



## North Carolina Department of Health and Human Services Division of Social Services

325 North Salisbury Street • Raleigh, North Carolina 27603  
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May 21, 2001

### **DEAR COUNTY DIRECTOR OF SOCIAL SERVICES**

**Subject: Exceptions to the Health Insurance Portability and Accountability Act (HIPAA) privacy requirement**

**Attention: Children's Services Supervisors  
Children's Services Social Workers**

Our Division has been a member of a workgroup that has reviewed the implementation of HIPAA for the Department and we believe there are implications for Child Protective Services. With the implementation of HIPAA, some medical providers may be reluctant to release information to a DSS employee conducting a child protective services investigative assessment. Exceptions to the privacy rules for HIPAA allow for the release of information for the conducting of investigative assessments.

We have been in consultation with our Child Welfare attorneys and they have prepared the following excerpts from the Federal HIPAA language to assist county departments of social services. It is our hope that this information will clarify any misunderstandings regarding HIPAA and how it affects child protective services.

#### **45 CFR §160.203 General rule and exceptions.**

A standard, requirement, or implementation specification adopted under this subchapter that is contrary to a provision of State law preempts the provision of State law. This general rule applies, except if one or more of the following conditions is met:

...

(c) The provision of State law, including State procedures established under such law, as applicable, provides for the reporting of disease or injury, child abuse, birth, or death, or for the conduct of public health surveillance, investigation, or intervention.

#### **45 CFR §164.512 Use and disclosures for which consent, an authorization, or opportunity to agree or object is not required. (page 82813)**

A covered entity may use or disclose protected health information without the written consent or authorization of the individual as described in §164.506 and 164.508, respectively, or the

opportunity for the individual to agree or object as described in §164.510, in the situations covered by this section, subject to the applicable requirements of this section. . . .

(a) Standards: uses and disclosures required by law.

(page 82813)

(1) A covered entity may use or disclose protected health information 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.

...

(b) Standard: uses and disclosures for public health activities.

(page 28213)

(1) Permitted disclosures. A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to:

...

(ii) A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;

...

(e) Standard: disclosures for judicial and administrative proceedings.

(page 82814)

(1) Permitted disclosures. A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:

(i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order . . .

This means that if medical information is needed in the course of an investigative assessment, a county department of social services still has the authority to obtain that information. Given the complexity of HIPAA, some medical providers may be reluctant to release information to a CPS social worker. This letter may be provided to assist in communications with your providers.

For additional information regarding HIPAA, please visit: <http://www.hipaadvisory.com/>

Sincerely,



Chuck Harris, Chief  
Children's Services Section

CC: E. C. Modlin  
Nancy Costin  
Local Support Managers  
Children's Program Representatives  
Children's Services Team Leaders

CH/kk  
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