

Health Insurance Portability and Accountability Act (HIPAA)

HIPAA Privacy Rule allows a covered entity to disclose protected health information, including psychotherapy notes, when the covered entity has a good faith belief that the disclosure:

1. Is necessary to prevent or lessen a "serious and imminent threat" to the health or safety of the patient or others; and
2. Is to a person(s) reasonably able to prevent or lessen the threat.

This may include, depending on the circumstances, disclosure to law enforcement, family members, the target of the threat, or others who the covered entity has a good faith belief can mitigate the threat.

Family Education Rights and Privacy Act (FERPA)

Under FERPA, schools that receive federal funds may disclose a student's health and medical information and other "education records" to teachers and other school officials, without written consent:

1. If school officials have "legitimate educational interests" in accordance with school policy; and
2. In connection with an emergency, if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

Lower threshold than HIPAA for sharing information with school officials if the school determines an "articulable and significant threat" to others exists.

HB 16-1063 = Bridge between HIPAA and FERPA

1. Allows a licensed professional to notify a school and law enforcement when there is an "articulable and significant threat" made against a student or occupants of a school.
2. Information becomes part of the student's "education record" and may be shared with appropriate school officials in accordance with FERPA guidelines.

29