

INTER-STATE AGREEMENT

N14822

Between

STATE OF WASHINGTON, DEPARTMENT OF HEALTH

And

STATE OF OREGON, DEPARTMENT OF HUMAN SERVICES, State Public Health

I. SCOPE AND PURPOSE

A. PURPOSE

The Washington State Department of Health (WA DOH) has a statewide immunization registry called CHILD Profile. The Oregon State Department of Human Services, Health Services (OR DHS) has a statewide immunization registry called Oregon ALERT. Both state immunization registries serve as a communications link, data repository and data retrieval tool for health care providers, permitting them to share information about the immunization status of children in their care with other health care providers in their respective states.

The purpose of this inter-state agreement is to provide for sharing of immunization data between CHILD Profile and Oregon ALERT to further the purposes of the immunization registries while protecting confidential information exchanged between WA DOH and OR DHS. Residents living in Washington and Oregon near the state border sometimes cross the border for immunization services. The registry-to-registry exchange of individually identified immunization data will be based on the state of residence, where the documented immunization services have occurred outside the state of residence. The mutual goals of the parties in exchanging information under this agreement is to improve and protect the public's health through control of vaccine-preventable disease by enhancing immunization rates and supporting the delivery of appropriate and necessary medical care. WA DOH and OR DHS agree to collaborate in using CHILD Profile and Oregon ALERT to facilitate delivery of child health services.

WA DOH and OR DHS shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the exchange of information and data as described in this agreement.

B. AUTHORITIES

WA DOH is authorized to administer CHILD Profile pursuant to RCW 43.70.130, RCW 43.70.080, and the Washington Public Health Services Improvement Plan, RCW 43.70.520 through .580. OR DHS is authorized to administer Oregon ALERT pursuant to ORS 433.090.Seq. See Appendix A for listing of relevant Washington State laws and Appendix B for listing of relevant Oregon State laws.

WA DOH is authorized to enter into this interstate agreement pursuant to Chapter 39.34 RCW. OR DHS is authorized to enter into this interstate agreement pursuant to ORS 433.094, ORS 433.098(3), and ORS 190.420.

OR DHS is a covered entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA does not interfere with any state law that provides for the reporting of disease or injury, birth or death. The HIPAA Privacy Rules permit a covered entity to disclose protected health information for public health purposes to a public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease. 45 CFR 164.512(b)(1)(i).

CHILD Profile is a public health program administered by WA DOH. The activities conducted by the CHILD Profile program are not covered functions under HIPAA and, as a result, the HIPAA Privacy Rules do not directly apply to CHILD Profile. Other covered entities may disclose protected health information to CHILD Profile without patient authorization, since the disclosure is allowed as a public health activity related to controlling or preventing disease. 45 CFR 164.512(b)(1)(i).

C. PERIOD OF AGREEMENT

The term of this agreement shall be from the date executed by authorized representatives of both parties and continue indefinitely unless either party gives notice of its intention to terminate the agreement as specified under section VIII - Termination. This agreement shall be reviewed every two years to assess continuing need.

II. DESCRIPTION OF DATA/INFORMATION TO BE SHARED

A. WA DOH, CHILD Profile:

On a schedule mutually agreed upon by the two parties, the WA DOH CHILD Profile system will generate files containing immunization records for Oregon residents, with the data fields as further defined in Appendix C. The data will be transmitted in a secure manner, as further described in Appendix D.

Once OR DHS receives the files, OR DHS may download the information into the Oregon ALERT database. WA DOH does not guarantee, but will use its best efforts to contribute to, the truth, accuracy or completeness of any information provided under this Agreement, including but not limited to individual patient information. However, OR DHS is solely responsible for exercising independent professional judgment in the use of such information. WA DOH will not be liable for any general, special, consequential or other damages which may arise or be claimed to arise from any use of information by OR DHS and/or its employees, contractors, officers, agents or other affiliated persons.

B. OR DHS, Oregon ALERT:

On a schedule mutually agreed upon by the two parties, the OR DHS Immunization Program will generate files from the Oregon ALERT Immunization Registry containing immunization records for

Washington residents, with the data fields as further defined in Appendix C. The data will be transmitted in a secure manner, as further described in Appendix D.

Once WA DOH obtains the files, WA DOH may download the information into the CHILD Profile database. OR DHS does not guarantee, but will use its best efforts to contribute to, the truth, accuracy or completeness of any information provided under this Agreement, including but not limited to individual patient information. However, WA DOH is solely responsible for exercising independent professional judgment in the use of such information. OR DHS will not be liable for any general, special, consequential or other damages which may arise or be claimed to arise from any use of information by WA DOH and/or its employees, contractors, officers, agents or other affiliated persons.

III. CONFIDENTIALITY

- A. WA DOH and OR DHS shall comply with all federal and applicable state laws concerning the confidentiality and subsequent disclosure of individually identified health information.
- B. WA DOH is required to take appropriate steps to ensure the confidentiality of data on Washington residents that is provided by the Oregon ALERT Immunization Registry. WA DOH will ensure that any individual authorized to access the CHILD Profile database is required to agree he or she: (1) will not release patient-specific information except in accordance with the applicable state law, as well as federal law including 42 U.S.C. § 1396a(a)(7), 42 C.F.R. § 431 Subpart F, 45 C.F.R. Parts 160 and 164, and 2) will not make use of patient-specific information for any purpose other than the provision of health care with the exception of disclosure of patient-specific information to federal, state, or local public health authorities to control an infectious disease outbreak.

OR DHS is required to take appropriate steps to ensure the confidentiality of data on Oregon residents that is provided by CHILD Profile. OR DHS will ensure that any individual authorized to access ALERT is required to agree he or she: (1) will not release patient-specific information except in accordance with the applicable state law, as well as federal law including 42 U.S.C. § 1396a(a)(7), 42 C.F.R. § 431 Subpart F, 45 C.F.R. Parts 160 and 164, and 2) will not make use of patient-specific information for any purpose other than the provision of health care with the exception of disclosure of patient-specific information to federal, state, or local public health authorities to control an infectious disease outbreak.

- C. Nothing in this agreement shall prevent OR DHS from sharing patient-specific immunization information received from WA DOH with any authorized user in Oregon pursuant to ORS 433.090 through 433.102. This includes sharing consolidated immunization histories through ALERT's secure website for all authorized users, and sharing patient immunization histories with Health Plans and Health Systems for quality improvement purposes, and pursuant to Oregon's laws related to registry use and expansion in the event of a public health emergency. The Oregon immunization registry and associated tracking and recall systems established under ORS 433.094 may be used

as a vaccination management and tracking system in preparation for a potential catastrophic disease threat, such as smallpox or pandemic influenza.

When used as authorized by this section, the immunization registry may include persons of any age, and vaccination records may be shared with authorized users of the registry without obtaining the prior consent of the clients of the registry in accordance with ORS 433.104.

