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## HIPAA PRIVACY RULES AND THE RELEASE OF INFORMATION TO THE IOWA CARE FOR YOURSELF PROGRAM

The Health Insurance Portability and Accountability Act (HIPAA) regulations contain several major components. The Privacy Rule requires covered entities to obtain consent or authorization from an individual for certain uses and disclosures of identifiable health information. However, the Privacy Rule expressly permits covered entities to release identifiable health information to public health authorities under certain circumstances without obtaining consent or authorization from the patient.

First, although the requirements of HIPAA generally preempt state law, HIPAA provides for certain exceptions to this general preemption rule. One such exception applies when state statute and state administrative rules provide for "the reporting of disease or injury, . . . or for the conduct of public health surveillance, investigation, or intervention." 45 CFR 160.203. Iowa Code chapter 135 and 641 Iowa Administrative Code chapter 8 authorize the Iowa Care For Yourself Program (ICFYP) to have access to information from hospital records, physician records, and clinical charts for the purpose of ensuring service delivery and program and fiscal management. These provisions of law are not preempted by HIPAA and therefore a hospital, clinic, or health care provider is not required to obtain consent or authorization from a patient prior to releasing this information to the ICFYP.

HIPAA also provides for a number of "permitted disclosures," i.e. those disclosures of protected health information for which consent or authorization is **not** required. HIPAA authorizes such disclosures "to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law." 45 CFR 164.512(a). HIPAA further authorizes disclosures for public health activities to "a public health authority that is authorized by law to collect or receive such information for the purposes of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions[.]" 45 CFR 164.512(b)(1)(i). Hospitals, clinics, and health care providers are authorized by Iowa law to allow the ICFYP to have access to information about patients for purposes of preventing cancer. Hence, HIPAA does not require that covered entities obtain consent or authorization prior to releasing such information to the ICFYP. Additionally, ICFYP participants

execute a release which authorizes health care providers, laboratories, and hospitals to provide the ICFYP with results of the screening and follow-up examinations and treatment.

In short, HIPAA provides no legal basis for hospitals, clinics, or health care providers to prohibit the ICFYP from obtaining information for the purpose of ensuring that women receive appropriate screening tests, confirmatory testing, and treatment.