

Working with DSS on Child Welfare Cases

Consent to Care and Information Sharing

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The information provided in this presentation is for educational purposes only and does not constitute legal advice or establish an attorney-client relationship.



Scope of Presentation

Local health departments (LHDs) and local departments of social services (DSS) may work together on many issues

Today, we are focusing on just two topics:

→ **Consent to care for minors in DSS custody**

Real world application: who is allowed to give consent for health services when a minor in DSS custody (e.g., foster care) is brought to your LHD's clinic?

→ **Sharing HIPAA-protected information with DSS**

Real world application: DSS is assessing a report of child abuse or providing protective services to a child and needs HIPAA-protected information from your LHD

A Few Quick Notes

- There is a lot of text on these slides- no expectation that you read it all; for reference later
- I will be providing legal *information*, not legal *advice*
- Two charts referenced today- you can find them both online



Consent and Common Pathways for Providing Care to Minor Patients*

Category	Name	Description	Citation
Minor's Consent	Minor's consent	A minor with decisional capacity may give consent to a physician (or provider working under the direction of a physician) for the prevention, diagnosis, or treatment of conditions specified in the statute.	G.S. 90-21.5(a)
Urgent/Emergency Care	Urgent/emergency care provided by physicians	A physician (or provider working under the direction of a physician) may provide care in certain time-sensitive situations without first obtaining parental consent.	G.S. 90-21.1
	Urgent/emergency care provided by school employees	Public school employees authorized to provide first aid, emergency care, or other health services may provide first aid, emergency care, or other health services without obtaining parental consent.	G.S. 115C-375.1
Non-Parent Authorized to Consent to Care	DSS director consents for minor's care	The DSS director (or her designee) may consent to medical care, including as well as testing and evaluation, for a minor in the director's custody. DSS director (or designee) may consent to medical care without a court order.	G.S. 7B-505.1
	Parent authorizes non-parent to consent using a HCPOA	A "custodial parent" may delegate authority to a non-parent person using a health care power of attorney that is narrow in scope and may be limited to specific circumstances for a parent to delegate care.	G.S. 32A, Article 4
Specific Health Care Services	Abortion	In addition to a parent, a grandparent or other person who has been living with the minor for 6 months can consent to an abortion for the minor. A grandparent may waive the requirement for parental consent to an abortion in limited circumstances. Requirements of G.S. 90, Art. 11 must also still be met.	G.S. 90-21.7, 90-21.8
Parental Consent	Parental consent to treatment	Parent (natural or adoptive parent whose rights have not been limited or terminated by a custody or court order; legal guardian; or person standing <i>in loco parentis</i>) consents to care that meets the definition of "treatment." Consent must be memorialized in writing or otherwise documented.	G.S. 90-21.10A, 21.10B, 21.10C

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“Required by Law” Disclosures of Protected Health Information (PHI) by HIPAA-Covered Local Health Departments (LHDs) to County Departments of Social Services (DSS) Under G.S. 7B-302(e) and 7B-3100(a)

NC Statute	G.S. 7B-302(e)	G.S. 7B-3100(a)
Who Makes the Request?	DSS director or the DSS director's representative.	The request comes from DSS. The statute does not indicate that a particular employee (e.g., the director) must make the request.
Form of the Request	The statute requires that the request be made in writing.	The statute does not require that the request be made in a specific form (e.g., in writing versus verbal).
Who Must Disclose Information?	"Any public or private agency or individual." This includes LHDs.	Agencies designated in rule 11A-0200 of the Department of Public Safety, the Chief District Court Judge, and the NCAC 11A-0200.
What Information Must Be Disclosed?	<p>Information or reports that, in the DSS director's opinion, may be relevant* to:</p> <ul style="list-style-type: none"> • The assessment of a report of child abuse, neglect, or dependency, or • The provision of protective services. <p>The statute excludes information that is protected by attorney-client privilege. The statute only requires disclosure of information to the extent permitted by federal law.</p> <p>*The statute does not define "relevant," except to say that relevancy is determined by the DSS director.</p>	<p>Information:</p> <ul style="list-style-type: none"> • Any assessment, report, or information received by DSS • The provision of protective services • Any case in which a petition has been filed alleging that a juvenile is abused, neglected, dependent, delinquent, or undisciplined <p>The statute also requires disclosure of information to "impose a sanction or to take any other action."</p> <ul style="list-style-type: none"> • If a petition has been filed alleging that a juvenile is abused, neglected, dependent, delinquent, or undisciplined <p>The statute also requires disclosure of information to "impose a sanction or to take any other action."</p> <p>*The statute does not define "relevant," except to say that relevancy is determined by the DSS director.</p>

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LEGAL SUMMARY

Consent and Common Pathways for Providing Care to Minors (the "Rainbow Chart")

 Edit

Sometimes referred to as "the rainbow chart," this document provides an overview of the most common ways in which care may be provided to minor patients and the associated consent requirements under North Carolina law.

