

STATEMENT OF PURPOSE:

All school personnel should follow confidentiality practices required for student education and health records.

AUTHORIZATION/LEGAL REFERENCES:

18 V.S.A. § 1124 -Access to [Immunization] Records

<https://legislature.vermont.gov/statutes/section/18/021/01124>

3 V.S.A. § 129a (9) – Unprofessional conduct – Failure to Store Records-

<https://legislature.vermont.gov/statutes/section/03/005/00129a>

Federal Register; Department of Education 34 CFR part 99; Family Educational Rights and Privacy (2-21-17);

<https://www.federalregister.gov/documents/2017/01/19/2017-00958/family-educational-rights-and-privacy-act>

Health Information Portability and Accountability Act (HIPAA) - <https://www.hhs.gov/hipaa/index.html>

Vermont Agency of Education <https://education.vermont.gov/documents/educator-quality-licensing-rules#page34> Rules Governing the Licensing of Educators and the Preparation of Educational Professionals–

School Nurse/Associate School Nurse Endorsement: *5440-65 School Nurse (Revised March 2017) (page 171); 5440-65A Associate School Nurse (Reviewed June 2017) (page 175)*

Vermont Department of Health Immunization Regulations

http://www.healthvermont.gov/sites/default/files/documents/pdf/IMR_Quick_Reference_school.pdf

REQUIRED SCHOOL NURSE/ASSOCIATE SCHOOL NURSE ROLES:

- Establish and maintain a separate health record for each student.
- Maintain records in a secure location of active students, or on a secure server for electronic records. Verify a system for daily back up of electronic records occurs as recommended.
- Obtain written release of information form from parents/guardians regarding the sharing of information or obtaining information with professional resources outside of school for children under 18 years of age. Students who are 18 years of age are deemed independent and must grant consent for sharing of information.
- Establish nursing protocol for sharing of health information that falls under the "duty to warn" parameters with education staff and volunteers. Recommend that sharing of student health information is done in concert with the school nurse as the interpreter of health information relevant to the educational need to know.
- Know your school district's definition of "legitimate educational interest" and follow procedures when sharing health information with educational staff.
- Establish protocol for storing of sensitive records (i.e. psychiatric evaluations, child abuse reports, hospital reports, substance abuse documents, etc.).
- Establish written protocol for manual record keeping and storage when EHR is unavailable, i.e. in power outage. Consider referencing date and time of paper record, "per written protocol".

- Establish protocols for phone and electronically transmitted health information.
- Establish protocols for disposition and storage of health records for currently enrolled students as well as disposition of in-active (un-enrolled) students. Vermont school health records are part of the student's education file, health records should be saved for 7 years with all the students' records [3 V.S.A. § 129a (9)]
- Keep a log indicating where and when the records were sent. Immunization records not forwarded shall remain with the child's academic record and or health record and be stored in compliance with school, Local Education Agency, and state policy.
- Establish a protocol for maintaining confidentiality of students regarding reproductive health.
- Establish protocols for maintaining confidentiality as it relates to school health services for school personnel, clinic assistants, and other unlicensed volunteers.

Resources

American Nurses Association

[ANA's Principles for Social Networking and the Nurse](#) (2011) [resource for purchase]

Centers for Medicare and Medicaid (2013)

[Medical Privacy of Protected Health Information](#)

[Confident about Confidentiality? HIPAA/FERPA Made Easy](#)

Martha Bergren June 2009 [a free audio recording] Retrieved 1-10-19.

CONSENT, PRIVACY AND MEDICAL RECORDS (2017) (pp. 18 -42). In Vermont Guide to Health Care Law (2017).

Published by The Vermont Medical Society, February Edition © 2017. All Rights Reserved. Retrieved from:

<http://www.vtmd.org/sites/default/files/VermontGuidetoHealthCareLaw2.28.17.pdf> (9/11/18)

FERPA and HIPAA:

Family Educational Rights and Privacy Act ("FERPA")/Health Insurance Portability and Accountability Act ("HIPAA")

- Student health records are generally considered academic records and therefore protected by FERPA. "An educational institution that does not receive federal funding is not subject to the requirements of FERPA." (Roberts, Zittoun, 2017, pg. 125). "In the normal course, HIPAA's privacy, security and breach notification rules do not apply the healthcare records created or maintained by schools." (Roberts, Zittoun, 2017, pg. 127).

