
Nevada CMIS/HMIS

(Community and Homeless Management Information System)

Memorandum of Understanding and Data Sharing Agreement between

Nevada Balance of State (Rural) Continuum of Care
(CoC)

and

(Partner Agency)

Memorandum of Understanding (MOU)

Updated July 2017

1. INTRODUCTION

This agreement is entered into on _____ (m/d/y) between _____, (CoC lead name) hereafter known as the CoC, and (agency name) _____, hereafter known as "Agency," regarding access and use of the Nevada Community and Homeless Management Information System, hereafter

The HMIS is a shared homeless database and software application that allows authorized personnel at participating agencies throughout Nevada to collect, use, and share information on common clients.

The State of Nevada HMIS governance model is that of a HMIS Working Group. This HMIS Working Group is comprised of the following:

- CoC Representatives
- HMIS Lead Agency Staff (Clark County Social Service)
- Local Jurisdictional Representatives
- Participating Agency Staff and Consumers

However, in this governance model, the three Nevada Continuums of Care are collectively responsible for all final decisions regarding the planning of policies and procedures, coordination of resources, data integration, determination of software applications, while also directing the HMIS lead agency.

Subject to the direction of the HMIS Working Group, Bitfocus, Inc. is the HMIS Program Administrator and has assumed responsibility for overall project administration and monitoring, hosting of the HMIS and limiting access to the database to participating agencies.

2. CONFIDENTIALITY

- A. The Agency will use its reasonable best efforts to uphold relevant Federal and State confidentiality regulations and laws that protect client records, and the Agency will only release confidential client records with written consent by the client, or the client's guardian, unless otherwise provided for in the regulations or laws. A client is anyone who receives services from the Agency and a guardian is one legally in charge of the affairs of a minor or of a person deemed incompetent. For convenience of reference, future references in this Agreement to a client include reference to any guardians of a client.
1. The Agency will use its reasonable best efforts to comply with Federal confidentiality regulations as contained in the Code of Federal Regulations, 42 CFR Part 2, regarding disclosure of alcohol and/or drug abuse records. The Agency understands that Federal laws and regulations restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patients.
 2. The Agency will use its reasonable best efforts to comply with the Health Insurance Privacy Portability and Accountability Act of 1996 and corresponding regulations adopted by the U.S. Department of Health and Human Services.
 3. The Agency will use its reasonable best efforts to comply with laws of the State of Nevada regarding substance abuse and medical records.
 4. The Agency will use its reasonable best efforts to provide a written explanation of the HMIS to all clients.
 5. The Agency will use its reasonable best efforts not to input information from clients into the HMIS unless it is essential to provide services or conduct evaluation or research.
 6. The Agency will use its reasonable best efforts not to divulge any confidential information received from the HMIS to any participating agency, outside organizations, internal organization, or individuals without proper written consent by the client unless otherwise permitted by relevant regulations or laws. This includes, but is not limited to, client contact or location information and client program or service participation.
 7. The Agency is encouraged to seek its own legal advice in the event that a non-participating agency requests identifying confidential client information.
 8. The Agency agrees that client information obtained from within the HMIS is not to be used for criminal investigation of clients unless required by law in compliance with court orders, warrants, and subpoenas.

- B. The Agency agrees to use its reasonable best efforts to maintain appropriate documentation of client consent to participate in the HMIS.
1. If a client does not grant authorization to share basic identifying information and non-confidential service data via the HMIS, then such information should not be provided to HMIS.
 2. The Agency will use its reasonable best efforts to incorporate a HMIS Clause into one or more existing Agency Authorization for Release of Information Form(s). The CoC and/or its contractors may conduct periodic audits to enforce informed consent standards, but the primary oversight of this function is between agencies.
 3. The Agency will use its reasonable best efforts to modify its client grievance procedures to incorporate the HMIS Client Grievance Procedures, or to add the HMIS Procedures as an addendum.
 4. The Agency will use its reasonable best efforts to modify its Privacy Notice, which describes the protocols taken by Agency staff to protect the protected personal information of clients to include the HMIS Privacy Notice.
 5. The Agency understands that provision of services by the Agency is not and will never be contingent upon a client's participation in the HMIS, and that the CoC does not require or imply otherwise.
- C. The Agency and the CoC understand that the HMIS, and Bitfocus, Inc. as administrator, are custodians of data and not owners of data.
1. If this Agreement is terminated, the CoC and the remaining participating agencies will maintain their right to the use of all client data previously entered by the former participating agency, subject to all of the other provisions of this Agreement.

3. DATA ENTRY AND SHARING

- A. The Agency will use its reasonable best efforts to comply with and enforce the current HMIS Standard Operating Procedures (SOP) and the HMIS Responsibility Statement and Code of Ethics.
- B. The Agency may collect client-identified information only when appropriate to the purposes for which the information is obtained or when required by law. The Agency must collect client information by lawful and fair means and, where appropriate, with the knowledge or consent of the individual.
- C. Clients MUST be provided a notification and consent form that explains HMIS and why their personal information is being collected.
- D. If a client has previously given permission to multiple agencies to have access to her/his information and then chooses to eliminate one or more of those agencies, the agency to which such choice is expressed will use its reasonable best efforts to notify the affected agencies that the information will no longer be available at the client's request. Participating agencies understand that at no time should they penalize or threaten to penalize clients for requesting that their information be held in strict confidence.
- E. The Agency is responsible for setting the sharing parameters for files that the Agency enters or updates.
- F. The Agency will not condition any services upon or decline to provide any services to a Client based upon a Client's refusal to sign a Client Consent to Release Information form for the sharing of identified information or refusal to allow entry of identified information into HMIS.
- G. The Agency agrees not to release any Client identifying information received from HMIS to any other person or organization without written informed Client consent, or as required by law.
- H. The Agency will maintain security and confidentiality of HMIS information and is responsible for the actions of its users and for their training and supervision. Agencies will follow the User Policies and Guidelines, which is on the Nevada HMIS web page (<http://nvcmis.bitfocus.com/>) and is incorporated into this agreement and may be modified from time to time

