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Title: Disclosures that do Not Require an Authorization		
Regulatory Authority: HIPAA Regulations, FERPA Regulations, ORC, OAC		
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Reviewer/Job Title: Director of Operations		

(A) DISCLOSURES THAT DO NOT REQUIRE AN AUTHORIZATION

HCBDD employees may use and disclose PHI in specific situations authorized by state and federal statute. In these cases, the individual's authorization is not required. Staff will carefully follow specific requirements for these unusual and infrequent disclosures. These disclosures include:

- For public health purposes such as reporting communicable diseases, work-related illnesses, or other diseases and injuries permitted by law; reporting births and deaths, and reporting reactions to drugs and problems with medical devices.
- To protect victims of abuse, neglect, or domestic violence.
- For health oversight activities such as investigations, audits, and inspections.
- For judicial and administrative proceedings.
- For law enforcement purposes.
- To coroners, medical examiners, and funeral directors.
- For organ, eye or tissue donation.
- Research.
- To reduce or prevent a serious threat to public health and safety.
- Specialized government functions.
- For workers' compensation or other similar programs if applicable.

(B)LEGAL NOTES ORC § 5126.044 does not authorize any of the excepted disclosures detailed in HIPAA and FERPA. Other Ohio regulations reference disclosures otherwise allowed by federal and state law. HIPAA preempts contrary state law, except where state law offers greater privacy protections, greater rights of access to an individual's records, or is less coercive. Consult your county prosecutor for review and approval of this policy.

(C) SPECIAL CIRCUMSTANCES

HCBDD employees will follow the indicated procedures for the various special circumstances detailed below:

1) **Recordkeeping**. For all of the disclosures authorized below, the employee handling the disclosure will document the details of the disclosure on the Disclosure Log which will be maintained in the adult or school record. Copies of all paperwork requesting the disclosure and copies of the records sent will be maintained if practical.

2) **When required by law**
   a) To officials at another school that an Individual served by the board intends to enroll in, or is already enrolled in, for the purposes of Individual's enrollment or transfer.
   b) The HCBDD may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.
3) **For public health purposes** PHI may be used or disclosed to:
   a) A public health authority authorized by law to collect or receive information for the purpose of preventing or controlling disease, injury or disability, reporting vital events, conducting public health surveillance, investigations or interventions.
   b) A public health or other government authority authorized by law to receive reports of child abuse or neglect.
   c) A person subject to the jurisdiction of the Food and Drug Administration (FDA) regarding his/her responsibility for quality, safety or effectiveness of an FDA regulated product or activity, to report adverse events, product defects or problems, track products, enable recalls, repairs or replacements, or conduct post-marketing surveillance.
   d) A person who may have been exposed to a communicable disease or may be at risk of contracting or spreading a disease or condition.
   e) To the extent that the HCBDD receives PHI disclosed under this section in its role, the HCBDD may use the PHI to carry out its duties.
4) **To protect victims of abuse, neglect, or domestic violence**
   a) **Reports of child abuse**
      i) Reports of child abuse shall be made in accordance with Ohio law.
      ii) The HCBDD may disclose PHI related to the report of abuse to the extent required by applicable law. Such reports shall be made to a public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect.
   b) **Reports of abuse and neglect other than reports of child abuse or neglect.**
      i) The HCBDD may disclose PHI about an individual believed to be a victim of abuse, neglect, or domestic violence to a governmental authority authorized to receive such reports if:

         1) the individual agrees; or
         2) the HCBDD believes, in the exercise of professional judgment, that the disclosure is necessary to prevent serious physical harm.

         If the individual lacks the capacity to agree, disclosure may be made if not intended for use against the individual and delaying disclosure would materially hinder law enforcement activity.

      ii) The HCBDD staff member making the disclosure must promptly inform the individual whose PHI has been released unless:
         1) doing so would place the individual at risk of serious harm; or
         2) the HCBDD would be informing a personal representative, and the HCBDD

reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the UCBDD, in the exercise of professional judgment.

5) **For health oversight activities such as investigations, audits, and inspections**
   a) PHI may be used or disclosed for activities related to oversight of the health care system, government health benefits programs, and entities subject to government regulation, as authorized by law, including activities such as audits, civil and criminal investigations and proceedings, inspections, and licensure and certification actions.
   b) Specifically excluded from this category are investigations of an individual that are not related to receipt of health care, or the qualification for, receipt of, or claim for public benefits.
   c) To the extent that the HCBDD receives PHI disclosed under this section in its role as LMAA, the HCBDD may use the PHI to carry out its duties.
6) **For judicial and administrative proceedings**
   a) The HCBDD must always comply with a **court order**, but only in accordance with the express terms of the order.
   b) For a **subpoena, discovery request** or **other lawful process**: the HCBDD may comply with such legal requests only if:
      i) The HCBDD receives satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the requested PHI has been given notice of the request; or
      ii) The HCBDD receives satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order.