LEGAL SUMMARY

"Required by Law" Disclosures of PHI to DSS: G.S. 7B-302 and 7B-3100 (Chart)

 Edit

A chart summarizing the application of G.S. 7B-302(e) and 7B-3100(a) (requiring the disclosure of certain information to North Carolina departments of social services (DSS) in specific situations) to North Carolina local health departments (LHDs) that are also covered entities subject to HIPAA.

Consent to Care for Minors in DSS Custody

What Are We Talking About?

Minor

- A person under 18 who is not emancipated, married, or enlisted in the U.S. armed forces
- Term “minor” often used in the health/public health fields; term “juvenile” is typically used by DSS
- For the purposes of this presentation, minor and juvenile mean the same thing

DSS custody

- Is ordered by a court in certain situations when a minor’s health and safety are at risk
- Can be ordered at two stages in child welfare case involving abuse, neglect, dependency (A/N/D)
 - Early in the case- DSS files petition alleging A/N/D- court can enter a temporary “nonsecure custody” order
 - Later in the case- after the court has reviewed the evidence and adjudicates the minor as abused, neglected, or dependent and the court enters dispositional orders- order includes decision about custody of the minor

Who Can Consent to Care

The following parties may be able to give consent to care for a minor in DSS custody:

- The DSS director or designee- G.S. 7B-505.1(a)
- The minor's parent/guardian/custodian- G.S. 7B-505.1(c)
- The minor- G.S. 90-21.5(a)

Important: who can give consent depends on the type of health service





Who *Cannot* Give Consent

Common misconception: foster parents can consent

- This is incorrect- no NC law authorizing foster parents to consent to care for their foster child
- More on this later!

Who Can Consent to Care

The following parties may be able to give consent to care for a minor in DSS custody:

- The DSS director or designee- G.S. 7B-505.1(a)
- The minor's parent/guardian/custodian- G.S. 7B-505.1(c)
- The minor- G.S. 90-21.5(a)

Important: who can give consent depends on the type of health service





Consent by the DSS Director or Their Designee

G.S. 7B-505.1 authorizes the DSS director to consent to certain types of care for a minor in DSS custody

Limited to types of care listed in the statute, unless a court order says otherwise



Consent by the DSS Director or Their Designee, cont.

G.S. 7B-505.1 only says DSS director- no mention of “designee”

However, G.S. 108A-14(b) allows DSS director to delegate this authority to a member of the director’s staff

- In practice, it’s often a DSS social worker who gives the consent
- Social worker does not have to be in person- could give consent in writing (including electronically) or over the phone (if appropriate)

Consent by the DSS Director or Their Designee, cont.

Under **G.S. 7B-505.1(a) and (b)**, the DSS director can consent to the following:

- Routine medical and dental care or treatment, including, but not limited to, treatment for common pediatric illnesses and injuries that require prompt intervention
 - Note: “routine” mental/behavioral health services not included
- Emergency medical, surgical, psychiatric, psychological, or mental health care or treatment
- Testing and evaluation in exigent circumstances

Exception: court can issue an order authorizing the DSS director to consent to other types of care, including a Child Medical Evaluation (CME), but certain criteria must be met. See G.S. 7B-505.1(b) and (c).



Consenting to Medical Treatment for a Child Placed in the Custody of County Department Part I: Routine and Emergency Care and Evaluations in Exigent Circumstances

This entry was contributed by Sara DePasquale on November 4, 2015 at 5:37 am and is filed under Child Welfare Law.



