

# Confidential Healthcare Communications:

## A key policy tool in protecting the safety and privacy of victims and survivors

### Background

All individuals deserve the right to confidential healthcare services that are best for them. When individuals can depend on confidentiality, they are more likely to seek the care they need. The HIPAA Privacy Rule and 45 CFR § 164.522 lay the federal foundation for patients to request privacy of their Personal Health Information (PHI) and confidential communications with health care providers and health plans. Both provide individuals with the right to *request*, but *not obtain*, privacy and confidentiality in communications.

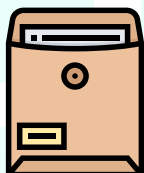
The inability to guarantee privacy for individuals, especially if covered under another person's health plan, interferes with effective health service delivery, undermines the safety of the individual, and may lead to harm. When privacy can't be ensured, patients delay seeking care. This is especially problematic for victims of domestic violence around issues of reproductive health, mental health, and substance use. Without safety assurances, survivors of violence often deny violence is occurring and choose not to seek medical or mental health services out of fear of disclosure to the abuser or retaliation. This barrier to service negatively impacts the health of the patient in the short and long term.

### Confidential Communications Request

Communication between health plans/providers and insured individuals can create safety and privacy issues. Victims know best how they can safely communicate and are more likely to access care if they know confidentiality is being ensured.

#### Recommendations:

- Healthcare providers and plans should develop a means of communicating exclusively with insured individuals. This could be through a standardized Confidential Communications Request Form.
- Confidential communications should include: EOBs, bills, appointment reminders, information about sensitive services, and any written notices.
- Any communication regarding sensitive services should be directed only to the person who received the care.

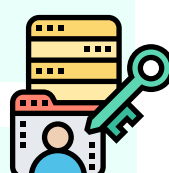


### EOB Suppression

EOBs, or summary of care reports, can create a safety and privacy issue when sent to the policyholder, rather than to the individual who received the care.

#### Recommendations:

- EOBs should not be issued when a specific request related to safety is made.
- Suppressing EOBs for sensitive services.
- Suppressing EOBs when no balance for payment remains.
- EOBs should be sent only to the patient who received care and should be sent by method of their choice.
- Codes for sensitive services on EOBs should be modified to non-specific explanations.



### Good Cause Exemptions

Federal and state regulations mandate that family planning patient information be kept confidential, yet this confidentiality is compromised by the requirement to seek payment from third-party insurance. 'Good cause' exemptions mean that use of the third-party coverage would violate a client's confidentiality.

#### Recommendations:

- Operationalize "Good Cause Exemptions" that remove the requirement to bill third-party insurance.
- Questions concerning whether patients have a good-cause reason that third-party payers should not be billed should appear on a number of checklists and application forms.



### States with Existing Policies

Many states have recognized the need for further policies that solidify and strengthen the options created through the federal HIPAA Privacy Rule and 45 CFR § 164.522. The states below offer some level of the outlined recommendations:

Confidential Communications Request:  
CA, CO, IL, MD, MA, OR, WA

EOB Suppression:  
CA, CT (no EOB for STI treatment), DE (no EOB for STI treatment), FL (no EOB for STI treatment), HI (no EOB for minors who can consent to MH care), MA, NY, WI

Good Cause Exemptions:  
IA, NY, TX, WA



**For additional information, including further best practice solutions, please contact DCADV's Domestic Violence & Community Health Program Manager at [eridout@dcadv.org](mailto:eridout@dcadv.org)**

[DCADV.org](http://DCADV.org)