- D. Nothing in this agreement shall prevent WA DOH from sharing patient-specific immunization information received from OR DHS with any authorized user in Washington pursuant to RCW 70.02. This includes sharing consolidated immunization histories through CHILD Profile's secure website for all authorized users, and sharing patient immunization histories with Health Plans and Health Systems for quality improvement purposes, and pursuant to Washington public health law RCW 43.70.130 in a public health emergency.
- E. In accordance with ORS 433.090 to 433.102, before sharing data with any immunization registry, an immunization registry maintained in Oregon must ensure that the immunization registry receiving the data has confidentiality and security policies at least as stringent as the policies of the registry sharing the data. See Appendix E for Oregon's Security and Confidentiality Policy and Appendix F for CHILD Profile Information Sharing Policy and Confidentiality Policy.
- F. Under ORS 433.092 the general Waiver of Consent to release certain medical information is limited to information in the immunization record, which does not include the patient address information. However, the provisions of subsection (6) of ORS 433.094 expressly provide for integration with any immunization registry *"and its associated tracking and recall systems."* Therefore, under the terms of ORS 433.094, DHS is authorized to release addresses for Washington State residents to CHILD Profile. Oregon child addresses cannot be re-released outside WA DOH. Release of child addresses beyond DOH is prohibited by this agreement in accordance with ORS 179.505 and ORS 192.502.

WA DOH protects patient address information through CHILD Profile's database design. Address and other patient locator information is considered confidential. These fields can only be viewed by users from the organization (provider) that entered the information. Address information that enters CHILD Profile from the Oregon ALERT system will not be viewable by any users other than WA DOH staff. It will be used by WA DOH to assist with record deduplication, and may be used by WA DOH for reminder-recall purposes.

- G. WA DOH and providers participating in the CHILD Profile Immunization Registry abide by the CHILD Profile Information Sharing Policy as well as individual Provider Agreements. WA DOH further agrees to include compliance with the CHILD Profile Information Sharing Policy as a condition imposed on all its employees, contractors, officers, agents, and other affiliated persons. WA DOH requires employees, contractors,

officers, agents, and other affiliated persons to sign a confidentiality agreement as a condition of access to the CHILD Profile database.

H. OR DHS and providers participating in the Oregon Alert Immunization Registry abide by the ALERT Security and Confidentiality Policy as well as individual Provider or Health Plan Agreements. OR DHS further agrees to include compliance with the ALERT Employee/Contractor Agreement as a condition imposed on all its employees, contractors, officers, agents, and other affiliated persons. OR DHS requires employees, contractors, officers, agents, and other affiliated persons to sign a confidentiality agreement as a condition of access to the ALERT database.

IV. DISPOSITION OF DATA

WA DOH and OR DHS agree to destroy all confidential information obtained under this agreement once the purposes of the project have been accomplished. Information which cannot be destroyed or of which destruction is not feasible shall be maintained in a secure environment. WA DOH and OR DHS agree to include compliance with these requirements as a requirement for contractors. Retention is pursuant to state archive laws that will dictate data disposal.

V. PAYMENT

~~WA DOH and OR DHS shall each bear their own costs in complying with their respective responsibilities under this agreement.~~

VI. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party. All work in either agency shall be contingent on available resources.

VII. AGREEMENT ALTERATIONS AND AMENDMENTS

WA DOH and OR DHS may mutually amend this agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

Appendices may be updated by mutual agreement.

VIII. TERMINATION

Either party may terminate this Agreement upon 30 days prior written notification to the other party.

IX. TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

X. GOVERNANCE

This contract is entered into pursuant to and under the authority granted by the laws of the states of Washington and Oregon and any applicable federal laws. The provisions of this agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. applicable federal and state laws; and
- b. any other provisions of the agreement, including materials incorporated by reference.

XI. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, except as provided in the terms of this agreement, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

XII. WAIVER

A failure by either party to exercise its rights under this agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

XIII. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

XIV. ALL WRITINGS CONTAINED HEREIN

RECEIVED

MAY 24 2006

CONTRACTS, PROPERTIES
& PROCUREMENT

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

XV. CONTRACT MANAGEMENT

The program manager for each of the parties shall be responsible for and shall be the contact person for all communications and billing regarding the performance of this Agreement.

The Program Manager for WA DOH is Janna Bardi, Immunization Program Manager, PO Box 47880, Olympia, WA 98504-7880, 360.236.3554, janna.Bardi@doh.wa.gov

The Program Manager for OR DHS is Barbara Canavan, Director, Oregon Immunization ALERT, 800 NE Oregon, Suite 360, Portland, OR 97232, 503 731-4988, Barbara.c.Canavan@state.or.us

IN WITNESS WHEREOF, the parties have executed this Agreement.

State of Oregon
Department of Health

State of Washington
Department of Health

By: *Kathleen J. Madson*

By: *[Signature]*
Ann Thompson

Title: Administrator, OEH

Title: Contracts Manager

Date: 4/17/06

Date: 3/2/06

APPROVED AS TO FORM ONLY:

4 day of MAY, ~~199~~ 2006

By: *[Signature]* AAG

APPENDIX A – Relevant Washington State Laws

RCW 43.70 - DEPARTMENT OF HEALTH:

RCW 43.70.080

Transfer of powers and duties from the department of social and health services -
<http://www.leg.wa.gov/RCW/index.cfm?section=43.70.080&fuseaction=section>

RCW 43.70.130

Powers and duties of secretary -- General.

<http://www.leg.wa.gov/RCW/index.cfm?section=43.70.130&fuseaction=section>.

RCW 43.70.520 through .580

<http://www.leg.wa.gov/rcw/index.cfm?fuseaction=chapterdigest&chapter=43.70>

RCW 39.34 - INTERLOCAL COOPERATION ACT

<http://www.leg.wa.gov/RCW/index.cfm?fuseaction=chapterdigest&chapter=39.34>

RCW 70.02, Washington Health Care Information Access and Disclosure Act

<http://www.leg.wa.gov/RCW/index.cfm?fuseaction=chapterdigest&chapter=70.02> – See relevant text below:

Chapter 70.02 RCW

~~MEDICAL RECORDS -- HEALTH CARE INFORMATION ACCESS AND DISCLOSURE~~

RCW SECTIONS

[70.02.005](#) Findings.

[70.02.010](#) Definitions.

[70.02.020](#) Disclosure by health care provider.

[70.02.030](#) Patient authorization of disclosure.

[70.02.040](#) Patient's revocation of authorization for disclosure.

[70.02.045](#) Third-party payor release of information.

[70.02.050](#) Disclosure without patient's authorization.

[70.02.060](#) Discovery request or compulsory process.

[70.02.070](#) Certification of record.

[70.02.080](#) Patient's examination and copying -- Requirements.

[70.02.090](#) Patient's request -- Denial of examination and copying.

[70.02.100](#) Correction or amendment of record.

[70.02.110](#) Correction or amendment or statement of disagreement -- Procedure.

[70.02.120](#) Notice of information practices -- Display conspicuously.

[70.02.130](#) Consent by others -- Health care representatives.

[70.02.140](#) Representative of deceased patient.

[70.02.150](#) Security safeguards.

[70.02.160](#) Retention of record.

[70.02.170](#) Civil remedies.

[70.02.180](#) Licensees under chapter 18.225 RCW -- Subject to chapter.

