

## 15.5 RELEASE OF INFORMATION

**Policy:** Title X clinics must follow all applicable state and federal statutes and regulations regarding release of client information. This includes:

1. Health Insurance Portability and Accountability Act (HIPAA)
2. Uniform Health Care Information Act (*MCA 50-16-512*)
3. Title X Program Requirements
4. Access to information by the Fetal, Infant, Child and Maternal Mortality Review (FICMMR) team (*MCA 50-19-402*)

Where there are differences in these regulations, Title X clinics must follow the stronger or more stringent requirement.

### **Procedure:**

1. The written consent of the client is required for the release of personally identifiable information, except as may be necessary to provide services to the client or as required by law, with appropriate safeguards for confidentiality.
2. When client information is requested, Title X clinics should release only the specific information requested.
3. Upon request, clients transferring to other providers must be provided with a copy or summary of their record to expedite care.
4. Have a mechanism in place to expedite the transfer of medical records to other providers upon a client's request.
5. The clinic must maintain, in conjunction with a client's recorded health care information, a record of each person who has received or examined the recorded health care information during the preceding 3 years, except for examination of health care information under *MCA 50-16-529* (disclosure without client's authorization based on need to know).
6. HIPAA regulations state that a client's health care information can be released without client authorization for the following reasons:
  - a. Public health activities
  - b. Reporting child abuse or neglect
  - c. Review of FDA related products
  - d. Health oversight activities
  - e. Determination of civil right compliance
  - f. Government benefit programs
  - g. Required by law for reporting certain injuries
  - h. Court ordered warrant or subpoena
  - i. Identification of a victim of crime
  - j. To coroner or funeral director in the event of a death
  - k. Occurrence of a crime or crime on the premises
7. Access to examine or copy health care information may be denied for the following reasons:
  - a. Knowledge would be injurious to the client health
  - b. Knowledge could lead to identification of the individual providing the information by the client
  - c. Knowledge could be expected to cause danger to the life or safety of any individual
  - d. Health care information is data compiled and used solely for public health activities
  - e. May contain information protected from disclosure
  - f. Health care provider obtained the information from a person other than the client
  - g. Access to the information is prohibited by law
8. To release client information, a completed and signed client consent to release form should:

- a. Specify the client's name and date of birth/identification number
  - b. Be signed and dated by the client or by someone authorized to act in the client's behalf
    - i. If the client is unable to sign the consent form but uses some other means to indicate approval, such means must be witnessed or notarized
    - ii. If the validity of a signature is questioned, the agency may require a notarized signature
    - iii. If the client is deceased, signed consent is given by the person representing the client's estate
  - c. Specify the information the client is authorizing the agency to disclose
  - d. Specify the individual and/or agency to which the information is being released
  - e. Specify the purpose for which the information is being released
  - f. Be signed and dated by a person witnessing the signature
9. For additional information on the HIPAA privacy act, please see MT TX FP Administrative Manual, Policy 2.11 *HIPAA Compliance* and the US Department of Health & Human Services [Health Information Privacy](http://www.hhs.gov/ocr/privacy/) at <http://www.hhs.gov/ocr/privacy/>.
10. HIPAA and Montana law state that a reasonable fee for providing health care information is allowed. The fee is not to exceed 50 cents for each page for a paper copy or photocopy. A reasonable fee may include an administrative fee not to exceed \$15 for searching and handling recorded health care information (*MCA 50-16-540*).
11. DPHHS coordinates the Fetal, Infant, Child and Maternal Mortality (FICMMR) program. A health care provider may disclose information about a client without the client authorization or without the authorization of the representative of a client who is deceased upon request of a local FICMMR team. The review team:
- a. Must maintain the confidentiality of the information received
  - b. May request and may receive information from a county attorney, tribal attorney and a health care provider as permitted by state and applicable federal law
  - c. May perform an in-depth analysis of fetal, infant, child maternal deaths, including a review of records available by law
  - d. May compile statistics of fetal, infant, child and maternal mortality and communicate the statistics to DPHHS for inclusion in statistical reports
  - e. May analyze the preventable causes of fetal, infant, child and maternal deaths, including child abuse and neglect
  - f. May recommend measures to prevent future fetal, infant, child and maternal deaths
  - g. Material and information obtained by a local FICMMR review team are not subject to subpoena or disclosure under the public records law
12. Release of client information must be in accordance with the Uniform Health Care Information Act (*MCA 50-16-512*) which states:
- a. *50-16-512. Content and dissemination of notice. (1) A health care provider who provides health care at a health care facility that the provider operates and who maintains a record of a client health care information shall create a notice of information practices, in substantially the following form:*

NOTICE

*"We keep a record of the health care services we provide for you. You may ask us to see and copy that record. You may also ask us to correct that record. We will not disclose your record to others unless you direct us to do so or unless the law authorizes or compels us to do so. You may see your record or get more information about it at <<insert number>>."*
13. The health care provider must post a copy of the notice of information practices in a conspicuous place in the health care facility and upon request provide clients or prospective clients with a copy of the notice.