

Wood County Board of Developmental Disabilities

POLICY

Policy #: 01-ALL-ALL-0127 **Subject:** HIPAA (Consumer Requests for Extra Restrictions on Use and Disclosure of PHI)

Effective Date: 04-01-03 **Last Revision:** 09-23-13

Person Responsible: HIPAA Privacy Officer

Approvals/Date: Brent Ober 12/11/17 John A. Martin 12/11/17
Superintendent, WCBDD Date Board President, WCBDD Date

The following definitions apply:

Disclosure – The release, transfer, provision of access to, or divulging in any manner (orally, written, electronically, or other) of information outside the entity holding the information.

Individual, or Individual receiving services – A person who received services from WCBDD. In the event that the individual is a minor, the term “individual” in this policy may also include the parent or guardian of the individual. In addition, in regard to any privacy rights, individual may also mean an individual’s “personal representative” as it is defined under HIPAA regulations.

Personal Representative – A person who has authority under applicable law to make decisions related to health care on behalf of an adult or an emancipated minor, or the parent, guardian, or other person acting in loco parentis who is authorized under law to make health care decisions on behalf of an unemancipated minor, except where the minor is authorized by law to consent, on his/her own or via court approval, to a health care service, or where the parent, guardian or person acting in loco parentis has assented to an agreement of confidentiality between the WCBDD and the minor.

Protected Health Information or PHI – Individually identifiable information that is (i) transmitted by electronic media, (ii) Maintained in electronic media, or (iii) transmitted or maintained in any other form or medium. Records of individual’s deceased for more than 50 years are not PHI. For the purposes of this manual, and the board’s compliance program, PHI shall also include “Education Records” as defined by FERPA. This creates a consistent set of policies for both types of confidential information.

WCBDD supports individual’s right to request restrictions on the use or disclosure of protected health information which may be above and beyond the restrictions in organizational policy.

1. **Refer the Request to WCBDD’ Privacy Officer or Designee** – All requests will be referred to the HIPAA Privacy Officer, or his/her designee. Upon receiving a request, the Privacy Officer shall consider the following factors, in the decision to grant or deny the request:
 - A. Whether the restriction might cause the organization to violate applicable federal or state law;
 - B. Whether the restriction might cause the organization to violate professional standards, including medical ethical standards;
 - C. Whether WCBDD’s systems and organization make it very difficult or impossible to accommodate the restriction;
 - D. Whether the restriction might unreasonably impede the organization’s ability to serve the individual;
 - E. Whether the restriction appears to be in the best interests of the individual.
2. **Decision whether WCBDD will agree** – The WCBDD is not obligated to agree to any requests for restriction, except in the unlikely event that the request is not to bill the Medicaid program or other 3rd party payer and that the individual receiving services agrees to pay for the service themselves.
3. **Notify the Individual** – WCBDD will notify the individual of its final decision (whether approving or denying the request) in writing. The notice will be maintained in the main individual record.
 - A. Granting the Request: If WCBDD agrees to restriction, the notice to the individual will clearly state what restriction WCBDD is agreeing to in language the individual will understand. This notice will state that the restriction will not apply if the information is needed for emergency treatment.
 - B. Denying the Request: If the request is denied, the notice will clearly state why the request cannot be complied with, in language the individual will understand.
4. **Take Appropriate Action to Implement Restrictions** – If WCBDD agrees to the requested restriction, the Privacy Officer/designee will be responsible for taking appropriate action to implement the restriction.
5. **Modifying or Terminating a Restriction** – An individual may request a restriction to be eliminated at any time. If WCBDD desires a modification, consult legal counsel regarding appropriate procedures.
6. **Documentation** – The Privacy Officer is responsible for maintaining the following documents, to assure that additional privacy protections are handled properly, and assure they are maintained for six years from the date of their creation.
 - A. Copies of individual requests for restrictions
 - B. Copies of any notice informing the individual about WCBDD’s decision to grant or deny a restriction
 - C. Copies of any written individual’s request to terminate a restriction, or alternatively, copies of any documentation in the individual’s record that the individual made such request orally

References: 45 CFR § 164.522(a)

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