

COORDINATED CARE ORGANIZATIONS OREGON LAW & INFORMATION SHARING SUMMARY

New Oregon laws specifically grant Coordinated Care Organizations (CCOs) the authority to share confidential information within their provider network and with the Oregon Health Authority and Department of Human Services. These new state laws will increase the ability of CCOs to provide coordinated, whole-person care.

This document summarizes how these state laws permit a CCO to use and disclose confidential member information and describes some important limitations to uses and disclosures. (The two state laws summarized in this document are provided at the end of this document.)

Information sharing for improved care (authorized by ORS 414.679)

A CCO, its provider network and programs administered by DHS for adults and persons with disabilities must share member information for purposes of:

- Service and care delivery, coordination,
- Service planning, transitional services and reimbursement,
- Improving the safety and quality of care, lowering the cost of care and improving the health and well-being of the CCO's members.

Information may be shared within the CCO and the CCO provider network for the purpose of allowing the CCO to provide whole-person care. ORS 179.505 is not a barrier to information sharing. Information that may be shared without member authorization includes:

- A diagnosis of HIV;
- Other physical health diagnoses; and
- Mental health diagnoses.

Information about members may be shared between CCOs, OHA and DHS for the purpose of administering the laws of Oregon.

CCOs and their providers must comply with HIPAA and 42 CFR Part 2 (authorization needed for disclosure of treatment records of substance abuse treatment providers).

- HIPAA Privacy and Security Rules, 45 CFR Parts 160 and 164, apply to protected health information.
- Mandated disclosures under state law cannot override the protections for drug and alcohol treatment records from substance abuse treatment programs, found in 42 CFR Part 2, or for educational records that are protected under the Family Educational Privacy Rights Act.

In-network provider mandate for information sharing (authorized by SB 1580 (2012))

Except for psychotherapy notes, protected health information must be disclosed by health care providers participating in a CCO *without member authorization*:

- To other health care providers participating in the CCO for treatment purposes,
- To the CCO for health care operations and payment purposes, permitted by ORS 192.558; and
- To public health entities as required for health oversight purposes.

Mandated disclosures under state law do not override the federal protections for drug and alcohol records found in 42 CFR Part 2 or for educational records.

DISCLAIMER

This summary is not intended as legal advice and should not be used as such. OHA and DHS employees with questions about this summary should contact the OHA Privacy Office. All others should consult with their legal counsel and privacy officer about application of these laws to their organizations.

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Re-disclosures with providers or others outside the CCO's provider network remain subject to state and federal privacy laws (and are not affected by SB 1580 (2012))

- Disclosure of member information continues to follow the HIPAA privacy requirements, including uses for treatment, payment and health care operations.
- Information sharing outside the CCO's provider network must still follow other state laws, such as ORS 179.505 and the HIV privacy laws.

Re-disclosures with providers or others outside the CCO's provider network must comply with the protections for drug and alcohol records found in 42 CFR Part 2 or for educational records.

FULL TEXT OF ORS 414.679 & SB 1580 Sec. 16 (2012)

414.679 Use and disclosure of member information; access by member to personal health information. (1) The Oregon Health Authority shall ensure the appropriate use of member information by coordinated care organizations, including the use of electronic health information and administrative data that is available when and where the data is needed to improve health and health care through a secure, confidential health information exchange.

(2) A member of a coordinated care organization must have access to the member's personal health information in the manner provided in 45 C.F.R. 164.524 so the member can share the information with others involved in the member's care and make better health care and lifestyle choices.

(3) Notwithstanding ORS 179.505, a coordinated care organization, its provider network and programs administered by the Department of Human Services for seniors and persons with disabilities shall use and disclose member information for purposes of service and care delivery, coordination, service planning, transitional services and reimbursement, in order to improve the safety and quality of care, lower the cost of care and improve the health and well-being of the organization's members.

(4) A coordinated care organization and its provider network shall use and disclose sensitive diagnosis information including HIV and other health and mental health diagnoses, within the coordinated care organization for the purpose of providing whole-person care. Individually identifiable health information must be treated as confidential and privileged information subject to ORS 192.553 to 192.581 and applicable federal privacy requirements. Rediscovery of individually identifiable information outside of the coordinated care organization and the organization's providers for purposes unrelated to this section or the requirements of ORS 414.625, 414.632, 414.635, 414.638, 414.653 or 414.655 remains subject to any applicable federal or state privacy requirements.

(5) This section does not prohibit the disclosure of information between a coordinated care organization and the organization's provider network, and the Oregon Health Authority and the Department of Human Services for the purpose of administering the laws of Oregon.

(6) The Health Information Technology Oversight Council shall develop readily available informational materials that can be used by coordinated care organizations and providers to inform all participants in the health care workforce about the appropriate uses and limitations on disclosure of electronic health records, including need-based access and privacy mandates. [2011 c.602 §12]

2012 Oregon Laws, Chapter 8(16) (also referred to as SB 1580 (2012))

(1) Notwithstanding ORS 179.505, a health care provider that is a participant in a coordinated care organization, as defined in ORS 414.025, shall disclose protected health information:

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(a) To other health care providers participating in the coordinated care organization for treatment purposes, and to the coordinated care organization for health care operations and payment purposes, as permitted by ORS 192.558; and

(b) To public health entities as required for health oversight purposes.

(2) The disclosures described in subsection (1) of this section may be provided without the authorization of the patient or the patient's personal representative.

(3) Subsection (1) of this section does not apply to psychotherapy notes, as defined in ORS 179.505.

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