

POLICY AND PROCEDURE CONCERNING CONFIDENTIALITY

I. PURPOSE

This policy and procedure is implemented in order to assure compliance with Regulations: Title 174 Chapter 3 005.05H, 005.04A, Title 480 2-004.04, Title 205 011 and The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Privacy Rules, 45 CFR 164.502.

II. AUTHORITY

This policy and procedure has been implemented with the approval of the agency's Governing Board and/or its designee.

III. APPLICABILITY

This policy and procedure applies to all agency employees, contracted health service providers (therapists, nurse consultants, pharmacists, dieticians, etc.), committee and board members and volunteers.

IV. DEFINITION

Confidentiality means maintaining privacy of past, present or future information that is created or received pertaining to identity, diagnosis, health care or habilitation of any person receiving services.

V. PROCEDURAL DIRECTIVES

A. Safe Keeping of Confidential Information

1. All Unit Files, Working Files, Master Files, Supplemental Files, Health Care Information Files and Incident Reports will be marked "*Confidential.*"
2. All confidential files/information will be kept under the agency's supervision at all times.
3. Confidential records/files/information will be kept locked when not in the direct presence of an agency employee.
4. Access to confidential records will be limited to
 - a. the person served
 - b. the legal representative of the person served

- c. agency employees who are directly involved with the person served
 - d. monitoring agencies
 - e. court order, subpoena or statute
 - f. others who have a signed consent form requesting specific information
5. Computers and e-mail will be secured with passwords.
 6. Fax machines will be located in a place that ensures privacy.
 7. Office telephone systems need to have secured lines.
 8. All written communication containing confidential information will be maintained in a confidential manner.
 9. Conversations involving confidential information will be conducted in a place and in a manner to ensure privacy.
 10. There will be no unnecessary duplication of confidential information.
 11. See Appendix A - *Things Employees Need to Know About HIPAA*.

B. Release of Information

1. Confidential information may be released or requested with a written informed consent. See Appendix B - *Confidential Information Release/Request Form*.
2. Confidential Information Release/Request Forms for children 0-19 years of age must be signed by the parent or legal guardian.
3. Adults receiving services will sign their own Confidential Information Release/Request Form unless they have been declared legally incompetent and guardianship has been established which prohibits the person from signing the release. If the signature is illegible, it must be witnessed.
4. The Agency's Management personnel
 - a. are responsible for explaining the contents of the Confidential Information Release/Request Form to the person served and/or guardian.
 - b. must be confident that the person served or the guardian of the person served understands what information is to be released or requested and for what purpose.

5. All Confidential Release/Request Forms will be reviewed annually and any changes will be made at that time.
6. When the Confidential Release/Request Form expires, a new form must be completed.
7. If a Confidential Release/Request Form is revoked, confidential information cannot be released until a new form is completed.

C. Misuse of Confidential Information

1. Employees are to be continually aware that they have information which is confidential in nature. This information may only be shared under the conditions specified in this procedure.
2. Necessary informal information may only be shared in situations desired by the person served. Examples of informal information which may be shared:
 - name, address, telephone number and work history for a job application
 - introduction using name only to facilitate integration at a social event
 - name and interests (hobbies) to identify potential community advocates
3. Allegations or misuse of confidential information will be reported to the Area Director and/or the agency's HIPAA Officer for investigation.
4. The agency's employees are subject to sanctions of employment, including but not limited to termination of employment and risk of criminal liability exposure if it is determined that confidential information has been disclosed, whether maliciously or negligently. See Appendix C for a list of criminal penalties.

D. Destruction of Confidential Information

All confidential records must be shredded or otherwise destroyed so that they are indecipherable.

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