

## Summary for Clinics State of North Dakota Medical Records Privacy Laws

### I. Summary

North Dakota has both a “Privacy of Consumer Financial and Health Information” and “Health Information and Protection” law related to health care and patient records that, for all purposes and intents, mirrors the federal HIPAA regulations. However, it expands the protection coverage to all forms of medical records, not just electronically transmitted records.<sup>1</sup> In general, HIPAA privacy and transmittal requirements should be applied to the security, care and transmittal of all medical records in North Dakota PMCs. Both PMCs and PRCs have an obligation to provide notice of any unauthorized access to stored personal information of clients.

### II. Do the requirements of the law apply to North Dakota PRCs? To PMCs?

The requirements do not apply to North Dakota PRCs. They do apply to PMCs because they would qualify as a “licensed facility providing healthcare services” as defined in North Dakota law.<sup>2</sup>

### III. Does North Dakota law define “Protected Information” differently than HIPAA?

North Dakota law defines “Protected health information” more broadly than the federal HIPAA definition, to include “any information, . . ., whether oral or recorded in any form or medium, which: a. is created or received by a health care provider, . . ., and b. (1) relates to the past present or future physical or mental health or condition of an individual, . . .; the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and (2)(a) identifies an individual; or (b) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.”<sup>3</sup>

### IV. Are there any specific compliance requirements for PMCs under North Dakota law not identified in the NIFLA HIPAA VOLUNTARY COMPLIANCE MANUAL FOR PMCs?

North Dakota PMCs should adopt the standards for treatment and handling of protected health information (as identified under North Dakota law) found in the NIFLA HIPAA Voluntary Compliance Manual for PMCs.

### V. Are there any specific North Dakota law provisions applicable to PRCs?

North Dakota requires any person conducting business in North Dakota who electronically collects personal information (first name or first initial and last name in combination with their social security number, driver’s license number, credit card number or other financial institution account numbers, date of birth, mother’s maiden name, medical information, health insurance information, employee identification number, or the individual’s digitized or other electronic signature) to notify the owner of the information if there is an unauthorized access or breach of unencrypted data immediately upon discovery of the breach.<sup>4</sup> PMCs and PRCs are strongly encouraged to install encryption software on their computer systems to minimize the risk of a breach as well as secure storage.

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<sup>1</sup> N.D. ADC §45-14-01 and N.D. ST §23-01.3

<sup>2</sup> N.D. ST §23-12-14

<sup>3</sup> N.D. ST §23-01.3-01 (7)

<sup>4</sup> N.D. ST §§51-30-01 -50-30-07

