

Deflection: Subsequent Follow-up

Can a deflection team follow up with an individual who did not accept services if the individual did not sign a release form at the time of the initial contact?

Response

Yes. The Health Insurance Portability and Accountability Act (HIPAA) and 42 Code of Federal Regulations (CFR) Part 2 (related to substance use disorder [SUD] treatment records) only apply to the disclosure and redisclosure of either protected health information (PHI) under HIPAA or SUD treatment records under 42 CFR Part 2. This question assumes that the deflection team is already in possession of the individual's name and contact information prior to the follow-up outreach to the individual. In this situation, following up with the individual does not involve disclosing or redisclosing PHI or SUD treatment records. Therefore, there is no restriction on the team's ability to check in with an individual after the initial outreach, even if the individual did not sign an authorization, consent, or other type of release form during initial contact. This type of situation may occur where a deflection team's first contact with an individual is during a behavioral health or substance use crisis and the team believes that it would be inappropriate or inadvisable to obtain a signed release form because of the individual's mental state.

Definitions

Deflection initiative—A collaborative intervention designed to (1) connect law enforcement agencies and/or other first responder entities with public health/behavioral health systems to create pathways to community-based treatment, recovery support services, housing, case management, or other services for individuals with SUDs, mental health disorders, or co-occurring disorders; and (2) keep these individuals out of the criminal justice system, when possible, by addressing their unmet health needs. Throughout the country, particular types of deflection initiatives are referred to by a host of names, including pre-arrest diversion, pre-bookings diversion, law enforcement diversion, co-responder teams, crisis intervention teams, and mobile crisis teams.

Deflection team—A unit of individuals working together within a deflection initiative to provide deflection services to participants. Examples include an individual post-overdose response team, a crisis intervention team, or a co-responder team.

Individually identifiable health information [45 CFR § 160.103]—Health information that:

- Identifies the individual or provides a reasonable basis to identify the individual.
- Relates to (1) the individual's past, present, or future physical health or condition; (2) the provision of health care to the individual; or (3) the individual's past, present, or future payment for health care.

Protected health information [45 CFR § 160.103]—Subject to a few exceptions, PHI is individually identifiable health information that is maintained or transmitted in any form or media. In the context of HIPAA-protected information, PHI does not include information about a person deceased for more than 50 years.