

## A5.3 – MEDICAL RECORDS

### Purpose

The purpose of this policy is to describe the Iowa HHS process for ensuring compliance (including SRs, and service sites) the process for ensuring compliance with statutes which regulate the way that medical records are handled and protected by the agency.

### Policy

SRs must establish a medical record for every client who obtains Title X clinical services. SRs must maintain records in accordance with accepted medical standards and state record retention laws. Records must be:

- Complete, legible and accurate, including documentation of telephone encounters of a clinical nature;
- Signed by the clinician and other appropriately trained health professionals making entries, including the professional's name, title and date;
- Readily accessible to Title X staff;
- Systematically organized to facilitate prompt retrieval and compilation of information;
- Confidential;
- Safeguarded against loss or use by unauthorized persons;
- Secured by lock or password protected when not in use; and
- Available to the client upon request.

### Procedure

#### *Content of the Client Record*

The client's medical record must contain sufficient information to identify the client, indicate where and how the client can be contacted, justify the clinical impression or diagnosis, and warrant the treatment and end results. The required content of the medical record includes:

1. Demographic information including gender, race, ethnicity, primary language, and if a translator is needed;
2. Medical history, physical exam, laboratory test orders, results, and follow-up;
3. Treatment and special instructions;
4. Scheduled revisits;
5. Informed consents – initial and annual updates;
6. Refusal of services; and
7. Allergies and untoward reactions to drug(s) recorded in a prominent and specific location.

The record must also contain reports of clinical findings, diagnostic and therapeutic orders, diagnoses and documentation of continuing care, referral and follow-up. The record must include entries by counseling and social service staff where appropriate. SRs should maintain a problem list listing identified problems to facilitate continuing evaluation and follow-up. Client financial information should be kept separated from the client medical record. If included in the medical record, client financial information should not be a barrier to client services.

Records that are integrated with larger health systems or multiple program data systems (Electronic Health Records, etc.) must be able to be set up and maintained so that Title X Family Planning services can be extracted from the system, without compromising the client's confidentiality related to non-Title V services in the event of an audit or record transfer.

Contractors and subcontractors are prohibited from using personally owned electronic equipment (cell phones, tablets, computers, etc.), removable media and other devices to store, view, receive, or send records (medical, accounting, financial, programmatic, statistical, supporting documentation).

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### ***Confidentiality and Release of Records***

A confidentiality assurance statement must appear in the client's record. The client's written consent is required for the release of personally identifiable information, except as may be necessary to provide services to the client or as required by law, with appropriate safeguards for confidentiality. HIV information should be handled according to law. When information is requested by the client, agencies should release only the specific information requested. Information collected for reporting purposes may be disclosed only in summary, statistical or other form, which does not identify particular individuals. Upon request, clients transferring to other providers must be provided with a copy or summary of their record to expedite continuity of care.

Each SR shall comply with Iowa Code 622.10(6)(a)-(d) regarding release for records and charges for release of records. Reasonable efforts to collect charges without jeopardizing client confidentiality must be made. Recipients must inform the client of any potential for disclosure of their confidential health information to the policyholder is someone other than the client.

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### ***Iowa HHS HIPAA Statement***

*The effect of HIPAA privacy provisions on the release of protected health information to Iowa HHS.*

Iowa HHS, in conjunction with the Attorney General's Office, has completed a comprehensive review of its programs and has determined that neither the agency as a whole, nor any of its programs, are covered entities under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Iowa HHS is not a covered entity; many agencies and facilities in Iowa that are covered entities have questioned whether they can continue to disclose the protected health information of their patients or clients to Iowa HHS as they have in the past. The short answer is YES. Such disclosures may continue to occur under HIPAA.