Through S.L. 2015-136, "An Act to Make Various Changes to the Juvenile Laws Pertaining to Abuse, Neglect, and Dependency," the General Assembly enacted G.S. 7B-505.1 and G.S. 7B-903.1(e). These two new statutes address medical decision-making authority for a child who is placed in a county department's custody through an order entered in an abuse, neglect, and dependency action. These new laws apply to all abuse, neglect, and dependency actions that were pending on or filed after October 1, 2015.

Custody Ordered to a County Department

The court may order the child into a county department's custody at two different stages in the abuse, neglect, and dependency action: nonsecure custody and/or disposition.

An order for **nonsecure custody** is a temporary custody order that is entered by the court to protect a child when specific statutory criteria are met. G.S. 7B-503. The order is entered before the court holds the adjudicatory hearing to determine if the child is abused, neglected, or dependent. G.S. 7B-502, – 506(a). The order for nonsecure custody must state who the child will be placed with or who has responsibility for the child's placement. G.S. 7B-505. When a county department seeks an order for nonsecure custody, the court must first consider "release of the juvenile to the juvenile's parent, relative, guardian, custodian, or other responsible adult." G.S. 7B-503(a). If nonsecure custody is not granted to one of these individuals, the court may order the child in nonsecure custody with the county department. G.S. 7B-505(a).

What is "Routine?"

Law does not define "routine"

Likely includes things generally recommended for all children (e.g., well-child visit)

- "Routine" ≠ anything and everything that happens to be indicated/standard of care

For more, see this blog post by my colleague Sara DePasquale: <https://civil.sog.unc.edu/consenting-to-medical-treatment-for-a-child-placed-in-the-custody-of-county-department-part-i-routine-and-emergency-care-and-evaluations-in-exigent-circumstances/>



Consent by the Minor's Parent/Guardian/Custodian (PGC)

The consent of the minor's PGC is needed for:

- Any care *not* listed in G.S. 7B-505.1(a) (reminder: this is the list of the types of routine, emergency, and exigent care that the DSS director can consent to)
 - and -
- Specific types of care listed in G.S. 7B-505.1(c)

Consent by the Minor's PGC, cont.

G.S. 7B-505.1(c)- care requiring PGC consent (or consent by DSS director, if PGC gives DSS director permission to consent):

- Prescriptions for psychotropic medications
- Participation in clinical trials
- Immunizations when it is known that the parent has a bona fide religious objection to the standard schedule of immunizations
- Child Medical Evaluations not governed by G.S. 7B-505.1(b), comprehensive clinical assessments, or other mental health evaluations
- Surgical, medical, or dental procedures or tests that require informed consent
- Psychiatric, psychological, or mental health care or treatment that requires informed consent

Who Can Consent to Care

The following parties may be able to give consent to care for a minor in DSS custody:

- The DSS director or designee- G.S. 7B-505.1(a)
- The minor's parent/guardian/custodian- G.S. 7B-505.1(c)
- The minor- G.S. 90-21.5(a)

Important: who can give consent depends on the type of health service





Consent by the Minor

G.S. 90-21.5(a), NC's "minor's consent law," allows minors with decisional capacity to consent to a limited set of health services

Minors in DSS custody can access care under the minor's consent law in the same way as their peers who aren't in DSS custody

→ *Let's do a refresher on minor's consent!*



Minor's Consent Law

According to the CDC, in 2022 all 50 states and D.C. allowed minors to consent to certain health services

Law allows minors with decisional capacity to consent, on their own, to medical health services for:

- Prevention, diagnosis, and/or treatment of...
- Venereal/reportable diseases, pregnancy, emotional disturbance, and abuse of controlled substances/alcohol



Minor's Consent Law

But note: G.S. 90-21.5(a) specifically **does not allow** a minor to consent on their own to the following:

- Sterilization
- Admission to a 24-hour mental health care facility
- Abortion

Also note: G.S. 90-21.5(a1) requires that a parent or guardian provide written consent for any vaccines available under an emergency use authorization (EUA) that are administered to a minor

Who Can Consent to Care

The following parties may be able to give consent to care for a minor in DSS custody:

- The DSS director or designee- G.S. 7B-505.1(a)
- The minor's parent/guardian/custodian- G.S. 7B-505.1(c)
- The minor- G.S. 90-21.5(a)

Let's circle back to why foster parents are *not* listed as persons who can give consent to care for a minor in DSS custody



Important: who can give consent depends on the type of health service



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Medical Appointments, Consents, and Children in DSS Custody

