPAA Privacy Rule Permits Disclosures to - Lexology** reporting of relevant mental-health records to NICS. This Note clarify federal NICS-submission standards and argues that the proposed .. HIPAA Privacy Rule and the National Instant Criminal Background Check System. **R43040 Submission of Mental Health Records to NICS and the** Adding mental health records from the Social Security The HIPAA Privacy Rule already explicitly allows exceptions for law enforcement purposes. is not a violation of HIPAA to submit certain mental

health records to NICS. Submission of Mental Health Records to NICS and the HIPAA Privacy Rule Edward C. Liu, Coordinator Legislative Attorney Erin Bagalman Analyst in Health **HIPAA: Caught in the Cross Fire Duke Law Journal** As background, HIPAA regulates how covered entities (health plans, health care the HIPAA Privacy Rule and states that a mental health diagnosis alone would Mental health providers that electronically submit bills to insurance, but have records or diagnostic or clinical information for NICS reporting. **Full text of R43040 Submission of Mental Health Records to NICS** Submission of Mental Health Records to NICS and the HIPAA Privacy Rule Author Contact Information Edward C. Liu, Coordinator Legislative **Explaining the Presidents Executive Actions on Guns - Third Way** (i.e., the HIPAA Privacy Rule) or state privacy laws are an obstacle to the submission of mental health records to NICS. Under the Gun Control **New HIPAA Privacy Rule Permits Disclosures to Background Check** The NICS Index, a database administered by the Federal for the submitting entity and the prohibited category that applies to the individual. is subject to the mental health prohibitor is submitted to the NICS underlying diagnoses, treatment records, and other identifiable health information is not **Read our report on how background checks - Texas Gun Sense** Under the old privacy rule, reporting to NICS was not allowed under the than 10 records of people prohibited for mental health reasons from **(HIPAA) Privacy Rule and the National Instant - Federal Register** prospective gun purchaser has a criminal history, mental incapacity or other condition There were 1,059,166 Texas NICS firearm background checks performed in The HIPAA Privacy Rule applies to health plans, health care clearinghouses and health This means only certain entities involved in submitting records. **the mentally ill who may kill go unreported still - Scholarly Commons** submission removed from the NICS database. However, this proposed rule would HIPAA permission for NICS and the applicants record and **Federal Register, Volume 78 Issue 78 (Tuesday, April 23, 2013)** Submission of Mental Health Records to NICS and the HIPAA Privacy Rule. Primary view of object titled Submission of Mental Health Records **Submission of Mental Health Records to NICS and the HIPAA Submission of Mental Health Records to NICS and the HIPAA** (i.e., the HIPAA Privacy Rule) or state privacy laws are an obstacle to the submission of mental health records to NICS. Under the Gun Control **Gun Politics in America: Historical and Modern Documents in - Google Books Result** Submission of Mental Health Records to NICS and the HIPAA Privacy Rule. Primary view of object titled Submission of Mental Health Records **Submission of Mental Health Records to NICS and the HIPAA** As background, HIPAA regulates how covered entities (health plans, health care the HIPAA Privacy Rule and states that a mental health diagnosis alone would Mental health providers that electronically submit bills to insurance, but have records or diagnostic or clinical information for NICS reporting. **Mental Health Reporting Law Center to Prevent Gun Violence** (i.e., the HIPAA privacy rule) or state privacy laws are an obstacle to the submission of mental health records to NICS. Under the Gun Control **Submission of Mental Health Records to NICS and the HIPAA** NRA-ILA, Senate Passes NICS Improvement Act, House Concur, Submission of Mental health Records to NICS and the HIPAA Privacy Rule, April 15, **Open abstract - Homeland Security Digital Library** Best Deals & eBook Download Submission of Mental Health Records to NICS and the HIPAA Privacy Rule by C. Stephen Redhead **HIPAA: Caught in the Cross Fire - Duke Law Scholarship Repository** Submission of Mental Health Records to. NICS and the HIPAA Privacy Rule. Edward C. Liu, Coordinator. Legislative Attorney. Erin Bagalman. **Submission of Mental Health Records to NICS and the HIPAA** As background, HIPAA regulates how covered entities (health plans, health care the HIPAA Privacy Rule and states that a mental health diagnosis alone would Mental health providers that electronically submit bills to insurance, but have records or diagnostic or clinical information for NICS reporting. **Submission of Mental Health Records to NICS and the HIPAA** quired to submit records to the NICS Index at alleven upon prohibiting mental health records to NICS, the HIPAA privacy rule does not. **Submission of Mental Health Records to NICS and the HIPAA** The number of mental health records in NICS increased over 700% between the Virginia Tech Federal law does not require states to submit information to NICS Federal and state privacy laws are frequently cited as reasons why states do not that implement HIPAA to directly address mental health reporting to NICS. **Rule** Although the HIPAA Privacy Rule provides a mental health records with NICS. **Federal Register :: HIPAA Privacy Rule and the National Instant** Most relevant for the purposes of this ANPRM is the ``mental health prohibitor, information, such as their dates of birth, as well as codes for the submitting entity and If there is a match, a NICS examiner reviews the records to determine The HIPAA Privacy Rule and NICS Reporting The Privacy Rule, **New HIPAA Privacy Rule Permits Disclosures to Background Check** Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and the subject to the Federal mental health prohibitor established under the Gun Control Act of required in a NICS Index record consists of: the name of the .. Rule similarly would help states improve their record submissions. **The Triumph of the Gun-Rights Argument: Why the**

Gun Control Debate - Google Books Result As background, HIPAA regulates how covered entities (health plans, health care the HIPAA Privacy Rule and states that a mental health diagnosis alone would Mental health providers that electronically submit bills to insurance, but have records or diagnostic or clinical information for NICS reporting. **Submission of Mental Health Records to** the HIPAA Privacy Rule for reporting certain information help states improve their record submissions. a mental health adjudication record in the NICS