

Health Care Records in Schools

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Today's presentation

- Share what kind of health records in schools are & are not patient health care (PHC) records
- Distinguish how PHC records must be treated differently than other pupil records
- Share conflicts between state & federal law
- Share some strategies to help make it easier to manage PHC records in your schools
- Time for questions

Primary categories of pupil records

1. Progress
2. Behavioral
3. Patient health care

See handout *Categories of Pupil Records*.

Progress records

Progress records include student's grades, courses taken, attendance records, extracurricular activities, & immunization & lead screening records.

Wis. Stat. sec. 118.125(1)(c)

Behavioral records

Behavioral records include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual pupil's behavior, tests relating specifically to achievement or measurement of ability, the pupil's physical health records (other than his or her immunization records or any lead screening records), law enforcement records, & any other pupil records that are not progress records.

Wis. Stat. sec. 118.125(1)(a)

What about patient health care records?

- Except as provided in [par. \(b\)](#), any pupil record that relates to a pupil's physical health & that is not a pupil physical health record shall be treated as a patient health care record under [ss. 146.81](#) to [146.84](#).

Wis. Stat. sec. 118.125(2m)(a)

- Any pupil record that concerns the results of an HIV test, as defined in [s. 252.01 \(2m\)](#), shall be treated as provided under [s. 252.15](#).

Wis. Stat. sec. 118.125(2m)(b)

Patient health care records

"Patient health care records" means all records related to the health of a patient prepared by or under the supervision of a health care provider

Wis. Stat. sec. 146.81(4)

Note: It is the **content** of a record that determines its category (i.e., progress, behavioral, or PHC), not the title of the record. A medical opinion, diagnosis or judgment within an IEP or 504 plan makes that portion of that plan a PHC record.

Who are the health care providers in schools?

- School nurse
- Physical therapist
- Dietician
- Athletic trainer
- Occupational therapist
- Occupational therapy assistant
- Speech-language pathologist
- Professional counselor, psychologist, & social worker licensed or certified by Dept. of Safety & Professional Services (formerly DRL)

Pupil physical health care records

Pupil physical health records include immunization records, an emergency medical card, a log of first aid & medicine administered, an athletic permit card, a record concerning ability to participate in an education program, lead screening records, results of routine screening test (hearing, vision or scoliosis & any follow-up to such test).

Wis. Stat. sec. 118.125(1)(cm)

How are patient health care records different than other pupil records?

- Governed by Wis. Stat. Ch. 146, as well as Wis. Stat. sec. 118.125 & FERPA
 - Security provisions of HIPAA apply if school is **directly** billing Medicaid
- Higher level of confidentiality & more requirements
 - Schools must limit access to PHC records that are not relevant to provision of instruction & services
 - Record of access by anyone must be kept
 - Parents must be given written statement of who has access to their child's PHC records

How are patient health care records different than other pupil records?

- Maintenance of records

- Custodian of PHC records should be health care provider
- No specific guidelines for maintenance following graduation (5-7 years recommended)
- Note: Immunization records must be maintained for a minimum of 5 years after a student graduates or leaves school

- Significant penalties in the law for unauthorized disclosures

- Fines for unintentional disclosures
- Discipline & termination of employment

How are patient health care records different than other pupil records?

- Transfer of records
 - Should always transfer PHC records that originate in the school – Wis. Stat. 118.125(4)
 - OK to transfer community mental health & AOD treatment records – Wis. Stat. 51.30(4)
 - See handout *Confidentiality of Mental Health Treatment*.
 - Get informed consent to transfer PHC records that originate outside the school
 - More restrictive interpretation is not to forward these records

How are patient health care records different than other pupil records?

- Release forms

- Consent to release PHC records must include more information than for behavioral & progress records
 - Types of health care providers making the disclosure
 - Date on which the consent is signed
 - Time period during which the disclosure is effective

Conflicts between state & federal laws

- State law authorizes these disclosures
 - Immunization records to DHS
 - Lead screening records to state & local health officials
- Wis. Stat. sec. 118.125(2)(h), (hm)
- FERPA does not allow these disclosures without consent
- Both state & federal law do allow disclosures without consent to protect health & safety in an emergency

Wis. Stat. sec. 118.125(2)(p); 34 CFR 99.31(a)(10), 99.36

Strategies to Help Manage Patient Health Care Records in Schools

1. Create a single release form that includes all of the necessary information to release PHC records & use that form for all pupil records (Question #8 – *Student Records & Confidentiality*)
2. Obtain copies of community health care systems' (e.g., clinics, hospitals, treatment facilities) release forms & use them when you want to obtain PHC records from these systems

Strategies to Help Manage Patient Health Care Records in Schools

3. When obtaining PHC records from health care providers, be sure the release form specifies disclosure to all necessary educators, whether they are health care providers or not (e.g., IEP Team, staff involved in evaluation and/or program development/implementation)

Note: Patient health care records may be redisclosed without additional parental consent, if the redisclosure is limited to the same purpose for which the patient health care record was initially received [Wis. Stat. sec. 146.82(5)(c)3.]

Strategies to Help Manage Patient Health Care Records in Schools

4. View PHC records in the medical records department of the health care institution as an alternative to obtaining copies
 - This strategy may help reluctant parents
5. Ensure that all reports/records created within your schools that contain PHC information only include information that is necessary to provide instruction & services

Strategies to Help Manage Patient Health Care Records in Schools

6. Develop a local policy to determine if PHC records that originate outside of the school will:
 - Be transferred to the next school district with informed consent of the parent/guardian or adult student, or
 - Not be transferred to the next school district
 - If the school district is not transferring, good practice is to notify parent/guardian/adult student in order for the family to provide consent for the original health care provider to release the records to the next school district

Strategies to Help Manage Patient Health Care Records in Schools

7. Store PHC records that include information that is not necessary for instruction & services separate from other pupil records & in the custody of a health care provider
 - You may destroy pupil records no longer needed
 - Need to notify parents first if SPED records

8. When pupil records are transferred to another school district, you may wish to maintain a copy of the PHC records for liability purposes

Strategies to Help Manage Patient Health Care Records in Schools

9. Record access by staff & parents to all pupil records, rather than just PHC records
10. Provide training to staff on access to the different kinds of pupil records
 - Required for staff handling SPED records
34 CFR 300.623(c)
 - Provide more intensive training for gatekeepers
11. Use gatekeepers to prevent inappropriate access to more sensitive records

What other questions do you have
about health care records in
schools?