70.02.900 Conflicting laws.

70.02.901 Application and construction -- 1991 c 335.

70.02.902 Short title.

70.02.903 Severability -- 1991 c 335.

70.02.904 Captions not law -- 1991 c 335.

NOTES:

Record retention by hospitals: RCW 70.41.190.

RCW 70.02.005

Findings.

The legislature finds that:

(1) Health care information is personal and sensitive information that if improperly used or released may do significant harm to a patient's interests in privacy, health care, or other interests.

(2) Patients need access to their own health care information as a matter of fairness to enable them to make informed decisions about their health care and correct inaccurate or incomplete information about themselves.

(3) In order to retain the full trust and confidence of patients, health care providers have an interest in assuring that health care information is not improperly disclosed and in having clear and certain rules for the disclosure of health care information.

(4) Persons other than health care providers obtain, use, and disclose health record information in many different contexts and for many different purposes. It is the public policy of this state that a patient's interest in the proper use and disclosure of the patient's health care information survives even when the information is held by persons other than health care providers.

(5) The movement of patients and their health care information across state lines, access to and exchange of health care information from automated data banks, and the emergence of multistate health care providers creates a compelling need for uniform law, rules, and procedures governing the use and disclosure of health care information.

[1991 c 335 § 101.]

RCW 70.02.010

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider to determine compliance with:

- (a) Statutory, regulatory, fiscal, medical, or scientific standards;
- (b) A private or public program of payments to a health care provider; or
- (c) Requirements for licensing, accreditation, or certification.

(2) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, location within a health care facility, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.

(3) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

(4) "Health care" means any care, service, or procedure provided by a health care provider:

(a) To diagnose, treat, or maintain a patient's physical or mental condition; or

(b) That affects the structure or any function of the human body.

(5) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(6) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any required accounting of disclosures of health care information.

(7) "Health care operations" means any of the following activities of a health care provider, health care facility, or third-party payor to the extent that the activities are related to functions that make an entity a health care provider, a health care facility, or a third-party payor:

(a) Conducting: Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, if the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;

(b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance and third-party payor performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of nonhealth care professionals, accreditation, certification, licensing, or credentialing activities;

(c) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care, including stop-loss insurance and excess of loss insurance, if any applicable legal requirements are met;

(d) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;

(e) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the health care facility or third-party payor, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and

(f) Business management and general administrative activities of the health care facility, health care provider, or third-party payor including, but not limited to:

(i) Management activities relating to implementation of and compliance with the requirements of this chapter;

(ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that health care information is not disclosed to such policy holder, plan sponsor, or customer;

(iii) Resolution of internal grievances;

(iv) The sale, transfer, merger, or consolidation of all or part of a health care provider, health care facility, or

third-party payor with another health care provider, health care facility, or third-party payor or an entity that following such activity will become a health care provider, health care facility, or third-party payor, and due diligence related to such activity; and

(v) Consistent with applicable legal requirements, creating deidentified health care information or a limited dataset and fund-raising for the benefit of the health care provider, health care facility, or third-party payor.

(8) "Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

(9) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

(10) "Maintain," as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

(11) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

(12) "Payment" means:

(a) The activities undertaken by:

(i) A third-party payor to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits by the third-party payor; or

(ii) A health care provider, health care facility, or third-party payor, to obtain or provide reimbursement for the provision of health care; and

(b) The activities in (a) of this subsection that relate to the patient to whom health care is provided and that include, but are not limited to:

(i) Determinations of eligibility or coverage, including coordination of benefits or the determination of cost-sharing amounts, and adjudication or subrogation of health benefit claims;

(ii) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(iii) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, including stop-loss insurance and excess of loss insurance, and related health care data processing;

(iv) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

(v) Utilization review activities, including precertification and preauthorization of services, and concurrent and retrospective review of services; and

(vi) Disclosure to consumer reporting agencies of any of the following health care information relating to collection of premiums or reimbursement:

(A) Name and address;

(B) Date of birth;

(C) Social security number;

(D) Payment history;

(E) Account number; and

(F) Name and address of the health care provider, health care facility, and/or third-party payor.

(13) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(14) "Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars. These amounts shall be adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.

(15) "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction, including a health care service contractor, and health maintenance organization; or an employee welfare benefit plan; or a state or federal health benefit program.

(16) "Treatment" means the provision, coordination, or management of health care and related services by one or more health care providers or health care facilities, including the coordination or management of health care by a health care provider or health care facility with a third party; consultation between health care providers or health care facilities relating to a patient; or the referral of a patient for health care from one health care provider or health care facility to another.

[2005 c 468 § 1; 2002 c 318 § 1; 1993 c 448 § 1; 1991 c 335 § 102.]

NOTES:

Reviser's note: For charges or fees under subsection (14) of this section as adjusted by the secretary of health, see chapter 246-08 WAC.

Effective date -- 1993 c 448: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 448 § 9.]

RCW 70.02.020

Disclosure by health care provider.

(1) Except as authorized in RCW 70.02.050, a health care provider, an individual who assists a health care provider in the delivery of health care, or an agent and employee of a health care provider may not disclose health care information about a patient to any other person without the patient's written authorization. A disclosure made under a patient's written authorization must conform to the authorization.

(2) A patient has a right to receive an accounting of disclosures of health care information made by a health care provider or a health care facility in the six years before the date on which the accounting is requested, except for disclosures:

- (a) To carry out treatment, payment, and health care operations;
- (b) To the patient of health care information about him or her;
- (c) Incident to a use or disclosure that is otherwise permitted or required;

(d) Pursuant to an authorization where the patient authorized the disclosure of health care information about himself or herself;

(e) Of directory information;

(f) To persons involved in the patient's care;

(g) For national security or intelligence purposes if an accounting of disclosures is not permitted by law;

(h) To correctional institutions or law enforcement officials if an accounting of disclosures is not permitted by law; and

(i) Of a limited data set that excludes direct identifiers of the patient or of relatives, employers, or household members of the patient.

[2005 c 468 § 2; 1993 c 448 § 2; 1991 c 335 § 201.]

NOTES:

Effective date -- 1993 c 448: See note following RCW 70.02.010.

RCW 70.02.030

Patient authorization of disclosure.

(1) A patient may authorize a health care provider or health care facility to disclose the patient's health care information. A health care provider or health care facility shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider or health care facility denies the patient access to health care information under RCW 70.02.090.

(2) A health care provider or health care facility may charge a reasonable fee for providing the health care information and is not required to honor an authorization until the fee is paid.

(3) To be valid, a disclosure authorization to a health care provider or health care facility shall:

(a) Be in writing, dated, and signed by the patient;

(b) Identify the nature of the information to be disclosed;

(c) Identify the name and institutional affiliation of the person or class of persons to whom the information is to be disclosed;

(d) Identify the provider or class of providers who are to make the disclosure;

(e) Identify the patient; and

(f) Contain an expiration date or an expiration event that relates to the patient or the purpose of the use or disclosure.

(4) Unless disclosure without authorization is otherwise permitted under RCW 70.02.050 or the federal health insurance portability and accountability act of 1996 and its implementing regulations, an authorization may permit the disclosure of health care information to a class of persons that includes:

(a) Researchers if the health care provider or health care facility obtains the informed consent for the use of the patient's health care information for research purposes; or

(b) Third-party payors if the information is only disclosed for payment purposes.

