

 Information Memorandum Oregon Department of Human Services	Originating Cluster: Administrative Services		
	Date: May 21, 2003	IM Number (optional):	IM-PRI-002
To:	All DHS Staff		
From:	Susan Columbus, Acting Privacy Officer		
Subject:	Use and Disclosures FAQs		

The following are the most frequently asked questions that have come in relating to uses and disclosures pertaining to HIPAA. You can find more FAQs on the HIPAA Web site at: www.dhs.state.or.us/admin/hipaa

Access

Q. If a client wants to view or have a copy of medical records that we secured from a third party, are we permitted by HIPAA to let them view or copy those records?

A. Clients generally have the right to see information that is used to make decisions about them. There are some exceptions. If the record contains information from someone other than a health care provider (a family member for example) under the promise of confidentiality, then that information should be excluded. If the record contains information from a health care provider (a psychiatrist for example) it is not protected from disclosure, unless it is marked or stamped "do not disclose" or some similar language. Federal privacy regulations allow an exception if a health care professional determines it may be harmful to the client. In this circumstance, DHS has concluded that documentation that says not to disclose something can be interpreted as potentially dangerous to the client. The client may choose to go directly to the health care provider, who is in a better position to determine if the information is appropriate to be disclosed.

Re-disclosure

Q. Are there any specific restrictions in HIPAA on re-disclosing material based on who created it?

A. HIPAA is considered the floor not the ceiling for privacy issues. While HIPAA passively allows redisclosure to other covered entities, other state and federal laws are more restrictive when it comes to redisclosure. Alcohol and drug, mental health, vocational rehabilitation, HIV and genetics information is more strictly protected, and these regulations take precedence.

When it comes to patient access, in a scenario where DHS has documentation from another entity and it is stamped "do not redisclose" we've interpreted that to mean that the individual who created the materials feels it would be harmful and that the client must go directly to the source/creator to access the material.

Restricting Access

Q. A client has requested that information about them be restricted and not disclosed to anyone within DHS. Do I have to honor this request?

A. Clients have a right to request restriction of their information. DHS does not have to honor that restriction, except for alcohol and drug treatment, and vocational rehabilitation clients. The HIPAA project recommends that DHS staff do not grant restrictions except for the two special population groups identified above or in some exceptional circumstance. There is some increased liability if we agree to a restriction and do not take steps to ensure the information is not accessible to the restricted parties.

If you have any questions about this information, contact:

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