



**Hawaii  
Behavioral  
Health**

**Health Insurance  
Portability and  
Accountability  
Act  
(HIPAA)**

*Your Rights and the Rights of Your Child*

**Hawaii Behavioral Health  
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**Health Insurance Portability and Accountability Act (HIPAA)**  
***And***  
***The Family Educational Rights and Privacy Act-Buckley Amendment (FERPA)***

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires standards to be adopted in two areas.

1. Electronic health-care transactions (include standardizing the manner in which health services are claimed by any entity for any person in receipt of such a service), and
2. Privacy (confidentiality) of all health-related services provided. This involves protection of health information for anyone in receipt of such services.

**Privacy:** The Family Educational Rights and Privacy Act-Buckley Amendment (FERPA a.k.a. Buckley Amendment) is more restrictive than HIPAA with respect to the protection of privacy and security of all educational and health related services. Since all educational entities that have access to student data) are obligated to be in compliance with FERPA, they are also HIPAA compliant.

In order to assure compliance with FERPA (and thus with HIPAA), the following minimum procedures must be in place:

All student data files and information must be protected (i.e. student files are locked or only accessible by appropriate personnel).

Any student information/files transmitted to other appropriate recipients must also be protected. Information files must be encrypted and password protected.

Student information/files may be faxed to appropriate personnel, but only to secure sites.

Parental consent is required for the release of any personally identifiable information other than those specifically excluded in the attached FERPA Fact Sheet (see Page 2).

See Procedures for Transmission of Student Specific Information (Page 3) for all communications pertaining to student specific information.

## Family Policy Compliance Office Fact Sheet

**The Family Educational Rights and Privacy Act (FERPA)** (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.

Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record.

However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

- School officials with legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and  
State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

For additional information or technical assistance, you may call **(808) 585-1424 (voice)**.

Individuals who use TDD may call the Federal Information Relay Service at **1-800-877-8339**. Or you may contact the Compliance Office at the following address: Family Policy Compliance Office.

U.S. Department of  
Education 400  
Maryland Avenue,  
SW Washington, D.C.  
20202-4605

### **Procedures for the Transmission of Student Specific Information**

To maintain security all staff who handle data with student identifying information, especially while seeking clarification on the processing of claims, must abide by the following rules:

#### **FAX TRANSMISSIONS:**

The sender should place the student last name, first name, date of birth and gender on a numbered line. This will allow the receiving staff to provide a response using only the number, without having to repeat the identifying information.

Call the receiver ahead of time to be immediately available to retrieve the document. The intended receiver needs to provide the sender with a phone number for a fax machine that is located in a secure environment and not open to the general public.

#### **E-MAIL TRANSMISSIONS:**

E-mail transmissions are permissible only if the data is encrypted and password protected. Information on encryption software is available.

#### **TELEPHONE:**

The telephone is preferable for small numbers of requests. Leave messages containing identifying data only on voice mail systems that are password protected.

#### **MAILING OF FLASH DRIVES or PAPER DOCUMENTS:**

Flash drives and printed documents may be mailed but be sure to mail only to a specific individual with the right to know. General addresses, where anyone can open the mail, would be inappropriate.

#### **HAND DELIVERED FILES:**

Flash drives (files such as your Medicaid Demographic File [MD], Medicaid Services File [MS], Medicaid Eligibility File [ME] or Medicaid Remittance File [MR] and printed documents with personally identifiable information may be hand delivered without encrypting the files. However, the information must be hand delivered to an appropriate individual with the

right to know.

### **FILES, LOGS, DOCUMENTATION OR ANY MEDIUM CONTAINING STUDENT PERSONALLY IDENTIFIABLE INFORMATION:**

All files must be maintained in a secure environment with access to only appropriate staff who requires access to such information to carry out their work responsibilities. Information left unattended should be locked or maintained where access would be denied.

### **ENCRYPTION INFORMATION:**

All electronic data uses encryption software that meets industry standards for security and privacy and is password protected. PGP Encryption Software is found at <http://www.pgp.com/products/workgroup/index.html>. The website automatically protects all personally identifiable information using the Secure Socket Layer (SSL) software.

