



Technical Bulletin

Division of Public and Behavioral Health



Date: August 23, 2016
Topic: Transfer of Medical Records from One Health Care Provider to Another
Contact: Leticia Metherell, Health Facilities Inspection Manager
To: Medical Facilities and Facilities for the Dependent Licensed pursuant to NRS Chapter 449

The purpose of this technical bulletin is to provide clarification as to the transfer of medical records from one provider to another provider in accordance with state and federal laws and regulations.

Neither the Health Insurance Portability and Accountability Act (HIPAA) nor state law/regulations require consent of a patient to share medical records and information with another provider for the purpose of treatment. Therefore, if a patient is unable to provide consent due to their medical condition, a facility or provider is authorized to transfer information to another health care provider. Please refer to the federal and state laws starting on page 2 of this document.

If a facility or health care provider has concerns about transferring such information without consent, the facility or health care provider may want to seek consent from a patient if the patient is able to give it in advance. For example, when the patient receives services, the patient could sign a consent to release information to any health care provider for the purpose of treatment.

Signed,

A handwritten signature in blue ink that reads "Cody Phinney".

Cody Phinney, Administrator
Division of Public and Behavioral Health

REFERENCE - FEDERAL AND STATE LAWS AND REGULATIONS

Health Insurance Portability and Accountability Act (HIPAA)

45 CFR §164.506 Uses and disclosures to carry out treatment, payment, or health care operations.

(a) *Standard: Permitted uses and disclosures.* Except with respect to uses or disclosures that require an authorization under §164.508(a) (2) through (4) or that are prohibited under §164.502(a) (5) (i), a covered entity may use or disclose protected health information for treatment, payment, or health care operations as set forth in paragraph (c) of this section, provided that such use or disclosure is consistent with other applicable requirements of this subpart.

(b) *Standard: Consent for uses and disclosures permitted.* (1) A covered entity may obtain consent of the individual to use or disclose protected health information to carry out treatment, payment, or health care operations.

(2) Consent, under paragraph (b) of this section, shall not be effective to permit a use or disclosure of protected health information when an authorization, under §164.508, is required or when another condition must be met for such use or disclosure to be permissible under this subpart.

(c) *Implementation specifications: Treatment, payment, or health care operations.* (1) A covered entity may use or disclose protected health information for its own treatment, payment, or health care operations.

(2) A covered entity may disclose protected health information for treatment activities of a health care provider.

(3) A covered entity may disclose protected health information to another covered entity or a health care provider for the payment activities of the entity that receives the information.

(4) A covered entity may disclose protected health information to another covered entity for health care operations activities of the entity that receives the information, if each entity either has or had a relationship with the individual who is the subject of the protected health information being requested, the protected health information pertains to such relationship, and the disclosure is:

- (i) For a purpose listed in paragraph (1) or (2) of the definition of health care operations; or
- (ii) For the purpose of health care fraud and abuse detection or compliance.

(5) A covered entity that participates in an organized health care arrangement may disclose protected health information about an individual to other participants in the organized health care arrangement for any health care operations activities of the organized health care arrangement. [67 FR 53268, Aug. 14, 2002, as amended at 78 FR 5698, Jan. 25, 2013]

Website: http://www.ecfr.gov/cgi-bin/text-idx?SID=d561cd05b182b7bbea5e77c8b230678d&mc=true&node=se45.1.164_1506&rgn=div8

STATE LAWS

NRS 449.705 Facility to forward medical records upon certain transfers of patient.

1. If a patient in a medical facility or facility for the dependent is transferred to another medical facility or facility for the dependent, a division facility or a physician licensed to practice medicine, the facility shall forward a copy of the medical records of the patient, on or before the date the patient is transferred, to the other medical facility or facility for the dependent, the division facility or the physician. The facility is not required to obtain the oral or written consent of the patient to forward a copy of the medical records.

2. As used in this section:

(a) “Division facility” means any unit or subunit operated by a division of the Department of Health and Human Services pursuant to title 39 of NRS.

(b) “Medical records” includes a medical history of the patient, a summary of the current physical condition of the patient and a discharge summary which contains the information necessary for the proper treatment of the patient.

