

HIPAA and Immunizations

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HIPAA

One-Slide Overview of the HIPAA Privacy Rule

- Protected Health Information (PHI) is individually identifiable health information
- A covered entity is a health care provider, health plan, or health care clearinghouse
- The HIPAA privacy rule regulates the uses and disclosures of PHI by covered entities
 - Required: Covered entities must disclose PHI
 - To the individual
 - To OCR
 - Permitted: Covered entities are permitted to disclose PHI
 - For treatment, payment, healthcare operations
 - For public interest purposes (required by law, public health activities, victims of abuse, health oversight activities, judicial proceedings, law enforcement, research)
 - Authorized: Covered entities must obtain authorization for all other disclosures of PHI

Immunization Uses and Disclosures

HIPAA strikes a balance between protecting patient information and allowing traditional public health activities to continue.

The following “Public Interest” disclosures apply to immunizations:

1. Disclosures required by law (45 CFR § 164.512(a)) or
2. For “public health activities and purposes.” This includes disclosure to “a public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including but not limited to, the reporting of disease, injury, vital events..., and the conduct of public health surveillance,... investigations, and... interventions.” (45 CFR § 164.512(b)(i))

Entity with Immunization Information	Uses and Disclosures	What Permits the Disclosure
Providers (Covered Entity)	WDH Immunization Registry	Required by law Public health activity
	Schools	Public health activity
	Child Caring Facilities	HIPAA authorization
WDH Immunization Registry (Covered Entity)	Schools	Public health activity
	Child Caring Facilities	HIPAA authorization
Schools	Further disclosures	Governed by FERPA
Child Caring Facilities	Further disclosures	Governed by other applicable laws and regulations

Health Care Providers Uses and Disclosures

Does HIPAA allow a health care provider to disclose immunization information about a student to the WDH Immunization Registry?

- Yes. It is required by law.
 - A primary health care provider that administers immunizations shall report to the WDH through the Immunization Registry within 30 days of administration. 048-0071-005 Wyo. Code R. §11(a)
- Yes. It is required as a public health activity.
 - The WDH is a public health authority and is authorized by law to receive immunization information for the purpose of preventing and controlling disease, reporting, surveillance, investigations, and interventions.

Does HIPAA allow a health care provider to disclose immunizations to a school nurse or physician?

- Yes.
- Providers may disclose proof of a student's immunizations directly to a school nurse (or other person designated by the school to receive immunization records) if
 - (1) The school is required by law to have proof prior to admitting the student (*yes required in Wyoming*), and
 - (2) A parent/guardian has agreed to the disclosure.

Is a provider permitted to disclose proof of a child's immunizations directly to a school without a HIPAA authorization?

- Yes.
- The agreement may be obtained orally or in writing, but must be documented (e.g., by placing in the medical record a copy of a written request, or notation of an oral request, from a parent for the provider to disclose the proof of immunization to the school).
- If the student or prospective student is an adult or emancipated minor, the provider may make the disclosure with the agreement of the student herself.

What type of documentation of parental agreement is required?

- HIPAA does not prescribe the form of the documentation, allowing covered entities flexibility to determine what is appropriate for their purposes. The documentation must only make clear that agreement was obtained.
- The documentation does not need the signature of a parent/guardian or any of the other elements required under HIPAA for a written authorization.

For how long must this documentation be maintained?

- Documentation of parental agreement must be maintained for six years.

WDH Uses and Disclosures

Does HIPAA allow WDH to disclose immunization information to a school and child caring facility?

- School: Yes, it is a public health activity.
- Child Caring Facility: Yes, but only with a HIPAA authorization by a parent or guardian.

- Note - HIPAA specifically allows the disclosures of immunizations to schools as a public health activity. Child Caring Facilities do not fit the definition of a “school” so a different standard applies.

Does HIPAA allow WDH to disclose immunization information to schools?

- Yes.
- WDH may disclose proof of a student's immunizations to a school if:
 - (1) The school is required by law to have proof prior to admitting the student (*yes required in Wyoming*); and
 - (2) A parent/guardian has agreed to the disclosure
 - Note - Schools obtain this agreement on WDH's behalf before accessing immunizations through the Immunization Registry



Does HIPAA allow WDH to disclose immunization information to child caring facilities?

- Yes.
- WDH may disclose proof of a student's immunizations to child caring facilities so long as the parent or guardian has filled out a HIPAA compliant authorization.
 - Note - Child Caring Facilities who have entered into agreements with WDH obtain this agreement on WDH's behalf before accessing the immunizations through the Immunization Registry

Schools/Child Caring Facilities Uses and Disclosures

Does HIPAA require schools/child caring facilities to maintain student immunization records?

- HIPAA does not impose a maintenance requirement
- However, Wyoming Rules state that the administrator must “maintain all documentation received regarding the child’s immunization state in the child’s school or child caring facility record.” 048-0071-004 Wyo. Code R. §4(a)(iv).
- Authorizations that administrators obtain on behalf of the WDH must be maintained for 6 years.

Are immunization records maintained by a school/child caring facility be protected by HIPAA?

- No.
- HIPAA will not provide protections to the immunization records maintained by a school or child caring facility because the school/child caring facility is not a HIPAA covered entity.
 - Note - records maintained by schools are are protected by the Family Educational Rights and Privacy Act (FERPA) and not HIPAA.
 - Note - records maintained by child caring facilities are protected by other applicable laws and regulations

