



Introduction to HIPAA & Confidentiality for Employees

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New Employee Orientation Training

Introduction

- ▶ Rules regarding the confidentiality of foster care-related information can be found in OAC 5101:2-7-04 and HONH policies: HR 070, and JFS 2-5-13-A20.
- ▶ House of New Hope's mental health and developmental disability services fall under the federal Health Insurance Portability and Accountability Act (HIPAA) as it pertains to confidentiality.

Confidentiality in Foster Care

- ▶ All House of New Hope records and information relating to House of New Hope or its consumers are confidential and employees must, therefore, treat all matters accordingly.
- ▶ No House of New Hope or House of New Hope-related information, including without limitation, documents, notes, files, records, oral information, computer files or similar materials (except in the ordinary course of performing duties on behalf of House of New Hope) may be removed from House of New Hope's premises without permission from House of New Hope.
- ▶ Additionally, the contents of House of New Hope's records or information otherwise obtained in regard to business may not be disclosed to anyone, except where required for a business purpose and with proper legal signed consents for the release of information.

Confidentiality in Foster Care

- ▶ Employees must not disclose any confidential information, purposefully or inadvertently through casual conversation), to any unauthorized person inside or outside the Agency.
- ▶ Employees who are unsure about the confidential nature of specific information must ask their supervisor for clarification.
- ▶ Employees will be subject to appropriate disciplinary action, up to and including dismissal, for knowingly or unknowingly revealing information of a confidential nature.
- ▶ When an employee leaves House of New Hope, the employee must return to the Agency all House of New Hope related information and property that the employee has in his/her possession, including without limitation, documents, files, records, manuals, information stored on a personal computer or on a computer disc, supplies, and equipment or office supplies.

Confidentiality in Foster Care

- ▶ The revelation or use of any confidential client information, data on decisions, plans, or any other information that might be contrary to the interest of House of New Hope without prior authorization, is prohibited.
- ▶ The misuse, unauthorized access to, or mishandling of confidential information, particularly personnel-related or wage information, is strictly prohibited and will subject an employee to a disciplinary consequence up to and including immediate discharge.
- ▶ “Client” is defined as foster parent, foster child, adoptive parent, adoptive child, respite provider, child receiving community respite services, any person receiving services, and referral /contracting agencies.
- ▶ Breaches of confidentiality will be considered as potential violations of the aforementioned Codes of Ethics and will be reported to the appropriate authorities/regulatory agencies.

What is HIPAA and Why Should I Care?

- ▶ Most of us feel that our health and medical information is private and should be protected, and we want to know who has this information. Now, federal law gives all of us rights over our health information and sets rules and limits on who can look at and receive our health information.
- ▶ The children and families that are served by all departments of House of New Hope (with the exception of foster care) are protected by PL104-191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). House of New Hope functions as a covered entity for programs designated per HIPAA.
- ▶ This regulation is applied to programs in which House of New Hope is the primary or secondary provider involving PHI.

The Importance of Protecting Client Health Information

- ▶ Keep this information confidential.
- ▶ Access or use this information only as required to perform your job.
- ▶ Provide the minimum necessary information when responding to information requests.
- ▶ Do not discuss this information with others unless it is administratively or clinically necessary to do so.
- ▶ Do not use any electronic media to copy or transmit information unless you send it encrypted.

Consequences of Violations

- ▶ Inappropriate disclosure of confidential information is subject to discipline, up to and including discharge from employment.
- ▶ For licensed professionals, it is also subject to discipline by licensing and credentialing bodies
- ▶ There are civil and criminal penalties for violations of client privacy:
 - ▶ Fines up to \$25,000 for multiple violations of the same standard in a calendar year
 - ▶ Fines up to \$250,000 and/or imprisonment up to 10 years for deliberate misuses of individually identifiable health information.

HIPPA rules are not a barrier to good care:

- ▶ The HIPAA Privacy Rule is not intended to prohibit providers from talking to each other and to their clients.
- ▶ Staff are free to communicate as required for quick, effective, and high-quality behavioral and physical health care.
- ▶ The Privacy Rule also recognizes that overheard communications in these settings may be unavoidable and allows for these incidental disclosures.

HIPAA and Privacy Rule Overview:

- ▶ The Health Insurance Portability and Accountability Act (HIPAA) has many parts. Most relevant to staff in the health professions are the “Administrative Simplification” provisions including national standards for electronic health care transactions, codes, identifiers, security, and the privacy of personal health information.

The Privacy Rule applies to protected health information (PHI).