   The HCBDD will consult with legal counsel, prior to any response to a subpoena to ensure compliance with applicable requirements.
7) **For law enforcement purposes**
   a) **Conditions Allowing for Disclosure of PHI to Law Enforcement**. PHI may be disclosed for the following law enforcement purposes and under the specified conditions:
      i) Pursuant to court order or as otherwise required by law, i.e., laws requiring the reporting of certain types of wounds or injuries; or commission of a felony, subject to any exceptions set forth in applicable law.
      ii) Decedent's PHI may be disclosed to alert law enforcement to the death if entity suspects that death resulted from criminal conduct.
      iii) The HCBDD may disclose to a law enforcement official protected health information that the HCBDD believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the HCBDD.
   b) **Reporting Commission and Nature of Crime.** PHI may be disclosed to law enforcement personnel to report the commission and nature of a crime; the location of such crime or of the victim(s) of such crime; and the identity, description, and location of the perpetrator of such crime. When responding to requests about the

location of a suspect, fugitive, material witness, or missing person, the following PHI may be released:

i) Name and address
ii) Date and place of birth
iii) Social security number
iv) ABO blood type and RH factor
v) Type of injury
vi) Date and time of treatment
vii) Date and time of death, if applicable,
viii) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair scars, and tattoos

c) **Compliance/Enforcement of privacy regulations**: PHI must be disclosed as requested, to the Secretary of Health and Human Services related to compliance and enforcement efforts.

The HCBDD shall not respond to a court order, subpoena, or request for information from law enforcement without review by an attorney to ensure compliance with applicable requirements.

8) **To coroners, medical examiners, and funeral directors**
   a) PHI may be disclosed to coroners, medical examiners and funeral directors, as necessary for carrying out their duties.
9) **Organ, eye or tissue donation**
   a) PHI of potential organ/tissue donors may be disclosed to the designated organ procurement organization and tissue and eye banks.
10) **To reduce or prevent a serious threat to public health and safety**
   a) The HCBDD may disclose PHI as follows, to the extent permitted by applicable law and ethical standards:
      i) **Good Faith.** PHI may be used or disclosed if the entity believes in good faith:
         1) that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to a person or the public, and disclosure is to someone reasonably able to prevent or lessen the threat; or
         2) the disclosure is to law enforcement authorities to identify or apprehend an individual who has admitted to violent criminal activity that likely caused serious harm to the victim or who appears to have escaped from lawful custody.
   b) **Disclosure of Individual's Admitted Participation in a Violent Crime**. Disclosures of admitted participation in a violent crime are limited to the individual's statement of participation and the following PHI: name, address, date and place of birth, social security number, blood type, type of injury, date and time of treatment, date and time of death, if applicable, and a description of distinguishing physical characteristics.
   c) **Disclosure of Individual's Admitted Participation in a Violent Crime Learned in the Course of Treatment**. Disclosures of admitted participation in a violent crime are not permitted when the information is learned in the course of treatment entered into by the individual to affect his/her propensity to commit the subject crime, or

through counseling, or therapy or a request to initiate the same.

11) **Specialized government functions**

a) **National Security and Intelligence**: PHI may be disclosed to authorized federal officials for the conduct of lawful intelligence, Counterintelligence, and other activities authorized by the National Security Act.

b) **Protective Services**: PHI may be disclosed to authorized federal officials for the provision of protective services to the President, foreign heads of state, and others designated by law, and for the conduct of criminal investigations of threats against such persons.

c) **Correctional Institution or Law Enforcement Official.** The HCBDD may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual protected health information about such inmate or individual, if the correctional institution or such law enforcement official represents that such protected health information is necessary for:

i) The provision of health care to such individuals;
ii) The health and safety of such individual or other inmates;
iii) The health and safety of the officers or employees of or others at the correctional institution;
iv) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;
v) Law enforcement on the premises of the correctional institution; and
vi) The administration and maintenance of the safety, security, and good order of the correctional institution.

The provisions of this section do not apply after the individual is released from custody.

d) **Public Benefits**: PHI relevant to administration of a government program providing public benefits may be disclosed to another governmental program providing public benefits serving the same or similar populations as necessary to coordinate program functions or improve administration and management of program functions.

12) **In connection with "whistleblowing"**. In connection with "whistleblowing", or reporting of a violation of law or ethics, an employee of HCBDD may disclose PHI to his/her attorney, and to other parties specified in Ohio Revised Code § 4113.52, while following the procedures outlined in that statute

13) **For workers' compensation or other similar programs if applicable**.

a) PHI may be disclosed as authorized and to the extent necessary to comply with laws relating to workers' compensation and other similar programs.