

Sharing Confidential Patient Information with Social Services



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In a nutshell...



**If state or federal law requires
information sharing, please share.**

If not, please be careful.

Abuse, neglect and dependency



- **DSS received a report that an 8 y.o. boy, John, was being abused. A DSS employee contacts the local health department (LHD) and asks for a copy of John's medical records.**
 - **Should the LHD provide DSS with a copy?**

Abuse, neglect and dependency



- **State law**
 - **Must “assist” DSS with its assessment of report or provision of protective services**
 - **DSS may make a written demand for information it considers relevant**
 - ✦ **If so, LHD must disclose**
- **HIPAA allows this disclosure**

Abuse, neglect and dependency



- **HIPAA requires that, before disclosing, you**
 - **Know or verify the requestor's legal authority to have the information**
 - **Know or verify identity of the requestor**

Guardian ad litem



- **A GAL is appointed to represent Mary, a 5 y.o. who has been a patient at the LHD. The GAL requests a copy of Mary's medical records.**
 - **Should the LHD provide a copy?**

Guardian ad litem



- **State law**
 - **Must provide access to any information GAL believes to be relevant**
- **HIPAA allows this disclosure**
- **HIPAA requires verification of authority and _____.**

Subpoena



- **LHD receives a subpoena for a patient's medical records from an attorney working with DSS.**
 - **Should the LHD disclose the information?**

Subpoena



- **Privileged information should not be disclosed in response to a subpoena**
- **Need either**
 - **Written permission**
 - **Court order (district or superior) based on a finding that disclosure is necessary to the proper administration of justice**

Subpoena



- **Court may also conclude that the privilege is “waived” because it is a case related to child abuse or neglect**
 - **G.S. 8-53.1: ...the privilege shall not be a ground for excluding evidence...**

Accounting



- **The LHD reports suspected abuse to DSS. A few days later, the father storms into the LHD. He is furious because he is being investigated. He wants to know if the LHD told DSS anything.**
 - **What should the LHD tell the father?**

Accounting



- **HIPAA requires covered entities to provide an accounting of disclosures upon request**
- **Three potential exceptions**
 - **(1) Pursuant to a request from law enforcement or oversight officials**
 - **(3) If the disclosure was of information about care provided pursuant to the minor's own consent**

Accounting



- **Three potential exceptions (cont.)**
 - **(2) LHD has a reasonable belief that either**
 - ✦ **The child has been or may be subjected to abuse by the parent making request or**
 - ✦ **Providing the accounting may endanger the child**
 - **LHD must conclude that it is not in the patient's best interest to provide accounting**

Accounting



- **What must the accounting include?**
 - **Date**
 - **Recipient (including address, if known)**
 - **Brief description of information disclosed**
 - **Either**
 - ✦ **Brief statement of purpose of the disclosure or**
 - ✦ **Copy of a written request**

Summary



- **State law requires disclosure of confidential information in some situations, such as pursuant to DSS and GAL requests**
 - **HIPAA allows such disclosures**
- **State law prohibits disclosure in some situations, such as in response to subpoenas**
- **HIPAA requires disclosure in some situations, such as providing an accounting**

Questions?



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