



North Carolina Law

Under the Mental Health, Developmental Disabilities, and Substance Abuse Act of 1985 there are specific exceptions to the protection of private health information made for the care and treatment of patients.

What the law says:

Any facility may share confidential information regarding any client of that facility with any other facility when necessary to coordinate appropriate and effective care, treatment or habilitation of the client. For the purposes of this section, coordinate means the provision, coordination, or management of mental health, developmental disabilities, and substance abuse services and other health or related services by one or more facilities and includes the referral of a client from one facility to another. [N.C.G.S. 122C-55 (a)]*

*A facility includes any individual whose purpose is to provide mental health or substance abuse services. This could include a sole worker, a practice, or a home visitor.

Physicians CAN share the following information WITHOUT consent:	The following information REQUIRES written consent:
<ul style="list-style-type: none">• Patient written or verbal information• Hospital emergency room discharge notes• Hospital inpatient notes (as long as the hospitalization is not for Part 2 Services†)• PCC documentation (if PCC does not provide Part 2 Services)• Information from Licensed Mental Health Facilities (as long as they do not provide Part 2 Services) <p>Sharing this information does not require written patient or guardian consent, can be documented in the IC (CMIS), and does not require patient consent to re-disclose.</p> <p>†Part 2 includes any individual, entity, identified unit within a medical facility, or medical personnel or staff who provide alcohol or substance abuse diagnosis, treatment, or referral for treatment.</p>	<ul style="list-style-type: none">• Information from any providers, entities, or facilities that are a Part 2 Program or provide Part 2 Services.• Information from a primary provider with a DEA license to prescribe controlled substances for detox or substance abuse treatment. <p>Documentation of Part 2 Services is not permitted in the IC (CMIS). A separate record should be maintained and accessible only to the person(s) identified on the consent form.</p> <p>Re-disclosure of patient information pertaining to Part 2 Services is not permitted and requires use of a Part 2 Compliant Consent Form signed by the patient who identifies who may be permitted to access the record.</p>

PLEASE NOTE: The information contained in this document is provided for informational purposes only. It is NOT intended as legal or professional advice or as a substitute for legal or professional advice. Please consult with your attorney regarding legal and compliance matters specific to your organization.



Federal Law

Under the federal Health Insurance Portability and Accountability Act (HIPAA) [P.L. 104-191] Privacy Rules health care providers **are** permitted to disclose protected health information about an individual, **without consent**, to another health care provider for that provider's treatment or consultation.

What the law says:

A covered entity may use and disclose protected health information for its own treatment, payment, and health care operations activities. [45 C.F.R. 164.506]*

*Treatment is the provision, coordination, or management of health care and related services for an individual by one or more health care providers, including consultation between providers regarding a patient and referral of a patient by one provider to another.

Medical records that are connected to a **school-based clinic** are part of the student's educational record and are generally subject to the federal Family Educational Rights and Privacy Act (FERPA) Privacy Rules. Licensed health staff in a school setting should only share confidential medical information on a need-to-know basis for the purpose of ensuring student safety. Licensed health staff should inform all non-licensed persons receiving confidential health information that re-disclosure is prohibited and protected by state and federal law.

Other North Carolina State Law

NC State law considers a minor's consent sufficient for certain medical health services and does not require a parent or guardian consent.

What the law says:

Any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional disturbance. [N.C.G.S. 90-21.20B (a)]

Further References

DMA Special Implementation Update #99 July 9, 2012:

<http://www.ncdhhs.gov/mhddsas/implementationupdates/update099/specialIU99confidentiality.pdf>

AAP Confidentiality Laws Tip Sheet: http://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/healthy-foster-care-america/Documents/Confidentiality_Laws.pdf

Identification and Analysis of Inconsistencies in North Carolina Laws Addressing Consent to Disclose Patient Information for Treatment Purposes:

http://www.ncdhhs.gov/healthit/exchange/NCLaws_inconsistencies.pdf

PLEASE NOTE: The information contained in this document is provided for informational purposes only. It is NOT intended as legal or professional advice or as a substitute for legal or professional advice. Please consult with your attorney regarding legal and compliance matters specific to your organization.