(5) Except as provided by this chapter, the signing of an authorization by a patient is not a waiver of any rights a patient has under other statutes, the rules of evidence, or common law.

(6) When an authorization permits the disclosure of health care information to a financial institution or an employer of the patient for purposes other than payment, the authorization as it pertains to those disclosures shall expire ninety days after the signing of the authorization, unless the authorization is renewed by the patient.

(7) A health care provider or health care facility shall retain the original or a copy of each authorization or revocation in conjunction with any health care information from which disclosures are made.

(8) Where the patient is under the supervision of the department of corrections, an authorization signed pursuant to this section for health care information related to mental health or drug or alcohol treatment expires at the end of the term of supervision, unless the patient is part of a treatment program that requires the continued exchange of information until the end of the period of treatment.

[2005 c 468 § 3; 2004 c 166 § 19; 1994 sp.s. c 9 § 741; 1993 c 448 § 3; 1991 c 335 § 202.]

NOTES:

Severability -- Effective dates -- 2004 c 166: See notes following RCW 71.05.040.

Severability -- Headings and captions not law -- Effective date -- 1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Effective date -- 1993 c 448: See note following RCW 70.02.010.

RCW 70.02.040

Patient's revocation of authorization for disclosure.

A patient may revoke in writing a disclosure authorization to a health care provider at any time unless disclosure is required to effectuate payments for health care that has been provided or other substantial action has been taken in reliance on the authorization. A patient may not maintain an action against the health care provider for disclosures made in good-faith reliance on an authorization if the health care provider had no actual notice of the revocation of the authorization.

[1991 c 335 § 203.]

RCW 70.02.045

Third-party payor release of information.

Third-party payors shall not release health care information disclosed under this chapter, except to the extent that health care providers are authorized to do so under RCW 70.02.050.

[2000 c 5 § 2.]

NOTES:

Intent -- Purpose -- 2000 c 5: See RCW 48.43.500.

Application -- Short title -- Captions not law -- Construction -- Severability -- Application to contracts -- Effective dates -- 2000 c 5: See notes following RCW 48.43.500.

RCW 70.02.050

Disclosure without patient's authorization.

(1) A health care provider or health care facility may disclose health care information about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is:

(a) To a person who the provider or facility reasonably believes is providing health care to the patient;

(b) To any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, actuarial services to, or other health care operations for or on behalf of the health care provider or health care facility; or for assisting the health care provider or health care facility in the delivery of health care and the health care provider or health care facility reasonably believes that the person:

(i) Will not use or disclose the health care information for any other purpose; and

(ii) Will take appropriate steps to protect the health care information;

(c) To any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(d) To any person if the health care provider or health care facility reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this chapter on the part of the provider or facility to so disclose;

(e) To immediate family members of the patient, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(f) To a health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;

(g) For use in a research project that an institutional review board has determined:

(i) Is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(ii) Is impracticable without the use or disclosure of the health care information in individually identifiable form;

(iii) Contains reasonable safeguards to protect the information from redisclosure;

(iv) Contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and

(v) Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;

(h) To a person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(i) To an official of a penal or other custodial institution in which the patient is detained;

(j) To provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;

(k) To fire, police, sheriff, or another public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;

(l) To federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor;

(m) To another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW 70.02.010(7) (a) and (b); or

(n) For payment.

(2) A health care provider shall disclose health care information about a patient without the patient's authorization if the disclosure is:

(a) To federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal licensure, certification or registration rules or laws; or when needed to protect the public health;

(b) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;

(c) To county coroners and medical examiners for the investigations of deaths;

(d) Pursuant to compulsory process in accordance with RCW 70.02.060.

(3) All state or local agencies obtaining patient health care information pursuant to this section shall adopt rules establishing their record acquisition, retention, and security policies that are consistent with this chapter.

[2005 c 468 § 4; 1998 c 158 § 1; 1993 c 448 § 4; 1991 c 335 § 204.]

NOTES:

Effective date -- 1993 c 448: See note following RCW 70.02.010.

Relevant Federal Laws:

42 U.S.C. 1396a (a) (7), Federal law stating a state must implement safeguards to protect federal aide applicant information: <http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t41t42+2100+0++%28%29%20%20A>

42 C.F.R. 431, Federal regulation implementing rules to safeguard information about applicants and recipients of federal public assistance programs, as mandated by 42 U.S.C. 1396a (a)(7) - <http://www.gpoaccess.gov/cfr/retrieve.html>

45 C.F.R. 160 and 45 C.F.R. 164, Federal regulations implementing HIPAA: Standards to protect privacy of individually identifiable health care information - <http://www.gpoaccess.gov/cfr/retrieve.html>

Appendix B – Relevant Oregon State Laws

Oregon Revised Statute 190.420, granting DHS general authority to enter into interstate agreements:

190.420 Authority of public agency to make agreements with public agencies in other states; content of agreement; liability of public agency. (1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency in this state may be exercised and enjoyed jointly with any public agency in another state to the extent that the laws of the other state permit such joint exercise or enjoyment.

(2) Public agencies in this state and in another state may enter into agreements with one another for joint or cooperative action. Such action must be recorded by ordinance, resolution or in other lawful manner by the governing bodies of the participating public agencies.

(3) An agreement under subsection (2) of this section must specify its duration, the organization, composition and nature of any separate legal or administrative entity created to exercise the functions agreed upon, the purpose of the agreement, the method of financing the joint or cooperative undertaking, the methods to be employed to terminate the agreement, and any other necessary and proper matters.

(4) No agreement under subsection (2) of this section shall relieve any public agency of any obligation or responsibility imposed on it by law.

(5) Notwithstanding subsection (4) of this section, a public agency in this state may exclude from an agreement under subsection (2) of this section any clause or condition required by ORS 279.312, 279.313, 279.314, 279.316, 279.318, 279.319, 279.320 or 279.555. [1969 c.390 §2; 1999 c.948 §4]

Note: The amendments to 190.420 by section 210, chapter 794, Oregon Laws 2003, become operative March 1, 2005, and apply only to public contracts first advertised, but if not advertised then entered into, on or after March 1, 2005. See sections 336 and 337, chapter 794, Oregon Laws 2003. The text that is operative on and after March 1, 2005, is set forth for the user's convenience.

190.420. (1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency in this state may be exercised and enjoyed jointly with any public agency in another state to the extent that the laws of the other state permit such joint exercise or enjoyment.

(2) Public agencies in this state and in another state may enter into agreements with one another for joint or cooperative action. Such action must be recorded by ordinance, resolution or in other lawful manner by the governing bodies of the participating public agencies.

(3) An agreement under subsection (2) of this section must specify its duration, the organization, composition and nature of any separate legal or administrative entity created to exercise the functions agreed upon, the purpose of the agreement, the method of financing the joint or cooperative undertaking, the methods to be employed to terminate the agreement, and any other necessary and proper matters.

(4) No agreement under subsection (2) of this section shall relieve any public agency of any obligation or responsibility imposed on it by law.

(5) Notwithstanding subsection (4) of this section, a public agency in this state may exclude from an agreement under subsection (2) of this section any clause or condition required by ORS

279B.220, 279B.225, 279B.230, 279B.235, 279B.270 or 279C.500 to 279C.530.