Published: 04/15/24



Author Name: [Kirsten Leloudis](#), [Sara DePasquale](#)

In North Carolina, a juvenile who is the subject of an abuse, neglect, or dependency petition may be placed in the custody of a Department of Social Services (DSS). When DSS has a court order of custody, it places a child outside of the child's home, often in a licensed foster home or in the home of a relative or other placement provider. Here at the School of Government (SOG), we are often asked whether North Carolina law authorizes foster parents (or the child's placement providers) to consent to health services for the children in DSS custody who are placed in providers' homes. Spoiler: the answer is "no." If foster parents or placement providers cannot consent to medical care for the children in their home, must the person whose consent is required (e.g., a DSS caseworker) attend and give consent at every appointment for every child who is in DSS custody? This blog post, co-authored by SOG faculty Kirsten Leloudis and Sara DePasquale, addresses these questions.

A Note About Foster Parents

No NC law that authorizes foster parents to consent to care for their foster child

DSS director can delegate their authority to consent to care to their "staff" per G.S. 108A-14(b)

- Foster parents are not DSS staff

For more information, see this blog post: <https://canons.sog.unc.edu/2024/04/consent-dss-custody/>



A Note About Foster Parents, cont.

A letter cannot confer authority to consent to care if that authority isn't provided for under law

Troubleshooting

What can you do if a foster parent presents a child for care and wants to be the adult who consents for that care?

Goal: Not turning away (already vulnerable) children from receiving care

Options:

1. Call the child's social worker or DSS 24/7 line; obtain oral consent from social worker on call (if oral consent is appropriate for this type of health service- consider standard of practice); document the consent in child's chart
2. Review the child's record- is there a general consent to treat on file that already covers this health service and that was signed by someone with authority to consent?
3. Minor's consent may be an option, too

Sharing HIPAA-Protected Information with DSS in Child Welfare Cases

What Are We Talking About?

We're tackling the question of when:

- Local health departments (LHDs),
- That are covered entities under HIPAA,
- Are required to disclose protected health information (PHI),
- To NC county departments of social services (DSS),
- In child welfare cases

Today's presentation will not address:

- Mandatory reporting of child abuse, neglect, dependency (A/N/D)
- Disclosure of PHI in juvenile justice cases/to agencies other than DSS
- Disclosure of information that is subject to 42 C.F.R. Part 2 or G.S. 122C (mental/behavioral health information, including substance use disorder treatment)



HIPAA Refresher

H e a l t h I n s u r a n c e P o r t a b i l i t y a n d A c c o u n t a b i l i t y A c t o f 1 9 9 6

- Found at 45 C.F.R. 160, 162, and 164
- Governs the use/disclosure of protected health information (PHI)
- Applies to “covered entities” and their “business associates”

All LHDs in NC are subject to HIPAA, in whole or in part

- The information DSS needs for a child welfare case is often health information that is PHI and protected by HIPAA



HIPAA and “Required by Law” Disclosures

HIPAA allows disclosures of PHI- without the patient’s authorization (permission) or giving a patient the opportunity to object- when the disclosure is **“required by law”**

HIPAA defines “required by law” as:

- A mandate contained in law that compels an entity to make a use or disclosure of PHI and that is enforceable in a court of law



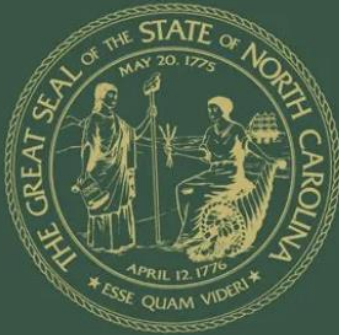
Making a “Required by Law” Disclosure

Disclosure must **comply with** and **be limited to** the relevant requirements of the law that requires the disclosure

Even for “required by law” disclosures, the LHD must satisfy certain HIPAA requirements before disclosing the PHI

GENERAL STATUTES
OF
NORTH CAROLINA

ANNOTATED



G.S. 7B-302(e) and 7B-3100(a)

Two NC statutes requiring disclosure of PHI by LHDs to DSS for use in child welfare cases

- The two laws are similar, but have a few key differences
- Remember: disclosure of the PHI to DSS must comply with and be limited to what's required by these laws

→ Let's compare the two laws and walk through the who, what, where, when, how, and why of disclosing PHI to DSS

Who Must Disclose Information?

