



INTEROFFICE MEMORANDUM

DATE: April 28, 2005
TO: County Health Department Directors/Administrators
HIV/AIDS Program Coordinators
FROM: Landis K. Crockett, M.D., M.P.H. *LKC*
Director, Division of Disease Control
SUBJECT: Guidelines for Sharing Confidential Information

INFORMATION ONLY

Attached please find guidelines for sharing confidential information between medical providers and AIDS service organizations for the purpose of facilitating medical follow-up. Also attached is an example of a consent form, approved by legal counsel, which may be adapted for use in any community.

Maintaining the privacy and confidentiality of Florida's HIV-infected clients is paramount in all decisions related to their care. Stringent guidelines in the management of verbal, written, or electronic client-level information serves to promote the trust of the public and protect the rights of clients. The Health Insurance Portability and Accountability Act (HIPAA) of 1996 recognize the need to share information between entities for the good of clients and the public. Therefore, specific rules have been put into place to ensure that clients' rights are protected in that instance.

Florida Statute has provided the authority for sharing confidential information on a limited basis, and the HIPAA Business Associate Agreement (BAA) is the vehicle used to accomplish that goal. The attached guidelines are intended to answer questions related to use of the BAA. The Department of Health strives to ensure that the highest quality of care is available to our clients. By partnering with medical providers, AIDS service organizations can assist individual clients in obtaining medical care and also in reducing the risk that they will transmit their infection to others.

If you have any questions, please contact Sherry Riley, Marlene LaLota, or Nita Harrelle at (850) 245-4334 or SunCom 205-4334.

LKC/nh

Attachments

cc: Bonita J. Sorensen, M.D., M.B.A., Deputy State Health Officer
Thomas Liberti, Chief, Bureau of HIV/AIDS
Sherry Riley, Operations and Management Program Administrator
Marlene LaLota, M.P.H., Early Intervention Program Administrator
Nita Harrelle, Linkage Coordinator

Guidelines for Sharing Confidential Information Through the HIPAA Business Associate Agreement

Background

In Florida, it is believed that approximately 100,000 persons are infected with HIV, the virus that causes AIDS. About one quarter of those (25,000), are aware of their HIV infection and are not receiving medical care to prolong their lives, improve the quality of their lives, and lower the risk that they will spread the infection to others.

Linking these people to care, along with approximately 5,000 per year who are newly identified as HIV infected, has become a priority in our state. In April 2003, the Department of Health adopted the HIPAA Business Associate Agreement (BAA) to enable medical providers to share locating information with AIDS service organizations (ASO). This is for the sole purpose of bringing those persons back into medical care. Since that time, the BAA has been used in agencies around the state with success. However, there have been many questions raised about the sharing of confidential information between entities. These guidelines are provided to answer some of those questions and ensure that the BAA is applied consistently.

Authority

The practice of sharing information between medical providers and AIDS service organizations is provided under the authority of the statutes and rules listed below:

Chapter 381, Florida Statutes, Public Health - This statute establishes the Department of Health as the state's public health system, which shall be designed to promote, protect, and improve the health of all people in the state.

Section 381.0037 - This section is specific to HIV/AIDS and provides the intent to address the unique nature of HIV/AIDS, balancing medical necessity with the right to privacy and protection of the public from harm, and establishes public programs for the care and treatment of persons with HIV and related conditions.

Section 381.004(3) (e) 3 - This section addresses the method of sharing information regarding an individual's HIV status on a need-to-know basis. This applies to an ASO that enters into a HIPAA Business Associate Agreement with a medical provider for the purpose of assisting those persons in returning to medical care.

64D-2.003(2) (d) - This section of the information related to HIV status is to be released to an authorized agent under certain circumstances.

Practical Application

Q. When may confidential information be shared under the BAA?

A. When the medical provider and the ASO have jointly signed the HIPAA Business Associate Agreement. This agreement is solely for the purpose of assisting the individual in returning to medical care. Clients who are reluctant to return to their original medical provider may be assisted in obtaining services from an alternative provider only after signing a Consent to Release Information allowing their name to be shared with a third party.