Oregon Revised Statute 431.110, granting DHS general authority over all matters relating to the health of the people of the State of Oregon:

Oregon Revised Statute 431.110, governing DHS' general authority over all matters relating to the health of the people of the state of Oregon:

431.110 General powers of Department of Human Services. Subject to ORS 417.300 and 417.305, the Department of Human Services shall:

(1) Have direct supervision of all matters relating to the preservation of life and health of the people of the state.

(2) Keep the vital statistics and other health related statistics of the state.

(3) Make sanitary surveys and investigations and inquiries respecting the causes and prevention of diseases, especially of epidemics.

(4) Investigate, conduct hearings and issue findings in connection with annexations proposed by cities as provided in ORS 222.840 to 222.915.

(5) Have full power in the control of all communicable diseases.

(6) Have authority to send a representative of the department to any part of the state when deemed necessary.

(7) From time to time, publish and distribute to the public in such form as the department determines, such information as in its judgment may be useful in carrying on the work or purposes for which the department was established.

(8) Carry out the duties imposed on the department under ORS chapter 690. [Amended by 1955 c.105 §1; 1967 c.624 §18; 1971 c.650 §9; 1977 c.582 §8; 1987 c.414 §83; 1989 c.834 §18; 1991 c.122 §11; 2001 c.900 §254]

Oregon Revised Statute 433.090 to 433.104, governing primary registry functions:

433.090 Definitions for ORS 433.090 to 433.102. As used in ORS 433.090 to 433.102:

(1) "Authorized user" means a person or entity authorized to provide information to or to receive information from an immunization registry or immunization tracking and recall system under ORS 433.090 to 433.102. "Authorized user" includes, but is not limited to, licensed health care providers, health care institutions, insurance carriers, the Oregon medical assistance program, parents, schools, children's facilities, local health departments, the Department of Human Services and agents of the department.

(2) "Children's facility" has the meaning given that term in ORS 433.235.

(3) "Client" means any person registered with any Oregon immunization tracking and recall system.

(4) "Immunization record" includes but is not limited to the following:

(a) Any immunization received;

(b) Date immunization was received;

(c) Complication or side effect associated with immunization;

(d) Date and place of birth of a client;

(e) Hospital where a client was born;

(f) Client's name; and

(g) Mother's name.

(5) "Immunization registry" means any listing of clients and information relating to their immunization status, without regard to whether the registry is maintained in this state or elsewhere.

(6) "Immunization tracking and recall record" includes but is not limited to the client's name, address of the parent or guardian of the client, telephone number, insurance carrier, health care provider and other information needed to send reminder cards to, place telephone calls to or personally contact the client or the parent or the guardian of a client for the purposes of informing the client, parent or guardian that the client is late in receiving the recommended immunizations.

(7) "Local health department" has the meaning given that term in ORS 433.235.

(8) "Parent or guardian" has the meaning given the term "parent" in ORS 433.235.

(9) "Provider" means a physician or a health care professional who is acting within the scope of their licensure and responsible for providing immunization services or for coordinating immunization services within a clinic, public health site, school or other immunization site.

(10) "School" has the meaning given that term in ORS 433.235.

(11) "Tracking and recall system" means a system attached to an immunization registry designed to contact clients listed in the immunization registry for the purposes of assisting in the completion of the immunization series in a timely manner. [1993 c.297 §1; 2003 c.573 §1; 2003 c.593 §1]

433.092 Purpose of ORS 433.090 to 433.102; waivers of consent to release certain medical information. The purpose of ORS 433.090 to 433.102 is to waive the requirement of consent for release of information from, or providing information to, the immunization record of a client of any immunization registry and to waive issues of confidentiality in regard to this information. The waiver allows providers, the Department of Human Services and local health departments and their agents, parents or guardians, schools and children's facilities to share information from the immunization record through or between immunization registries without violating confidentiality. The immunization registries and the associated tracking and recall systems are designed to increase the state's immunization rates for clients and help prevent the spread of the diseases at which the immunizations are aimed. Immunizations are a proven benefit to individuals and society. An immunization registry reduces inappropriate immunizations and increases appropriate immunizations because clients' records will be easily available to all providers. [1993 c.297 §2]

433.094 Development of immunization registry and tracking and recall system; standards. The Department of Human Services, a local health department, or both, or their agents or other providers may develop an immunization registry and an associated tracking and recall system to include, but not be limited to, children and young adults. This system shall include, but not be limited to, the following:

- (1) Registering all clients born in, living in or receiving services in this state;
- (2) Tracking and updating immunization histories of the registered clients and retaining in appropriate form information about clients who have attained 18 years of age for release only as provided in ORS 433.098 (2);
- (3) Allowing a provider to provide information to and obtain information from the immunization and immunization tracking and recall records contained in an immunization

registry without the consent of the client or the parent or guardian of the client;

(4) Allowing an immunization record of a client to be released to that client's parent, guardian, school, children's facility or provider;

(5) Notifying in writing the parent or guardian of a client, at least through five years of age, when the tracking and recall system indicates that a client has missed a scheduled immunization and, if the client has not been immunized after two notifications, arranging to have the parent or guardian contacted personally;

(6) Integrating with any immunization registry and its associated tracking and recall systems; and

(7) Working with health care providers to develop easy information transfer systems. [1993 c.297 §3; 2003 c.573 §2; 2003 c.593 §2]

433.096 Authority to disclose registry information. Nothing in ORS 179.505, 192.410 to 192.505, 192.518 to 192.524 or 677.190 (5) or the client and provider privilege prevents:

(1) A provider, a local health department, the Department of Human Services, the parent or guardian of a client, a school or a children's facility from providing information to and receiving information from the immunization record of a client from the immunization registry; or

(2) The immunization registry from:

(a) Providing immunization information to or receiving immunization information from a client's immunization record from a provider, a local health department, the Department of Human Services or the parent or guardian of a client, a school or a children's facility;

(b) Notifying or personally contacting a client or the parent or guardian of that client about the client's immunization status; or

(c) Providing or publishing information in aggregate form that does not identify a client. [1993 c.297 §4; 2003 c.86 §11]

433.098 Nonliability for disclosure; confidential status of information; availability with consent of client. (1) A provider, or a local health department, the Department of Human Services or the agents of any of them, children's facilities and schools shall not be subject to an action or be liable for sharing information from the immunization record or using information from the immunization tracking and recall record for purposes of tracking immunizations of clients and for outreach to clients who have missed immunizations.

(2) Information in an immunization registry or in the immunization tracking and recall record or derived therefrom is confidential and shall not be disclosed to any person who is not specifically authorized to receive information under ORS 433.090 to 433.102. However, when a client attains 18 years of age, information in the registry shall be made available only with the written consent of the client unless the requester shows a public health need for the information. Upon the written request of a client who is at least 18 years of age, the registry shall purge that client's immunization record and tracking and recall record from the registry.