First, HIPAA recognizes that if there is a statute or administrative rule that requires a specific disclosure of protected health information, a covered entity must obey that law. (Section 164.512). Therefore, if there is another federal or state statute or administrative rule which requires a covered entity to disclose protected health information (PHI) to Iowa HHS, the covered entity should follow that requirement. Many disclosures of PHI to Iowa HHS are required by state laws, including Iowa Code chapters 135, 136A, 136B, 136C, 139A, 141A, 144, 147A and 272C, and the administrative rules that implement these chapters. These disclosures are legally required and must continue to be made as mandated by state law.

Second, HIPAA allows a covered entity to disclose PHI to public health authorities for public health activities. (Section 164.512). HIPAA defines a public health authority as "an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate." (Section 164.501). Iowa HHS has such a mandate and, therefore, is a public health authority under HIPAA.

Iowa HHS, in conjunction with the Iowa Attorney General's Office, has reviewed its programs and determined that PHI being received by the department from covered entities in Iowa is disclosed for public health activities. The disclosure of such information to Iowa HHS is, therefore, unaffected by HIPAA and should continue in accordance with past practices. Because Iowa HHS is a public health authority that is authorized to receive PHI under this provision, covered entities are not required to enter into a Business Associate Agreement with Iowa HHS in order for the exchange of PHI to take place.

Third, in some instances, Iowa HHS is a health oversight agency as defined by HIPAA. Under HIPAA, a "health oversight agency" is "an agency or authority of the United States, a state, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant."

HIPAA permits a covered entity to disclose protected health information to a health oversight agency for oversight activities authorized by law, including audits (civil, administrative or criminal investigations); inspections (licensure or disciplinary actions); civil, administrative or criminal proceedings or actions; or other activities necessary for appropriate oversight of:

1. The health care system (e.g., State insurance commissions, state health professional licensure agencies, Offices of Inspectors General of federal agencies, the Department of Justice, state Medicaid fraud control units, Defense Criminal Investigative Services, the Pension and Welfare Benefit Administration, the Iowa HHS Office for Civil Rights, the FDA, data analysis to detect health care fraud);
2. Government benefit programs for which health information is relevant to beneficiary eligibility (e.g., SSA and Department of Education);
3. Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards (e.g., Occupational Health and Safety Administration and the EPA; the FDS's oversight of food, drugs, biologics, devices, and other products pursuant to the Food, Drug, and Cosmetic Act and the Public Health Service Act); or
4. Entities subject to civil rights laws for which health information is necessary for determining compliance (the U.S. Department of Justice's civil rights enforcement activities, enforcement of the Civil Rights of Institutionalized Persons Act, the Americans with Disabilities Act, the EEOC's civil rights enforcement activities under titles I and V of the ADA). (Section 164.512(d)).

"Overseeing the health care system," encompasses activities such as:

- Oversight of healthcare plans.
- Oversight of health benefit plans.

- Oversight of healthcare providers.
- Oversight of healthcare and healthcare delivery.
- Oversight activities that involve resolution of consumer complaints.
- Oversight of pharmaceutical, medical products and devices, and dietary supplements.
- A health oversight agency's analysis of trends in health care costs, quality, health care delivery, access to care and health insurance coverage for health oversight purposes.

Health oversight agencies may provide more than one type of health oversight. Such entities are considered health oversight agencies under the rule for any and all of the health oversight functions that they perform. The disclosure of protected health information to Iowa HHS for these purposes is unaffected by HIPAA and should continue in accordance with past practices.

Finally, local public health departments and local contractors which are covered entities may release protected health information to Iowa HHS under the above-cited legal authority applicable to all covered entities. For example, certain statutes and rules require local public health departments and local contractors to disclose protected health information to Iowa HHS. Further, as a health oversight agency, a local health department is permitted, and in most cases required, to disclose protected health information to Iowa HHS. Disclosures of PHI by local public health departments and local contractors to Iowa HHS do not require Business Associate Agreements and are not prohibited or otherwise affected by HIPAA.

*Please contact the Assistant Attorney General, should you have additional questions.*

<b>Date Revised</b>	<b>September 2023</b>
References	
Additional Resources	