Q. What information should be shared through the BAA?

A. The client's name, last known address, phone number, alias or nickname, and any "hangouts" where the client may be located.

Q. What information should not be shared through the BAA?

A. Information about specifics of their medical condition, such as viral load or opportunistic infections, emergency phone numbers for friends and relatives, employment information, risk factors, and sex or needle-sharing partners that were disclosed by the client.

Q. To whom should the information be given?

A. The ASO should identify one or two key staff that will be the point of contact with the medical provider and who are trained in the information transfer protocol. These staff must complete the security training that is provided for health department employees or complete the security training electronically that may be obtained through the Bureau of HIV/AIDS. These staff must take care to protect this information within the ASO. For example, it is not necessary for a receptionist or accountant to know the names that were shared by the medical provider.

Q. How should the information be transferred?

A. Hard copies of client names should be placed in a double envelope with the inside envelope marked confidential and be physically picked up by the identified ASO staff. If there are multiple names on a list, the list should have no indication that it is a list of HIV-infected persons. Confidential information should never be sent over the Internet.

Once the list is in the custody of the ASO staff, it should be kept in a locked brief case during transport. In the office, the identifying information should be kept in a locked drawer in a locked office with limited access.

Obtaining Consent to Release Confidential Information

Following are three primary scenarios clients will come under in the process of utilizing the BAA.

- 1. Clients who signed a release (sample attached) to allow their name to be shared for the purpose of follow-up.** It is understood that obtaining the client's consent prior to having their name released to the ASO is always the "Gold Standard." The medical provider should immediately begin requesting that their new clients sign a release for the ASO to contact them if in the future they do not maintain regular medical appointments.
- 2. Clients who were asked to sign a consent to release their names for the purpose of follow-up and declined to do so.** In the event that a client was offered an opportunity to sign such a consent and the client refused, that person's name should not be released to the ASO.
- 3. Clients who were receiving medical care, but were not afforded an opportunity to sign a release of information for the purpose of follow-up.** For clients who were never offered a chance to sign a release of information and have stopped coming to their medical appointments, these names may be shared with the ASO for the explicit purpose of bringing them back into care. Once contact has been established with the client, a Consent to Release Information form should be requested by the ASO before any information is shared with anyone other than the original medical provider.

**LINKING CLIENTS TO CARE AND SERVICES:
Consent to Share Confidential Information**

The Community Integration Collaborative is an effort to link HIV-infected persons to medical care in order to optimize their health and avoid further infections. Through this collaboration, services will be provided to you based on your needs. However, to give you the best possible care, information will be needed from other doctors or agencies that are providing or have provided you medical care or any type of assistance. Please complete this form to assist us in serving your needs. Refusal to complete the form does not prevent you from accessing services through our agency. Please ask for assistance if needed.

I, _____, hereby give my full consent to (*please check those that apply*), to provide and obtain information concerning past assistance and/or services received by me:

- ABC Agency _____
- AIDS Drug Assistance Program (ADAP) _____
- Children's Medical Services _____
- Case Management R-U's _____
- Other _____

The identified agency above shall obtain and release the following CONFIDENTIAL information

Client Initial	Specific Information	Client Initial	Specific Information
_____	HIV status	_____	Other
_____	Pregnancy status	_____	Other

I hereby authorize all information requested to be released to and/or obtained from the specified agencies or individuals below. Information will be held strictly confidential & may not be re-disclosed by without my written consent.

Client Initial	Agency or Physician	Client Initial	Agency or Physician
_____	ABC Agency	_____	AIDS Drug Assistance Program
_____	Case Management R-U's	_____	Children's Medical Services
_____	Private Physician: _____	_____	Other: _____

I understand that this authorization is ongoing and will remain in effect until the date, event or condition specified below, or until my consent is revoked:

_____ (Specify Date, Event or Condition)

Signature of Client or Legal Representative

Relationship to Client of Legal Representative

Signature of Witness

Date of Consent

Date Consent was Revoked by Client

Client's Initials

Note to receiving agency(ies): This information has been disclosed to you from records whose confidentiality is protected by State Law. State Law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains or as otherwise permitted by State Law. A general authorization is not sufficient for this purpose.