(3) Before sharing data with any immunization registry, an immunization registry maintained in Oregon must ensure that the immunization registry receiving the data has confidentiality and security policies at least as stringent as the policies of the registry sharing the data. [1993 c.297 §8; 2003 c.573 §3]

433.100 Rules; parental consent not required for enrollment in registry; fees. (1) The Department of Human Services shall adopt rules pertaining to the development and

implementation of the immunization registries and their associated tracking and recall systems. The rules shall include a process by which a custodial parent or guardian can control the transfer of information from the immunization record or the immunization tracking and recall record when such control is necessary to protect the health or safety of the family.

(2) Nothing in this section requires the consent of a parent or guardian prior to enrolling the child in the registry or restricts the registry from providing tracking and recall information to a custodial parent or guardian.

(3)(a) Pursuant to rules adopted by the department, the department may charge fees to authorized users, except hospitals, schools and individual health care providers, for services requested from an immunization registry, including associated tracking and recall systems maintained by the department. Authorized users may make voluntary contributions to the department to help support the operation of an immunization registry established under ORS 433.094.

(b) Fees authorized under paragraph (a) of this subsection shall be assessed only against managed care organizations, health maintenance organizations, physician organizations and insurance carriers that are using the information from the registries for quality improvement activities for their privately insured patients.

(c) All moneys received by the department under this section shall be paid into the State Treasury and placed in the General Fund to the credit of the Public Health Account. Such moneys are continuously appropriated to the department and shall be used only for the administration and enforcement of ORS 433.090 to 433.102. [1993 c.297 §5; 2003 c.593 §3]

433.102 Parental responsibility for immunization; medical or religious exemptions. (1) Nothing in ORS 433.090 to 433.102 is intended to affect the responsibility of a parent or guardian to have a child of that parent or guardian properly immunized.

(2) Nothing in ORS 433.090 to 433.102 is intended to require immunization or tracking of any child otherwise exempt from immunization requirements under ORS 433.267 (1)(b) or (c). [1993 c.297 §§6,7]

433.104 Use of immunization registry for potential catastrophic disease threat. (1) The immunization registry and associated tracking and recall systems established under ORS 433.094 may be used as a vaccination management and tracking system in preparation for a potential catastrophic disease threat, such as smallpox or pandemic influenza.

(2) When used as authorized by this section, the immunization registry may include persons of any age, and vaccination records may be shared with authorized users of the registry without obtaining the prior consent of the clients of the registry.

(3) As used in this section, "client" and "immunization registry" have the meanings given those terms in ORS 433.090. [2003 c.593 §4]

433.105 [Repealed by 1973 c.259 §8 (433.106 enacted in lieu of 433.105)]

Appendix C - Data Elements Defined

Immunization Record consists of:

- (A) Demographic Information
 - (i) Individual's full name
 - (ii) Individual's date of birth
 - (iii) Unique identifier

- (B) Immunization Data
 - (i) Vaccine type
 - (ii) Immunization date
 - (iii) Vaccine manufacturer
 - (iv) Vaccine lot number

- (C) Medical and Clinical information
 - (i) Varicella disease status

Tracking and Recall Record consists of:

-
- (A) Patient address

Appendix D- Data Transmission

Data exchange will use secure encryption standards in adherence with HIPAA data security regulations. Whenever possible, HL7 will be used as the industry standard for health record transmission.

APPENDIX E

Oregon ALERT Security and Confidentiality Policy

Purpose of confidentiality policy

The purpose of this policy is to address the need to provide appropriate confidentiality protection to the information in ALERT. The confidentiality of this information must be distinguished from issues of privacy. Privacy is concerned with the control individuals exert over the release of their personal information. Under ALERT's policy, confidentiality is concerned with how the information provided to ALERT by individuals is accessed, collected, stored, used, and provided to other individuals and organizations.

In developing this confidentiality policy ALERT applied pertinent state laws, obtained comments from authorized users and other interested parties, consulted published sources on confidentiality, and applied principles of confidentiality, including the Code of Fair Information Practices.

Definitions

A. All terms used in this policy have the same meaning as those terms used in the state law and administrative rules that authorize ALERT. (See attached.)

B. "Authorized User" means:

- providers: including health care providers licensed to provide health care services; managed health care systems; health maintenance organizations, health service contractors working under the direction of the Director of ALERT; insurance carriers and the Oregon medical assistance program;
- parents and guardians;
- schools and children's facilities;
- county health departments;
- the Oregon Department of Human Services; and
- the agents of county health departments and the Oregon Department of Human Services.

C. "Confidentiality" means:

- limiting the collection, access, use, storage, and release of information from authorized users to ALERT and from ALERT to authorized users in a manner that information will not be shared with non-authorized users, and
- information will only be used for the purposes permitted under the ALERT laws, rules,

and policies.

D. "Immunization Record" includes, but is not limited to:

- any immunization received;
- date immunization was received;
- Complication or side effect associated with immunization;
- Client's name;

E. "Immunization tracking and recall record" includes but is not limited to:

- The client's name;
- Address of the parent or guardian of the client;
- Telephone number;
- Insurance carrier;
- Health care provider; and
- Other information needed to send reminder cards to, place telephone calls to or personally contact the client or the parent or the guardian of a client for the purposes of informing the client, parent or guardian that the client is late in receiving the recommended immunizations.

• V. Confidentiality

Based on the ALERT law, rules, and general principles of confidentiality, the confidentiality policy for ALERT is as follows:

A. Information in ALERT is confidential under Oregon law.

B. HIPAA

- OR DHS is a covered entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA does not interfere with any state law that provides for the reporting of disease or injury, birth or death. The HIPAA Privacy Rules permit a covered entity to disclose protected health information for public health purposes to a public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease. 45 CFR 164.512(b)(1)(i).

C. Authorized users.

- Only authorized users of ALERT may provide information to or receive information from ALERT.
- Information from the immunization record may only be shared among authorized users.

- According to ORS 433.090-102, information from the immunization tracking and recall record may only be used by authorized users to contact parents for the purposes of informing the parent or guardian that a child is late in receiving the recommended immunizations.
- No information from ALERT will be made available to any party, who is not an authorized user, except as provided in Section XI (Research using ALERT information).
- All authorized users are required to sign a confidentiality agreement as provided by the Director. The Director shall determine the time period that each agreement is in effect. Upon signing a Confidentiality Agreement every authorized user shall received a copy of this confidentiality policy and a copy of the policy whenever it is updated.
- All authorized users may receive information from ALERT upon authorization by the Director.
- No information from ALERT may be provided to any other party, including law enforcement or the Immigration and Naturalization Service, except as required by law.
- The Director will maintain an audit trail for all information received from or released from ALERT.
- The Director shall seek appropriate penalties for any misuse of information in ALERT by any authorized user or any other party.
- Any paper copy of information from ALERT will be shredded before disposal. Information from ALERT that identifies individual providers will not be used for quality improvement or external reporting without the prior consent of the providers.
- When information is disclosed from ALERT, or from one authorized user to another authorized user, the information will include a notice that:
 - The information disclosed is from a confidential record and is protected by state law;
 - any further disclosure of the information in an identifiable form may be prohibited without the written informed consent of the person who is the subject of the information or as permitted under law; and
 - unauthorized disclosure of the information may result in penalties.

