October 2, 2015

Kathleen M. Styles
Chief Privacy Officer
Department of Education

Electronically delivered to FERPA.Comments@ed.gov

RE: Request for Input on Protecting Student Medical Records

Dear Ms. Styles,

We are writing on behalf of the Joint Public Health Informatics Taskforce (JPHIT), a collaboration of nine national public health associations\(^1\) that represents a broad spectrum of public health practice and policy in the United States of America, to comment on the U.S. Department of Education’s draft clarification of the applicable federal protections for student medical record privacy as expressed in the Dear Colleague Letter to School Officials at Institutions of Higher Education signed by yourself and dated August 15th, 2015.

JPHIT agrees with the Department’s position that Privacy Rules set by the Health Insurance Portability and Accountability Act (HIPAA) should guide or take precedence over the Family Educational Rights and Privacy Act (FERPA) in matters regarding confidential medical records from on-campus services or any other health information collected by an educational institution. This position has implications beyond FERPA’s school official exception.

FERPA’s health or safety emergency exception continues to constrain the ability of schools to share student medical record information with state and local public health officials. It is a FERPA article that confuses school and public health efforts to assure proper student immunizations, control and prevent infectious diseases, and care for chronic disease conditions.

\(^1\) JPHIT develops and implements a shared informatics framework and action agenda for public health agencies and their partners. Members of JPHIT include: AIRA—American Immunization registry Association; APHL—Association of Public Health Laboratories; ASTHO—Association of State and Territorial Health Officials; CSTE—Council of State and Territorial Epidemiologists; ISDS—International Society for Disease Surveillance; NAACCR—North American Association of Central Cancer Registries; NACCHO—National Association of County and City Health Officials; NAHDO—National Association of Health Data Organizations; NAPHSIS—National Association of Public Health Statistics and Information Systems; AHIMA PHDSC—Public Health Data Standards Council of the American Health Information Management Association.
(e.g., asthma). It is another place where Department leadership can clarify and improve FERPA privacy protections to benefit community health and well-being.

For your convenience, we provide a list of position statements by the Association of State and Territorial Health Officials, National Association of County and City Health Officials, Council of State and Territorial Epidemiologists, and the American Public Health Association. These organizations present the issues and make detailed recommendations to remedy the situation. We further direct you to comments submitted by the American Immunization Registry Association that detail the negative impact of FERPA on efforts to control vaccine preventable illness.

Ms. Styles, JPHIT thanks you for your dedication to our nation’s children, their health, and the privacy of their confidential medical information. Your Dear Colleagues Letter will surely help to clarify an important, student medical record privacy issue. We urge you and the Department to further promote clarifications that FERPA be modified to align with HIPAA and amended to authorize schools to securely exchange student health information with public health authorities, as defined in public health law for each state, for the purposes of enduring coordinated healthcare and health protection services.

Thank you for the opportunity to comment. Please contact JPHIT’s Executive Secretary, Mr. Charles Ishikawa (cishikawa@jphit.org), with questions or comments. We stand ready to assist in any way that we can.

The following JPHIT Partner Organizations join in this comment:

Public Health Informatics Institute

Sincerely,

Marcus Cheatham, PhD
JPHIT Co-Chair, NACCHO representative

Stephanie Mayfield Gibson, MD, FCAP
JPHIT Co-Chair, ASTHO Representative