- ▶ Protected health information (PHI) is “identifiable” health information acquired in the course of serving clients.
- ▶ Any of the following data make health information “identifiable”:
 - ▶ Name
 - ▶ Social security number
 - ▶ Street and email addresses
 - ▶ Employer Telephone and fax numbers
 - ▶ Member or account numbers (e.g. medical record number, health plan identification number)
 - ▶ Relatives' names
 - ▶ Date of service, birth or death
 - ▶ Fingerprints, photographs, voice recordings
 - ▶ Certificate or license numbers
 - ▶ Any other linked number, code, characteristic (e.g. device identifiers, serial numbers)

The Privacy Rule:

- ▶ Parents and Minors HIPAA generally defers to state law concerning the relative rights of parents and minors.
- ▶ In this module, the terms “individual” or “client” mean:
 - ▶ Custodial agencies, parents and legal guardians may generally exercise the HIPAA rights of their minor children;
 - ▶ Clients 18 or older, or with emancipated or "mature minor" status, may exercise their own rights under HIPAA.
 - ▶ If you are in doubt about a client's status or have questions about the legal definition of emancipation or "maturity," check with the agency's compliance officer.
 - ▶ A minor client may exercise HIPAA rights regarding matters involving diagnosis or treatment relating to certain conditions (e.g., sexually transmitted diseases, drug or alcohol dependency, and pregnancy).

Permitted Uses and Disclosures of PHI

- ▶ An agency may use or disclose PHI for the following purposes:
 - ▶ In order to treat a client.
 - ▶ Justifying payment for treating a client.
 - ▶ Certain administrative, financial, legal, and quality-improvement activities that are necessary to “run the business” (such activities are called “health care operations”).

Additional Permitted Uses and Disclosures of PHI

- ▶ If the disclosure complies with and is limited to what the law requires, agencies are permitted to disclose PHI:
 - ▶ To public health authorities and health oversight agencies
 - ▶ To coroners, medical examiners, and funeral directors
 - ▶ For organ procurement
 - ▶ To respond to court orders and subpoenas
 - ▶ To Child Fatality Reviews

Permitted Uses and Disclosures of PHI

- ▶ Written permission or authorization from the client (or custody holding entity) is required to use or disclose PHI for purposes other than treatment, payment, health care operations, or as required by law or for public health reasons.

General Data Disclosures

- ▶ An agency may use or disclose demographic information and the dates of treatment for the purpose of raising funds for its own benefit, without an authorization.
 - ▶ Example: “Between January and June we treated 47 clients under 18, 20% of whom had family incomes under \$25,000 per year.

General data disclosures

- ▶ An agency must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of uses, disclosures, or requests.

Incidental Disclosures

- ▶ An incidental disclosure that occurs as a byproduct of an otherwise permitted use or disclosure is permitted:
 - ▶ If it cannot be reasonably prevented.
 - ▶ If it is limited in nature.
 - ▶ To the extent that reasonable safeguards exist.

Permitted Uses and Disclosures to Carry Out Treatment, Payment, and Health Care Operations

- ▶ HONH may use or disclose PHI for its own “Treatment,” “Payment,” or “Health Care Operations”:
 - ▶ **“Treatment”** generally means the providing, coordinating, or managing health care and related services among health care providers or by a health care provider with a third party; consultation between health care providers regarding a client; or the referral of a client for health care from one health care provider to another.
 - ▶ **“Payment”** encompasses the various activities of health care providers to obtain payment or be reimbursed for their services and of a health plan to obtain premiums, to fulfill coverage responsibilities, and to provide benefits under the plan.
 - ▶ **“Health Care Operations”** are certain administrative, financial, legal, training, and quality improvement activities of a covered entity that are necessary to run its business and to support the core functions of treatment and payment.

“Public Good” Uses and Disclosures

- ▶ An agency may use or disclose PHI without the written authorization of the individual in the situations listed below:
 - ▶ Uses and disclosures required by law.
 - ▶ Uses and disclosures for public health activities (i.e., public health, child abuse and neglect, FDA, communicable diseases, employment workplace medical surveillance).
 - ▶ Disclosures about victims of abuse, neglect, or domestic violence.
 - ▶ Uses and disclosures for health oversight activities.
 - ▶ Disclosures for judicial and administrative proceedings.
 - ▶ Disclosures for law enforcement purposes.
 - ▶ Uses and disclosures about decedents (i.e., to coroners and funeral directors).
 - ▶ Uses and disclosures for cadaveric organ, eye, or tissue donation purposes
 - ▶ Uses and disclosures for research purposes.
 - ▶ Uses and disclosures to avert a serious threat to health or safety.
 - ▶ Uses and disclosures for specialized government functions (i.e., military and veterans activities, national security and intelligence activities, protective services for the president and others, medical suitability determinations, or correctional institutions and other law enforcement custodial situations). Disclosures for workers' compensation.