• **VI. Training of ALERT staff**

The Director shall provide training to ALERT staff, providers, and other authorized users

regarding appropriate confidentiality procedures and HIPAA confidentiality procedures.

• **VII. Request for information**

A. Request from law enforcement. In the event that a representative of law enforcement seeks information from ALERT on a specific child, the requestor will be referred to the child's provider.

B. All Subpoenas, requests for production, warrants, and court orders will immediately be referred to the Office of the Attorney General.

• **VIII. Data retention and disposal**

Records from ALERT will be retained according to recommendation from the State Archivist. The Director of ALERT will consult with the State Archivist to identify a retention and disposal policy. This policy shall be shared with the ALERT Advisory Board and incorporated into the ALERT Confidentiality Policy.

• **IX. Voluntary Opt-Out**

In any circumstance in which a parent or guardian specifically request that information on their child be removed from ALERT, the child's record will be flagged so the parent or guardian will not receive reminders or recalls. However, under Oregon law, ALERT cannot remove the record or other information on any children from the registry.

Such request from a parent or guardian must be in writing.

• **X. Prohibited Transfer of Data or Secondary Use of ALERT data**

Authorized users are not permitted to transfer data, either in paper or electronic form, to non-authorized users. Non-authorized users include, but are not limited to, software vendors, contractors, and quality improvement organizations. Potential users should be considered non-authorized unless specifically approved in writing by the Director and the Immunization Program Manager in advance of data transfer.

• **XI. Research using ALERT data**

A. Information in ALERT is collected for the purposes noted above and may only be used for these purposes.

B. The Director of ALERT must approve requests for information from ALERT for research. The research must be shown to address at least one of the purposes of ALERT. Specific uses of ALERT data include:

- Aggregate data may be used within Oregon Health Services and shared with authorized users for public health purposes. Examples include: identify under-immunized populations, track interventions to improve immunization rates, and monitor the

implementation of changes in the vaccine schedule in Oregon.

- Patient-identified information may be used within the Immunization Program at the specific request of providers, health plans, and authorized users to assess immunization rates and identify areas of improvement. Only names and dates of birth and immunization histories may be used for this purpose. Addresses or other patient-specific information cannot be released.
- Data may be released for research pre-approved by the ALERT Director and by the Oregon Health Services IRB Board. Any data used for this purpose must be de-identified of names and other patient identifiers. Addresses or other patient-specific information cannot be released. Any request for information that does not directly address one of the purposes of ALERT or above conditions will be denied.
- In order to approve a request for research utilizing information in ALERT, the Director must determine that the following criteria is met:
 - The request identifies one or more of the purposes for ALERT that the research will address;
 - The researcher signs an agreement to maintain the confidentiality of all information from ALERT;
 - In accordance with ALERT laws, and as determined by the Director, appropriate security provisions will be maintained for all information from ALERT; and
 - The information cannot be obtained from any other source.
- If the Director determines that each of these criterions is met, the information may be provided to the requestor. Upon completion of any research involving information from ALERT, the researcher will immediately delete all information bases with personal identifying information.

Any request for information from ALERT that does not satisfy the above criteria may only be provided to the requestor in aggregate form that does not identify an individual.

D. Notwithstanding the above, the Director may consider other requests for research from the Oregon Health Division pursuant to OAR 333-19-005.

• XII. Penalties

The Director shall seek appropriate penalties for any misuse of information in ALERT by any authorized user or any other party.

• XIII. Review of confidentiality policy

A. The Director shall review and revise this policy as needed, but not less than annually.

B. The review of this policy must include the participation of authorized users.

C. The ALERT Advisory Board must approve any changes to this policy.

Impact of HIPAA: clinic and health plan release of immunization data to ALERT:

Clinics can send electronic or barcode immunization data to ALERT:

- Covered entities (providers, clinics, health plans) may disclose protected health information to ALERT without having to get advance permission from patients. HIPAA Section 164.512(b).
- ALERT can re-disclose immunization information to authorized users in accordance with Oregon state law [[ORS433.090-102](#)].
- ALERT staff will work with clinics and other covered entities to ensure that file transfers are protected.

Appendix F – CHILD Profile Information Sharing Policy and Confidentiality Policy

CHILD Profile Information Sharing Policy

It is the intent of the Washington State Department of Health (DOH) that no information from the CHILD Profile database will be made available to any party without appropriate authorization. The privacy of uniquely identified information about patients, health care providers and health plans will not be compromised. DOH intends to ensure that its privacy and security policies and practices meet or exceed the standards set by state and federal law for the privacy protection of individual health information. The basic guidelines relative to information disclosure are as follows:

1. Sharing of immunization records among health care providers, for the purpose of assisting the health care provider to deliver health care to a patient, is compatible with the Health Care Information Act (RCW 70.02).
2. Patient-specific information in the CHILD Profile database is available to those health care providers providing or coordinating care for a specific patient and authorized to use the database through a signed information sharing agreement. The available data in the patient-specific immunization record may include the identity of the provider or organization that has administered a specific immunization.
3. Patient information aggregated by provider or health plan, is available only to that provider or health plan except as indicated in 4 and 5 below.
4. Any individual authorized to access the CHILD Profile database: (1) will not release patient-specific information except in accordance with federal and state law including 42 U.S.C. § 1396a(a)(7), 42 C.F.R. § 431 Subpart F, 45 C.F.R. Parts 160 and 164, RCW 48.43.505 and its implementing regulations (Chapter 242-04 WAC), RCW 70.02, and RCW 74.04.060; (2) will not release provider-specific or health plan-specific information without the consent of the provider or health plan, and (3) will not make use of patient-specific, provider-specific, or health-plan-specific information for any purpose other than the provision of health care with the exception of disclosure of patient-specific information to federal, state, or local public health authorities to control an infectious disease outbreak (RCW 70.02.050(2)).
5. A Health Plan requesting patient-specific immunization information on its enrollees must assure DOH that release of this information is for the purpose of the Health Plan's disease management, care management, case management, or quality management programs.
6. It is the intent of DOH to use non-identified patient, provider, and plan data compiled from the CHILD Profile database for assessment and assurance activities.
7. Researchers requesting data with person-specific identifiers from the CHILD Profile database will receive the data from CHILD Profile only after review and approval by the State of Washington Department of Health Human Research Review Board and administrative approval by the Department of Health. Such approval will always require that researchers

obtained a signed consent or specific authorization, as appropriate, from each individual for the release of information.

CHILD Profile Confidentiality Policy

Policy Statement:

Health care information is personal and sensitive information that if improperly used or released may do significant harm to a patient's interests in privacy, health care, or other interests. It is the intent of CHILD Profile that no information from the Registry will be made available to any party without appropriate authorization, except where the applicable laws of health care information access and disclosure otherwise provide. The privacy of uniquely identified information about patients, health care providers and health plans will not be compromised. This policy addresses 1) written agreements to protect confidentiality, 2) notification, 3) choice, 4) use of immunization registry data, 5) access to and disclosure of information, 6) penalties for unauthorized disclosures, and 7) data retention and disposal. (Refer to RCW 70.02)

I Written Agreements to Protect Confidentiality

- A. Every health care provider organization (hereinafter referred to as Provider) , or those assisting in the provision of health care, must sign a formal written agreement before access to the registry is permitted.
- B. Formal written agreements may be signed by Providers on behalf of employees, as long as Providers give written assurance that they will inform and train employees in, and be responsible for ensuring compliance with, the confidentiality requirements as described herein. Confidentiality procedures should be reviewed each year with employees, and the employer should obtain signed statements each year documenting that employees have been trained in and understand the confidentiality procedures. The statements shall include reference to civil sanctions for the unauthorized disclosure of health care information under RCW 70.02.170.
- C. Once signed, each agreement is effective on an on-going basis unless amended or terminated.
- D. Each CHILD Profile employee signs an annual confidentiality statement. The statements shall include reference to civil sanctions for the unauthorized disclosure of health care information under RCW 70.02.170.