G.S. 7B-302(e)

- “Any public or private agency or individual.”

G.S. 7B-3100(a)

- Agencies designated in rule (14B N.C.A.C. 11A .0301) by the Division of Juvenile Justice of the Department of Public Safety.

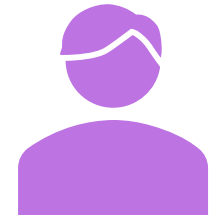


**The statutes have different wording, but both
apply to LHDs.**

Who Does the Request Come From?

G.S. 7B-302(e)

- The DSS director or the DSS director's representative.



G.S. 7B-3100(a)

- Request comes from DSS. The statute does not indicate that a particular employee (e.g., the director) must make the request.

How Must the Request Be Made?

G.S. 7B-302(e)

- The request must be made in writing.



G.S. 7B-3100(a)

- The statute does not specify the form of the request (e.g., in writing versus verbally).



What Information Must Be Disclosed?

G.S. 7B-302(e)

- Information or reports that may, in the DSS director's opinion, be relevant to:
 - An assessment of a report of A/N/D, or
 - The provision of protective services.
- Excludes information that is protected by attorney-client privilege.

G.S. 7B-3100(a)

- Information that is relevant to:
 - Any assessment of a report of A/N/D,
 - The provision or arrangement of protective services, or
 - Any case in which a petition is filed alleging that a juvenile is abused, neglected, dependent, delinquent, or undisciplined.

What Information Must Be Disclosed?

G.S. 7B-302(e)

- Information or reports that may, in the DSS director's opinion, be relevant to:
 - An assessment of a report
 - The provision of
- Excludes information that is attorney-client privileged

G.S. 7B-3100(a)

- Information that is relevant to:
 - Any assessment of a report of A/N/D, or the initiation or arrangement of protective services,
- A petition is filed alleging that a child is abused, neglected, dependent, or undisciplined.

**Let's take a closer look
at these categories**

Assessments, Providing Protective Services, and Petitions

Assessments

- When a report of A/N/D is made to DSS, DSS reviews the report against the statutory definitions of A/N/D. If the allegations meet the statutory definition of A/N/D, then the case is “screened in” and an assessment is done to determine what types of services are needed.

Protective Services

- G.S. 7B-300 provides an expansive definition: “Protective services shall include the screening of reports, the performance of an assessment using either a family assessment response or an investigative assessment response, casework, or other counseling services to parents, guardians, or other caretakers as provided by the director to help the parents, guardians, or other caretakers and the court to prevent abuse or neglect, to improve the quality of child care, to be more adequate parents, guardians, or caretakers, and to preserve and stabilize family life.”

Petition

- A petition is the document that DSS files in District Court alleging A/N/D. A petition triggers an adjudicatory hearing, during which DSS has the burden of proving the A/N/D allegations. If the allegations are proven, then a dispositional hearing is held and the court orders a dispositional plan, which may address things like placement and custody of the child, visitation, evaluations or services to be provided to the child, etc.



Additional Requirements for G.S. 7B-3100(a)

Information that is disclosed can only be used for the protection of the minor or others or to improve the minor's educational opportunities.



Time limitations- DSS can request and the LHD can share information until:

- The protective services case is closed by DSS, or
- If a petition is filed by DSS in court alleging A/N/D, then until the minor is no longer subject to the jurisdiction of the court