- I. The Agency will use its reasonable best efforts not to make any misrepresentations concerning its clients in the HMIS (i.e., the Agency will not purposefully enter inaccurate information on a new record or on a record entered by another agency).
- J. The Agency will use its reasonable best efforts to enter data into the HMIS in a consistent manner.
- K. Agency will not alter or over-write information entered by another Agency with the exception of basic demographic information if that data has not been entered, or that information was found to be incorrect.
- L. Discriminatory comments based on race, ethnicity, religion, national origin, ancestry, disability, age, gender, and sexual orientation are not permitted in the HMIS.
- M. Offensive language and profanity are not permitted in the HMIS.
- N. Use of the HMIS system or network to transmit any material in violation of any laws or regulations of the United States or any constituent state or territory is prohibited. This includes, but is not limited to, copyrighted material and threatening or obscene material.
- O. The Agency will not use the HMIS with intent to defraud any person or entity, including any governmental agencies, or to conduct any illegal activity.
- P. The Agency will permit access to HMIS only with use of a User ID and password, which the user may not share with others. Written information pertaining to user access (e.g. username and password) shall not be stored or displayed in any publicly accessible location.
- Q. The Agency recognizes the HMIS Working Group to be the discussion and decision-making center regarding the HMIS, including process updates, policy and practice guidelines, data analysis, and software/hardware upgrades. The Agency will designate an assigned staff member to attend Working Group meetings regularly, and understands that the CoC will be responsible for coordinating Working Group activities subject to the direction of the Working Group.
- R. The Agency understands that when it enters information into HMIS, such information will be available to Bitfocus, Inc. who may review the data to administer HMIS; to conduct analysis; and to prepare reports which may be submitted to others in de-identified form without individual identifying Client information.

4. REPORTS

- A. The Agency understands that it will have full access to all identifying and statistical data on the clients it serves.
- B. The Agency understands that access to data on those it does not serve will be limited or not available depending on the sharing agreement(s) maintained with other participating agencies.
- C. Reports containing information not served by the Agency are limited to statistical and frequency reports that do not disclose identifying information.
- D. The Agency understands that before non-identifying system wide aggregate information collected by the HMIS is disseminated to participating agencies or funding sources, it shall be authorized by the HMIS Working Group. If urgent requests from an authorized entity indicate that it is unreasonable and unnecessary to wait for approval, the Program Administrator and HMIS Working Group Chair must concur on such dissemination. Working Group members will be notified immediately of the Chair's decision, and a full written report will be provided at the next Working Group meeting.
- E. The CoC will use its reasonable best efforts never to release proprietary information about agencies or their services, procedures or clients without written permission of the Agency.

5. INSURANCE

- A. Except as otherwise expressly provided in this Agreement, neither the Agency nor the CoC make any representations or warranties, express or implied. Each of the parties will obtain and keep in force insurance in such amounts and covering such risks for the benefit of the Working Group, the CoC, Bitfocus, Inc., and participating agencies. Neither of the parties shall be liable to the other or to any other person or entity for damages, losses, or injuries other than if and to the extent the same are the result of gross negligence or willful misconduct by the management of the Agency or the CoC.
- B. Agency and the CoC each agree to defend, indemnify and hold each other harmless for any claims or liability arising from the acts and omissions of the other, including any third party claims arising from the acts and omissions of any officers, employees, agents, representatives, licensees or clients of the other.

6. TERMS AND CONDITIONS

- A. The parties hereto agree that this agreement is the complete and exclusive statement of the agreement between parties and supersedes all prior proposals and understandings, oral and written, relating to the subject matter of this agreement.
- B. Neither party shall have the right to transfer or assign any rights or obligations under this Agreement without the written consent of the other party.
- C. This Agreement shall remain in force until revoked in writing by either party, with 30 days advance written notice. Notwithstanding the foregoing, if there is credible evidence regarding possible or actual breach of this Agreement and the nature of the breach threatens the integrity of the HMIS, the Working Group will have the right to suspend or limit access to the HMIS by the alleged wrongdoer pending investigation and resolution of the matter to the extent reasonably required to protect the integrity of the system.
- D. This Agreement may be modified or amended only by a written agreement executed by both parties.
- E. The qualifications and meetings of members of the HMIS Working Group and all other matters relating to the Working Group shall be provided in by-laws of the Working Group adopted or modified from time to time by majority vote of all of the participating agencies.
- F. This Agreement is made for the purpose of defining and setting forth certain obligations, rights and duties of the Working Group, the CoC, Bitfocus, Inc. and the Participating Agency. It is made solely for the protection of the Working Group, the CoC, Bitfocus, Inc., and the Participating Agency and their respective heirs, personal representatives, successors and assigns. No other person or entity shall have any rights of any nature under this Agreement or by reason hereof. Without limiting the generality of the preceding sentence, no user of the HMIS system in his or her capacity as such and no current, former or prospective client of any agency shall have any rights of any nature under this Agreement or by reason hereof.

Name and Address of Participating Agency:

Authorized Representative Signature

Date (m/d/y)

Authorized Representative Printed Name

Title

Signature of Chair of Agency Board of Directors

CoC Authorized Representative

CoC Authorized Representative Signature

Date (m/d/y)

CoC Authorized Representative Printed Name

Title