(Added to NRS by [1991, 2349](#); A [1993, 2725](#); [1999, 1051](#); [2011, 360](#))

NRS 433.332 Division facility required to forward patient’s medical records upon transfer of patient from facility.

1. If a patient in a division facility is transferred to another division facility or to a medical facility, a facility for the dependent or a physician licensed to practice medicine, the division facility shall forward a copy of the medical records of the patient, on or before the date the patient is transferred, to the facility or physician. Except as otherwise required by 42 U.S.C. §§ 290dd, 290dd-1 or 290dd-2 or [NRS 439.538](#) or [439.591](#), the division facility is not required to obtain the oral or written consent of the patient to forward a copy of the medical records

2. As used in this section, “medical records” includes a medical history of the patient, a summary of the current physical condition of the patient and a discharge summary which contains the information necessary for the proper treatment of the patient.(Added to NRS by [1991, 2351](#); A [1993, 145](#); [2007, 1980](#); [2011, 1761](#))

NRS 433B.200 Division facility required to forward consumer’s medical records upon transfer of consumer from facility.

1. If a consumer in a division facility is transferred to another division facility or to a medical facility, a facility for the dependent or a physician licensed to practice medicine, the division facility shall forward a copy of the medical records of the consumer, on or before the date the consumer is transferred, to the facility or physician. Except as otherwise required by 42 U.S.C. § 290dd-2, the division facility is not required to obtain the oral or written consent of the consumer to forward a copy of the medical records.

2. As used in this section, “medical records” includes a medical history of the consumer, a summary of the current physical condition of the consumer and a discharge summary which contains the information necessary for the proper treatment of the consumer.

(Added to NRS by [1993, 2710](#); A [1995, 721](#); [2011, 433](#))

NRS 433A.360 Clinical records: Contents; confidentiality.

1. A clinical record for each consumer must be diligently maintained by any division facility, private institution, facility offering mental health services or program of community-based or outpatient services. The record must include information pertaining to the consumer’s admission, legal status, treatment and individualized plan for habilitation. The clinical record is not a public record and no part of it may be released, except:

(a) If the release is authorized or required pursuant to [NRS 439.538](#).

(b) The record must be released to physicians, attorneys and social agencies as specifically authorized in writing by the consumer, the consumer’s parent, guardian or attorney.

(c) The record must be released to persons authorized by the order of a court of competent jurisdiction.

(d) The record or any part thereof may be disclosed to a qualified member of the staff of a division facility, an employee of the Division or a member of the staff of an agency in Nevada which has been established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq., or the Protection and Advocacy for Mentally Ill Individuals Act of 1986, 42 U.S.C. §§ 10801 et seq., when the Administrator deems it necessary for the proper care of the consumer.

(e) Information from the clinical records may be used for statistical and evaluative purposes if the information is abstracted in such a way as to protect the identity of individual consumers.

(f) To the extent necessary for a consumer to make a claim, or for a claim to be made on behalf of a consumer for aid, insurance or medical assistance to which the consumer may be entitled, information from the records may be released with the written authorization of the consumer or the consumer’s guardian.

(g) The record must be released without charge to any member of the staff of an agency in Nevada which has been established pursuant to 42 U.S.C. §§ 15001 et seq. or 42 U.S.C. §§ 10801 et seq. if:

(1) The consumer is a consumer of that office and the consumer or the consumer’s legal representative or guardian authorizes the release of the record; or

(2) A complaint regarding a consumer was received by the office or there is probable cause to believe that the consumer has been abused or neglected and the consumer:

(I) Is unable to authorize the release of the record because of the consumer's mental or physical condition; and

(II) Does not have a guardian or other legal representative or is a ward of the State.

(h) The record must be released as provided in [NRS 433.332](#) or [433B.200](#) and in [chapter 629](#) of NRS.

2. As used in this section, "consumer" includes any person who seeks, on the person's own or others' initiative, and can benefit from, care, treatment and training in a private institution or facility offering mental health services, from treatment to competency in a private institution or facility offering mental health services, or from a program of community-based or outpatient services.