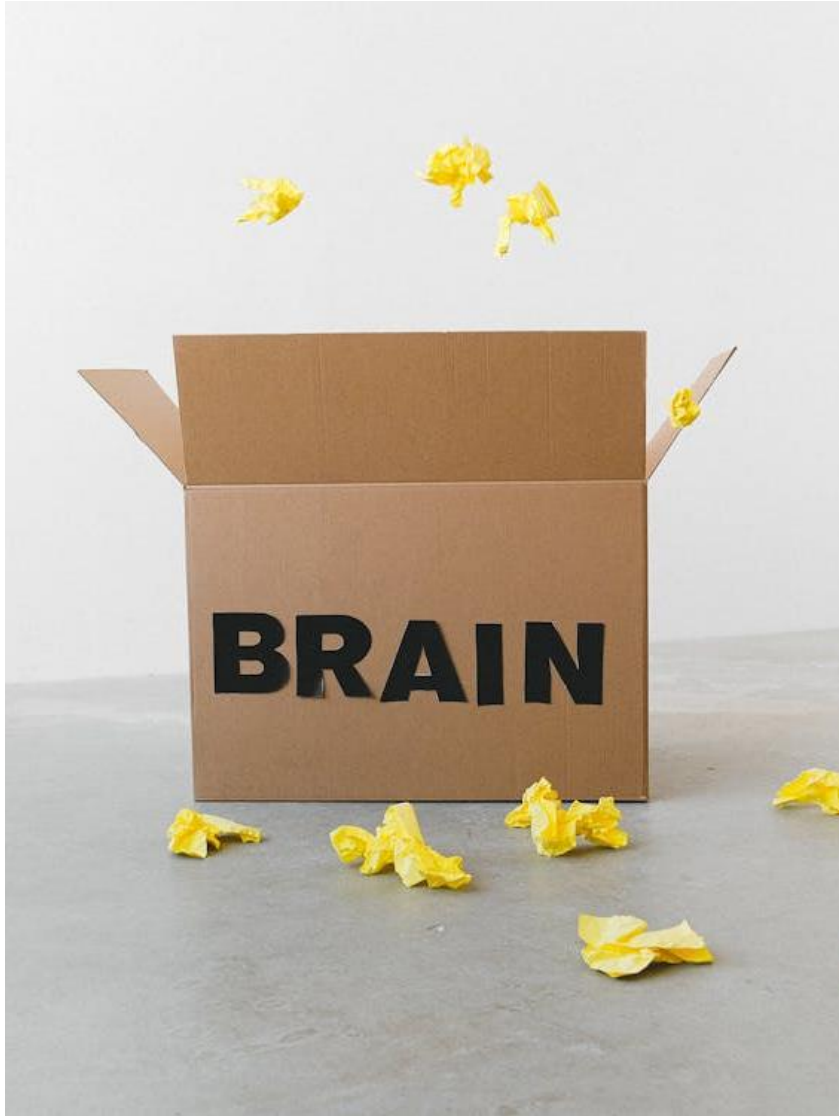


Satisfying HIPAA Requirements When Making the Disclosure of PHI

Even when HIPAA allows an LHD to make a disclosure that is “required by law,” the LHD must still comply with certain HIPAA requirements when releasing the PHI, including:

- Verifying the requestor’s legal authority to access the PHI*
- Verifying the requestor’s identity*
- Documenting the disclosure for accounting purposes
- (Possibly) notifying the individual of the disclosure

*Should be done *before* the PHI is disclosed



If This Next Part Makes Your Brain Hurt...

That's fair- it's a lot of highly detailed information!

The information in these next few slides is included in a chart that you can find on the SOG website for later reference

“Required by Law” Disclosures of Protected Health Information (PHI) by HIPAA-Covered Local Health Departments (LHDs) to County Departments of Social Services (DSS) Under G.S. 7B-302(e) and 7B-3100(a)

NC Statute	G.S. 7B-302(e)	G.S. 7B-3100(a)
Who Makes the Request?	DSS director or the DSS director's representative.	The request comes from DSS. The statute does not indicate that a particular employee (e.g., the director) must make the request.
Form of the Request	The statute requires that the request be made in writing.	The statute does not require that the request be made in a specific form (e.g., in writing versus verbal).
Who Must Disclose Information?	"Any public or private agency or individual." This includes LHDs.	Agencies designated in rule 11A-0200 of the Department of Public Safety, the Chief District Court Judge, and the NCAC 11A-0200.
What Information Must Be Disclosed?	<p>Information or reports that, in the DSS director's opinion, may be relevant* to:</p> <ul style="list-style-type: none"> • The assessment of a report of child abuse, neglect, or dependency, or • The provision of protective services. <p>The statute excludes information that is protected by attorney-client privilege. The statute only requires disclosure of information to the extent permitted by federal law.</p> <p>*The statute does not define "relevant," except to say that relevancy is determined by the DSS director.</p>	<p>Information:</p> <ul style="list-style-type: none"> • Any assessment • The provision of • Any case in which a petition has been filed alleging that a juvenile is abused, neglected, dependent, delinquent, or undisciplined <p>The statute also requires disclosure of information to "impose a sanction or to take any other action."</p> <ul style="list-style-type: none"> • If a petition has been filed • If a petition has been filed <p>The statute also requires disclosure of information to "impose a sanction or to take any other action."</p> <p>*The statute does not define "relevant," except to say that relevancy is determined by the DSS director.</p>