Joint Guidance on the Application of the *Family Educational Rights and Privacy Act (FERPA)* and the *Health Insurance Portability and Accountability Act of 1996 (HIPAA)* To Student Health Records November 2008

<http://www.ed.gov/policy/gen/guid/fpco/doc/ferpa-hippa-guidance.pdf>

National Council on State Boards of Nursing (2011)

[White Paper: A Nurses Guide to the Use of Social Media](#)

Roberts, W.J., Zittoun, G.J. (2017). Family Educational Rights and Privacy Act (“FERPA”)/Health Insurance Portability and Accountability Act (“HIPAA”). In C. Resha & V. Taliaferro (Eds.), *Legal Resource for School Health Services* (pp. 125- 140). Nashville, TN: SchoolNurse.com.

Vermont Network Against Domestic and Sexual Violence

- Parental Consent and Confidentiality When Working with Minors: Guidelines for Vermont Advocates.
- Contact the Vermont Network: <https://vtnetwork.org/> for guidance and a possible sample form.

U.S. Department of Education

- [FERPA for Parents](#) (2014)
- Letter to Alabama Department of Education re: Disclosure of Immunization Records (2004) [and other information relevant to confidentiality:
<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/library/alhippaa.html>
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SAMPLE POLICIES, PROCEDURES, AND FORMS

- Sample Statement of Confidentiality agreement Form
- Sample: Release of Information Form:
 - SPRINGFIELD SCHOOL DISTRICT, Retrieved July 2018 with permission
- College students: University of Vermont Center for Health & Wellbeing
<https://www.uvm.edu/health/treatment-minors-under-age-18>

School Letterhead
SAMPLE

Statement of Confidentiality Agreement

As a school health assistant, volunteer or substitute I, _____

understand that all health and medical information, whether verbal or written, is confidential.

I will treat all health information with the greatest respect and will not discuss or repeat any information about a child's health (or adult receiving care), medical, or psychosocial status for any reason except to comply with Vermont's Child or Vulnerable Adult Protection laws (33 V.S.A. § 4912; 33 V.S.A. § 6902).

School personnel who have questions about specific individuals will want to address them to the Licensed School Nurse or Associate School Nurse or in accordance with delegated care indicated on the student's individual healthcare or emergency action plan. Specific protected health information may or may not be available.

Health assistant/volunteer or substitute:

Name: _____

Signature: _____ Date: _____

School Nurse;

Name: _____

Signature: _____ Date: _____

**SAMPLE CONSENT TO RELEASE INFORMATION FORM – MEDICAL
SPRINGFIELD SCHOOL DISTRICT**

Superintendent of Schools

Zach McLaughlin

Director of Fiscal Services Director of Special Services

Steve Hier Kelly Ryan

Director of Curriculum, Director of Physical Plant

Instruction, & Assessment John Fitzpatrick

David Cohn

60 Park Street □ Springfield □ Vermont □ 05156 □ (802) 885-5141 (p) □ (802) 885-8169 (f) □ <http://www.ssdvt.org>

All students will acquire skills, knowledge, and positive attitudes to enhance their lives

by engaging in learning experiences that are inspiring, relevant, and dynamic.

AUTHORIZATION TO RELEASE INFORMATION

I hereby authorize the Springfield School District to release/receive information concerning:

Student Name Date of Birth

to/from: _____

Agency Name _____

Please send records to:

Springfield School District

Attn: _____ **Phone:** _____

School: _____ **Email:** _____

_____ **Fax:** _____

The purpose of this authorization is TO PLAN APPROPRIATE EDUCATIONAL SERVICES

Records/Information to be released (please check):

Psychological Evaluation Standardized Achievement Test Scores

Psychiatric Evaluation Standardized Ability/Aptitude Test Scores

Health/Medical Records Special Education Records

Treatment Plan Discipline Reports

OT, PT, Speech/Language Records Alcohol and/or Drug Use and Treatment

Other: _____

Dates of Care to be released: _____ to _____

I understand that this authorization shall be in effect **for one (1) year from the date signed**. I understand

the nature of the authorization and freely give consent for written or oral sharing of information. I also **understand that this authorization may be recalled at any time by my written request**, except for actions already taken. I understand that **my treatment or payment for my treatment cannot be conditioned on the signing of this authorization**. The information released in response to this authorization **may be re-disclosed to other parties**.

Signature of parent/guardian or student Date

(if 18 years of age/attending post secondary school)

The confidentiality of the information received will be protected by the State and Federal guidelines

regulating the collection, maintenance, and dissemination of student records.