II Notification

- A. Parents are notified about the registry through health promotion mailings sent shortly after the birth of a child, triggered by receipt of electronic birth certificate demographic data. The introductory mailing includes a pamphlet describing the registry, how the information will be used, who has access to the data, how parents may exercise choice in participating in the registry, and who to contact with questions.
- B. Parents may also be notified by Providers who have contracted for immunization registry services. A pamphlet is available for participating provider groups that addresses the

information included in the registry, confidentiality procedures and protections, and how parents may review, amend or correct their child's information.

III Choice

- A. Each parent has the right not to participate in the immunization registry or receive universal health promotion mailings. Participation in the registry means a child's name, demographic and immunization information is recorded in the registry through electronic birth certificate linkage and Provider input authorized by formal written agreement. A parent may choose not to participate by contacting the immunization provider and requesting that immunization information be deleted, or by contacting CHILD Profile directly. A parent may choose to have some portion or all of their child's demographic and immunization information deleted from the registry, as described in the Policy and Procedure on Parents' Right to Opt-out of Immunization Tracking, dated 9/7/00.
- B. Participation in universal health promotion means that parents of children born and residing in Washington State will automatically receive a series of 17 age-specific mailings, up to age 6, which focus on health, development, safety, well child doctor visits and immunizations. A parent may choose not to participate and not to receive the materials by contacting Healthy Mothers, Healthy Babies at 1-800-322-2588.

IV Use of Immunization Registry Data

- A. CHILD Profile and any of its contracting partners, affiliates, or customers shall not use registry data (demographic or clinical) for any purposes other than the provision of health care or assistance in the provision of health care. (e.g. reselling of demographic data for advertising or other commercial purposes is prohibited.)
- B. Providers entering into a formal written agreement with CHILD Profile may access immunization data to assist in delivering health care to patients, including information given or verified by other Providers, and to assess immunization practice and coverage rates.
- C. Providers under contract with CHILD Profile will be responsible for updating immunization data as needed, initiating new entries in the system when delivering immunization care to a patient for whom no pre-existing record exists, and editing a record or notifying CHILD Profile of a potential error if the Provider has reason to believe any information contained in the record is not true, accurate or complete.
- D. Providers under contract are solely responsible for exercising independent professional judgment in the use of registry information.
- E. Immunization data may be used by health plans to satisfy HEDIS reporting and to generate special reports assessing plan immunization coverage rates.

V Access to and Disclosure of Information

- A. CHILD Profile and contracting Providers shall disclose information about individual patients only to those patients, their parents (if patient is a minor) or other legal guardians (if applicable), and to CHILD Profile's or the Provider's employees, contractors, officers, agents or other affiliates authorized to act in behalf of CHILD Profile or the Provider,

except where disclosure is permitted without patient authorization under RCW 70.02 or required pursuant to subpoena or court order.

1. Patient/Parent access: Patients or parents, including foster parents and guardians, may obtain their immunization information from CHILD Profile. CHILD Profile staff will first encourage the caller to contact their health care provider for the needed information. If the person cannot obtain the information from their provider, they may request the information from CHILD Profile. CHILD Profile staff may verify over the phone whether or not there is an immunization record in the system, as long as the caller provides the identifying information such as name, birth date, address, and as long as staff limit their response to stating whether or not there is a match. If there is a match, CHILD Profile will send an Authorization to Release form to the person. The signed release will be valid for 90 days (RCW70.02.030). CHILD Profile will provide the information as soon as possible after receipt of the signed release form, but no later than 15 working days after its receipt. If provision of any part of the record could reasonably be expected to cause harm to the child or others, then that information should not be released (RCW 70.02.090).
 2. Patients or parents may request a correction and/or amendment to the record by providing written documentation of the correct information from a verifiable source.
- B. If CHILD Profile or the Provider discloses information pursuant to a request for information, which is otherwise barred from disclosure, the party making the disclosure shall ensure that the request is 1) in writing, with a copy retained by the disclosing party, 2) executed by a person with the legal authority to enter into such a release, 3) specific to the information to be disclosed and 4) effective on the date of the disclosure.
- C. Contracting Providers shall implement their own confidential authentication and password security solution for purposes of its employees accessing immunization data. The Provider shall ensure that each individual system user's personal authentication identity and password is disclosed only to those authorized by the Provider to access patient immunization data.
- D. Authorized users may access the following registry features and functionality, including future enhancements as developed:
- on-line patient record queries and immunization record access and updating
 - batch processing of immunization data
 - recall
 - exemptions
 - vaccine accountability
 - Vaccine for Children (VFC)
 - Clinical Assessment Software Application (CASA) linkage
 - Various immunization reports
- E. CHILD Profile intends to use summary data compiled from the registry, without person, provider, or plan identifiers, for such purposes as assessment and assurance activities. Researchers requesting data with person-specific identifiers from the registry will receive the data from CHILD Profile only after review and approval by the State of Washington Department of Health Human Research Review Board and as advised by delegate members of the CHILD Profile Community Advisory Group.
- F. Release of individual immunization information may be made without patient/parent/guardian consent in accordance with RCW 70.02.050. Signed authorization

for release of individual immunization information is otherwise required. All records requested, subpoenaed or court ordered from CHILD Profile must be reviewed by its legal council and health records specialist prior to release to assure compliance with the law.

VI Penalties for Unauthorized Disclosures

- A. It is the Provider's responsibility to maintain confidentiality of patient immunization data, and to use it only for the purpose of providing health care to patients. In the event the Provider discovers that its employees, contractors, officers, agents or other affiliates may have accessed information for any other purpose or the Provider's System privacy and security procedures have been breached, the Provider will notify CHILD Profile immediately. Providers should be put on notice that they are subject to civil sanctions, including attorneys' fees, under RCW 70.02.170 for the unauthorized disclosure of health care information, including patient immunization data.
- B. If CHILD Profile verifies any material breach by the Provider of the obligations to maintain confidentiality, or if the Provider fails to cooperate in any audit initiated by CHILD Profile to determine whether such a breach may have occurred, CHILD Profile may terminate access to the registry immediately.
- C. Breach of confidentiality by CHILD Profile employees is grounds for immediate discipline, up to and including dismissal.

VII Data Retention and Disposal

- A. Immunization data will be held in the registry without time limit unless a parent or legal guardian requests that the information be deleted, or unless specified by other relevant state laws.

RECEIVED

MAY 24 2006

CONTRACTS, PROPERTIES
& PROCUREMENT