“Public Good” Uses and Disclosures

- ▶ State Law and other Federal Laws that are more protective of individual's privacy should be followed.
- ▶ **Agencies are required to track most disclosures and to provide individuals with a listing of them upon their request.**

Authorization Requirements

- ▶ HIPAA requires the agency to obtain a written authorization to disclose or release any PHI that is not for treatment, payment, or health care operations, or otherwise permitted by the rules
 - ▶ Examples of disclosures requiring written authorization under HIPAA: Schools, camps, airlines, hotels, aid organizations, outside attorneys
 - ▶ These authorizations must contain the following elements: A description of the information to be used or disclosed.
 - ▶ Who is authorized to make the use or disclosure.
 - ▶ To whom the disclosure may be made.
 - ▶ A description of each purpose of the disclosure.
 - ▶ An expiration date or an expiration event.
 - ▶ Signature of the individual and date.
 - ▶ Required statements:
 - ▶ The individual's right to revoke the authorization and directions how to revoke.
 - ▶ The ability or inability to condition treatment or payment.
 - ▶ The risk that redisclosure by the recipient may occur.

Additional Written Authorizations

- ▶ Agencies must typically obtain written authorization to disclose or release client information in situations beyond what HIPAA requires.
- ▶ Examples of practices that typically requires permission or consent to release information:
 - ▶ Photographs and videos for treatment and training.
 - ▶ Sharing client information with outside providers at the client's request or at the request of another provider.
 - ▶ Making requests for client information from other providers.

Incidental Disclosures

- ▶ An incidental disclosure that occurs as a by-product of an otherwise permitted use or disclosure is permitted:
 - ▶ If it cannot be reasonably prevented.
 - ▶ If it is limited in nature.
 - ▶ To the extent that reasonable safeguards exist.
 - ▶ Examples:
 - ▶ Keep client information on white boards/locator boards to a minimum.
 - ▶ Reduce unnecessary incidental disclosures during check-in processes and in waiting rooms.
 - ▶ Take care to limit the amount of information disclosed on an answering machine.
 - ▶ Do not discuss clients in public areas.
 - ▶ Keep voices low when discussing client issues in joint treatment areas.
 - ▶ Position workstations so screen does not face public areas; consider using screen filters.

Notice of a Person's Rights to Control His or Her PHI

- ▶ An agency must distribute to each client at the first treatment encounter, and obtain written acknowledgment of receipt of, a "Right to receive Notice of Privacy Practices": Describing how the agency may use and disclose PHI. Describing the rights the individual has to control his or her health information.
- ▶ Clients should receive a listing of disclosures required by law, public health, health oversight, child abuse reporting, response to legal process, law enforcement, coroner or medical examiner, or workers' compensation.
- ▶ People have a right to request confidential forms of communication. Agencies must accommodate reasonable requests to receive confidential communications.

Notice of a Person's Rights to Control Their PHI

- ▶ People have a right to inspect and obtain a copy of their health information.
- ▶ Individuals have the right to inspect and obtain a copy of health information in the behavioral health or billing record.
- ▶ People have a right to request amendment to behavioral health and billing records.
- ▶ People have a right to file a formal complaint about violations of privacy with the agency or the Department of Health and Human Services.
- ▶ All of these forms are available to clients under "HIPAA" on our agency website.

Tracking Disclosures or the “Accounting of Disclosures Log”

- An individual has a right to receive a listing of certain disclosures.
- The listing must include disclosures made to individuals or entities outside of agency for the following purposes:
 - Required by law
 - Public health activities
 - Health oversight activities
 - Child, elder, or handicapped abuse reporting
 - FDA reporting
 - Communicable disease exposure
 - Wound or injury reporting
 - Response to legal process
 - Law enforcement activities
 - Coroner or medical examiner
 - Workers' compensation
- The listing must include a description of:
 - To whom information was disclosed
 - When it was disclosed
 - What was disclosed
 - Why it was disclosed

Administrative Requirements: Business Associates Overview

- ▶ A Business Associate is a person or entity to whom an agency discloses PHI so that the person or entity may carry out, assist with, or perform a function on behalf of the agency (e.g., billing).
- ▶ The agency is required to have “satisfactory assurance” that any business associate will “appropriately safeguard” PHI received or created by the business associate in the course of performing services for the agency.
- ▶ The agency must document the satisfactory assurances through a written contract. The business associate provision does not apply to providers who receive information for treatment purposes.

To quote the law firm of Page,
Wolfberg & White...

What you see here,
What you hear here,
When you leave here,
Let it stay here!