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HIPAA Requirement: Verification of Authority

If the requestor's legal authority to access the PHI is not already known to the LHD, then **45 C.F.R. 164.514(h)** requires verification of the requestor's legal authority before the requested PHI is disclosed

- For “required by law” disclosures, the authority is the law that requires the LHD to make the disclosure
- Because DSS information about child welfare cases is typically confidential, LHD will likely not have enough information to know, on its own, which legal authority is being used to access the PHI
 - Helpful if DSS can tell the LHD which legal authority- G.S. 7B-302(e) or G.S. 7B-3100(a)- is being used
- For requests made by public officials, the LHD may rely, if it's reasonable under the circumstances, on a written statement of the requestor's legal authority
 - If a written statement of authority is impracticable, LHD may rely on an oral statement of authority

HIPAA Requirement: Verification of Identity

If the requestor's identity is not already known to the LHD, **45 C.F.R. 164.514(h)** requires verification of the requestor's identity before the PHI is disclosed

- The law requiring the disclosure may specify who must make the request (e.g., G.S. 7B-302(e))
 - Verification includes not just confirming identity, but that the person is the appropriate requestor under the law
- For requests made by public officials, the LHD may rely, if it's reasonable under the circumstances, on the following to verify identity:
 - Presentation of a badge or other credentials/proof of government status (if request is made in person)
 - Use of appropriate government letterhead (when request is made in writing)
 - If the request is to disclose PHI to someone acting on behalf of a public official (who is not themselves a public official with authority to access the PHI):
 - Written statement on appropriate government letterhead that the person is acting on a public official's behalf
 - Other documentation that the person is acting under the government's authority, like a services contract

HIPAA Requirement: Documenting Disclosure

45 C.F.R. 164.528 requires that certain disclosures of PHI, including “required by law” disclosures, be documented for accounting purposes

- Accounting must include disclosures made in the 6 years prior to date when accounting is requested
- General requirements:
 - Date of disclosure (or frequency of disclosure and date of last disclosure if multiple disclosures made to same recipient party over time)
 - Name and address of the recipient
 - Description of the PHI that was disclosed
 - Brief statement of basis for disclosure; a copy of a written request for the PHI can be used in lieu of a brief statement of the basis for disclosure

HIPAA Requirement: (Possibly) Notifying the Individual of the Disclosure

Unless an exception applies, **45 C.F.R. 164.512(c)(2)** requires that a covered entity “promptly” notify the individual of the disclosure of the individual’s PHI when:

- The covered entity is making a “required by law” disclosure of PHI about an individual whom the covered entity “reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority authorized by law” to receive the information

→ However, there is an exception that will apply in most situations where the LHD needs to share PHI with DSS in a child welfare case

Exception to Notification Requirement

Exceptions: notification is not required if the HIPAA covered entity determines, in the exercise of professional judgement, that:

1. Notification would put the individual at risk of serious harm, or
2. Notification would have to be made to the individual's personal representative, who the covered entity reasonably believes is responsible for the abuse/neglect/other injury, and notification is not in the individual's best interest

In most situations when disclosing PHI to DSS under G.S. 7B-302(e) or 7B-3100(a), one of these exceptions will apply

- But keep an eye out for cases where A/N/D is due to human trafficking- exceptions might not apply in these cases

Takeaways

HIPAA allows an LHD (as a covered entity) to disclose PHI when required by law

- Includes two NC laws, G.S. 7B-302(e) and 7B-3100(a)

LHD must make sure requirements of the NC law are met before disclosing the PHI to DSS

- Did the request come from the correct person (if statute specifies who can make the request)?
- Is the request made in the required form (if a specific form is required)?
- Has a representation been made that the requested information is relevant, as required by the statute?

LHD must make sure the requirements of HIPAA are met

- Verify legal authority
- Verify identify
- Document the disclosure for accounting purposes
- Notify the individual of the disclosure (only if required and if an exception does not apply)
 - In most cases, an exception will apply and notice will not be required

Image References

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Questions?

Thank you for your time.

If you have additional questions at a later date, please send me an email or give me a call.

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