

HIPAA and School Immunization Records

Most states require certain childhood immunizations before the start of each school year, and state “no entry” laws enforce this mandate by preventing the child from attending school unless the school has proof that the child has been appropriately immunized. This proof usually comes in the form of the child’s immunization records, which the parents can request from the child’s provider and then submit to the school as proof of compliance with the state law, as applicable. Each state has different immunization requirements as recommended by state public health officials and codified in law by state legislatures acting under their police power to protect the health and safety of its state residents.

Because childhood immunization records are considered protected health information (“PHI”) and the providers collecting and maintaining this data are “covered entities” both subject to the protections and requirements of the HIPAA privacy rule, providers have questioned whether they are legally permitted to disclose this information directly to schools. In order to prevent undue delay to school admission, the 2009 HITECH Act amended HIPAA to permit providers to send proof of immunization directly to schools located in states that are required by law to have such proof, as long as a parent or guardian has given oral or written “agreement” for doing so. This strikes an important balance between protecting the privacy of health information and ensuring public health and safety, as all schools play an important role in preventing the spread of communicable diseases among students.

The parental agreement noted above allowing providers to release proof of immunization directly to schools in states with no entry laws is not by any means as rigorous as other typical HIPAA-required authorizations. The agreement allowing disclosure must come from a parent or legal guardian of the student/prospective student, or from the student him/herself if he/she is an adult or emancipated minor. The agreement can be oral or in writing, and need not be signed by either party. In whatever form the agreement takes, the provider does need to document the existence of the agreement, but HIPAA does not prescribe the nature or format of this documentation. Saving letters or emails requesting immunization proof be sent to schools, or simply noting an oral agreement in the medical record, will suffice for documentation purposes. Agreements of this nature remain in effect until revoked by the parent, guardian, or emancipated minor.

For more information on HIPAA, see: <http://www.healthinfo.org/federal-law/HIPAA>. For more information about privacy and confidentiality, see <http://www.healthinfo.org/topics/63>.

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