**NOTE:** The Health Information Portability and Accountability Act (HIPAA) expressly excludes from HIPAA coverage any information maintained in school district educational records which are subject to the Family Educational Rights and Privacy Act (FERPA). Any questions regarding the above should be addressed to:

HBH's Privacy Officer  
Maila Kaneaiakala  
210 Ward Ave. #219B  
Honolulu, HI 96814  
Email: [maila@hibh.org](mailto:maila@hibh.org)  
Phone: (808) 585-1424

### **Use and Disclosure of Your Information**

Upon signing the Consent to Treatment/Service form, you are allowing us to use and disclose necessary information about you within the agency and with business associates in order to provide treatment/service, receive payment of provided treatment/service, and conduct our day to day health care operations.

#### **EXAMPLES:**

*In order to effectively provide treatment/service, your Program Coordinator may consult with various service providers within the agency. During those consultations health information about you may be shared.*

*In order to receive payment of services provided, your health information may be sent to those companies or groups responsible for payment coverage, and a monthly bill is sent to the Responsible Party identified by you and noted on the financial form. In many cases, the responsible party is the Child and Adolescent Health Division (hereafter CAMHD) of the Hawaii Department of Health.*

*In day-to-day health care operations, trained staff may handle your physical medical record in order to have the record assembled, available for review by the Program Coordinator, or for filing of documentation. Certain data elements are entered into our computer system that processes most billing, and for state statistical reporting to CAMHD. As a part of our continuous quality improvement efforts to provide the most effective services, your record may be reviewed by professional staff to assure accuracy, completeness and organization. Records may also be reviewed during accreditation surveys by the Commission on Accreditation of Rehabilitation Facilities (CARF), or by CAMHD.*

## **Enhancing Your Healthcare**

Some agency programs provide the following support to enhance your overall health care and may contact you to provide:

- Appointment reminders by call or letter;
- Information about treatment alternatives;
- Consumer satisfaction surveys;
- Information about health-related benefits and services that may be of interest to you; and
- Other routine correspondence such as consent forms to be signed and changes to our privacy notice.

## **Individuals Involved in Your Care or Payment for That Care**

Unless you object, we may release medical information about you to a friend or family member who is involved in your medical care. We may also give information to someone who helps pay for your care.

## **Specific Circumstances for Disclosure**

This agency is also allowed by federal and state law in certain circumstances to disclose specific health information about you.

These specific circumstances are:

- As required by law (ex: reports required for public health purposes, such as reporting certain contagious diseases)
- Judicial and Administrative proceedings (ex: Order from a court or administrative tribunal, or legal counsel to the agency, or Inspector General)
- Law Enforcement purposes (ex: reporting of gun shot wounds; limited information requested about suspects, fugitives, material witnesses, missing persons; criminal conduct on premises)
- To avert a serious threat to Health and Safety of another person (ex: in response to a specific threat made by person served to harm another)
- Children or incapacitated adults who are victims of abuse, neglect or exploitation

- Specialized Government functions
- Military Services (ex: in response to appropriate military command to assure the proper execution of the military mission)
- National Security and Intelligence activities (ex: in relation to protective services to the President of the United States)
- State Department (ex: medical suitability for the purpose of security clearance)
- Correctional Facilities (ex: to correctional facility about an inmate)
- Workers Compensation to facilitate processing and payment
- Coroners and Medical Examiners for identification of a deceased person or to determine cause of death
- To CAMHD of Health and Human Services in connection with an investigation of us for compliance with federal regulations.

### **Other Uses and Disclosures of Your Information by Authorization Only**

We are required to get your authorization to use or disclose your protected health information for any reason other than for treatment/services, payment, or health care operations, and those specific circumstances outlined previously. We use a consent form that specifically states what information will be given to whom, for what purpose, and is signed by you or your legal representative. You have the ability to revoke the signed authorization at any time by a written statement except to the extent that we have acted on the authorization.

### **Changes to Privacy Practices**

*Hawaii Behavioral Health* reserves the right to change any of its privacy policies and related practices at any time, as allowed by federal and state law and to make the change effective for all protected health information that we maintain. Any changes in these policies will be publicly posted in the HBH offices and will be posted on our website at [www.hibh.org](http://www.hibh.org).

Revised Privacy Notices will be posted at all service sites, and available upon request by mailing or discussion with an agency representative or electronically or a combination of the three.



