
(Court)

SPECIALTY COURTS

**Drug Court Case Management (DCCM)
User Confidentiality and Privacy Statement**

The _____ (Court) is responsible for the implementation of the Nevada drug court case management system also known as DCCM. The DCCM system is provided to Courts that operate a specialty court program that receives funding pursuant to Nevada Revised Statute (NRS) 176.0613. The DCCM is used to manage individual specialty court cases, analyze program data, and provide required statistical information to the Nevada Supreme Court.

The information contained in specialty court case records is protected and held confidential by state and federal law, including 42 C.F.R. § 2 and the Health Insurance Portability and Accountability Act (HIPAA). I understand that, all information relating to specialty court participants is required to be held confidential and shall not be disclosed without written consent of the specialty court participant or a person legally authorized to represent the participant unless otherwise provided for by applicable law. Further, such information will only be accessed, used, or disclosed in connection with and for the purpose of performing my assigned duties, and as authorized under applicable law.

Such information may be disclosed in summary, statistical, or other form, which does not directly or indirectly identify particular specialty court participants or related parties. I understand that although the disclosure of summary statistics that does not directly or indirectly identify particular specialty court participants or related parties as provided for by applicable law and regulations is permissible.

I understand that there may be criminal penalties for failure to comply with those privacy standards and confidentiality regulations, including, but not limited to those set forth in 42 U.S.C. §1320d-5&6 (HIPAA §§ 1176-1177) and 42 U.S.C. §§ 290ee-3 and 290dd-3 (42 C.F.R. § 2.4).

Signature (Employee)

Date

Presiding Judge or Specialty Court Manager

Date

All users of DCCM are required to sign this form. The signed DCCM User Confidentiality and Privacy Statement should be retained by the Court.

Penalties Under 42 C.F.R. § 2

§2.3 Purpose and effect.

(a) *Purpose.* Under the statutory provisions quoted in §§2.1 and 2.2, these regulations impose restrictions upon the disclosure and use of alcohol and drug abuse patient records which are maintained in connection with the performance of any federally assisted alcohol and drug abuse program. The regulations specify:

- (1) Definitions, applicability, and general restrictions in subpart B (definitions applicable to §2.34 only appear in that section);
- (2) Disclosures which may be made with written patient consent and the form of the written consent in subpart C, not included;
- (3) Disclosures which may be made without written patient consent or an authorizing court order in subpart D, not included; and
- (4) Disclosures and uses of patient records which may be made with an authorizing court order and the procedures and criteria for the entry and scope of those orders in subpart E, not included.

(b) *Effect.*

- (1) These regulations prohibit the disclosure and use of patient records unless certain circumstances exist. If any circumstances exists under which disclosure is permitted, that circumstance acts to remove the prohibition on disclosure but it does not compel disclosure. Thus, the regulations do not require disclosure under any circumstances.
- (2) These regulations are not intended to direct the manner in which substantive functions such as research, treatment, and evaluation are carried out. They are intended to insure that an alcohol or drug abuse patient in a federally assisted alcohol or drug abuse program is not made more vulnerable by reason of the availability of his or her patient record than an individual who has an alcohol or drug problem and who does not seek treatment.
- (3) Because there is a criminal penalty (a fine—see 42 U.S.C. 290ee–3(f), [42 U.S.C. § 290dd–3\(f\)](#) and 42 C.F.R. 2.4) for violating the regulations, they are to be construed strictly in favor of the potential violator in the same manner as a criminal statute (see *M. Kraus & Brothers v. United States*, 327 U.S. 614, 621–22, 66 S. Ct. 705, 707–08 (1946)).

§2.4 Criminal penalty for violation.

Under 42 U.S.C. § 290ee–3(f) and [42 U.S.C. § 290dd–3\(f\)](#), any person who violates any provision of those statutes or these regulations shall be fined not more than \$500 in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense.

§2.5 Reports of violations.

(a) The report of any violation of these regulations may be directed to the United States Attorney for the judicial district in which the violation occurs.

(b) The report of any violation of these regulations by a methadone program may be directed to the Regional Offices of the Food and Drug Administration.

Penalties Under HIPAA

42 U.S.C. § 1320d-5 General penalty for failure to comply with requirements and standards

(a) General penalty

(1) In general

Except as provided in subsection (b), the Secretary shall impose on any person who violates a provision of this part a penalty of not more than \$100 for each such violation, except that the total amount imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed \$25,000.

42 U.S.C. § 1320d-6 Wrongful disclosure of individually identifiable health information

(a) Offense

A person who knowingly and in violation of this part-

- (1) Uses or causes to be used a unique health identifier;
- (2) Obtains individually identifiable health information relating to an individual; or
- (3) Discloses individually identifiable health information to another person, shall be punished as provided in subsection (b).

(b) Penalties

A person described in subsection (a) shall-

- (1) Be fined not more than \$50,000, imprisoned not more than 1 year, or both;
- (2) If the offense is committed under false pretenses, be fined not more than \$100,000, imprisoned not more than 5 years, or both; and
- (3) If the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, be fined not more than \$250,000, imprisoned not more than 10 years, or both.