



INDIVIDUAL RIGHTS/POLICY AND PROCEDURE

Rights and Responsibilities of Persons Receiving Services in Facilities and Services Operated and/or Certified by OPWDD

POLICY

In accordance with 14 CRR-NY 633, HCS implements a written policy that honors the rights of each of the individuals who reside in a residence. HCS ensures that each resident and/or guardian is fully informed prior to admission of all rights and responsibilities. Upon admission, HCS gives a hard copy of the client's rights and responsibilities to each individual and the individual's guardian. Such rights are also communicated in the individual's and guardian's primary language to facilitate comprehension. Any change in policies regarding client's rights is communicated to the individual and/or guardian.

PROCEDURE

Each individual and family/advocate is given a hard copy of the client's rights. The service coordinator and house manager are available to review the rights.

HCS does not deprive any individual of their civil or legal rights solely because of their disability. All individuals are given respect and dignity regardless of their race, religion, national origin, creed, age, gender, ethnicity, sexual orientation, developmental disability or health condition.

HCS limits rights on an individual basis for a specific period of time and for clinical purposes only. Rights will not be arbitrarily denied. All limitation of rights are documented.

HCS does not deny an individual (a) safe and sanitary environment (b) freedom from physical or psychological abuse (c) freedom from corporal punishment (d) freedom from unnecessary use of mechanical restraints (e) freedom from unnecessary or excessive medication (f) protection from commercial or other exploitation.

Information in an individual's record will be kept confidential subject to the provisions of the Mental Hygiene Law ("MHL") and HIPAA.

For each individual, HCS has a written individualized plan of services which has as its goal for the individual to maximize his/her abilities and fosters coping with an individual's environment and develops skills in social competency and living independently.

Each individual will have

- The opportunity to participate or modify their individualized plan of services.
- The ability to object to a provision of their plan and to appeal a provision in their plan.
- Meaningful activities that consider the individual's interests.

HCS will take care that

- There is staff who is adequately trained and can provide services safely and humanely and respect the individual's dignity and personal integrity.
- Each individual will be provided with appropriate and humane health care and the opportunity for the individual's participation in the choice of a physician or dentist.
- HCS will provide access to instruction on sexuality and family planning per the cultural norms of the community. Individuals will be able to express sexuality responsibly.
- Each individual will have the right to observe and participate in the religion of their choice.
- Each individual will have the opportunity to register and vote.
- Each individual will have freedom from discrimination and abuse based on their diagnosis.
- Each individual will receive information on or prior to admission regarding the supplies HCS will provide or for which additional charges will be made. If there are any changes, the individual will receive timely notification.
- Each individual will have use of their personal money and property, will receive regular notice of their financial status, and will have assistance in the use of resources.
- Meals will be served at appropriate times and in an appropriate manner. Modifying meal time and appropriateness of manner will not be used for disciplinary purposes
- Individually held clothing will fit properly and the individual will have the opportunity to select clothing.
- Each individual has a reasonable degree of privacy in sleeping, bathing and toileting areas.
- Each individual has sufficient individual access to storage space for personal belongings.
- Each individual has an opportunity to request an alternate residence or room.
- Each individual has the opportunity to express, without fear of reprisal, concerns or suggestions to the chief executive officer of HCS, the Commissioner of OPWDD, the Justice Center for the Protection of People with Special Needs, and the Mental Hygiene Legal Service.
- Each individual has the opportunity to receive visitors at reasonable times.

HCS will give the opportunity for individuals

- To make an informed decision regarding cardiopulmonary resuscitation.
- To create a health care proxy. HCS will ensure that the proxy is formulated voluntarily and without duress and will be made part of the individual's clinical record.



Pursuant to the MHL and subject to its limitations, an individual or other qualified party (as defined in 14 CRR-NY 633.99) can make a written request for access to an individual’s clinical record. Denial of such request can be appealed to the OPWDD Clinical Record Access Review Committee. HCS will notify the party making the request that the denial can be appealed.

Upon admission and as changes occur, HCS will advise individuals and/or their guardians that the following parties can receive complaints and concerns:

- The director of the Borough Developmental Services Office and the director of Developmental Disabilities Services Office
- The commissioner of OPWDD
- The Justice Center for the Protection of People with Special Needs
- Mental Hygiene Legal Service

Families can reach the Justice Center at: 1-800-624-4143 or supportcoordinator@justicecenter.ny.gov

For other contact information see attached contact lists.

HCS will not deny treatment or discriminate against individuals who are non-English speaking. Non-English-speaking individuals will receive the same level of care as other individuals. If necessary, competent interpreters will be provided. A family member may serve as an interpreter if both the individual and the family member agree to such option.

HCS will provide effective communication for persons who are deaf or hard of hearing.



Acknowledgement of Receipt of Notice of Privacy Practices And Procedures to Express Complaints and Resolve Grievances

Individual's Name: _____

By signing below, I acknowledge that I have been provided with a copy of HCS's Notice of Privacy Practices and therefore been advised of how clinical information about me may be used and disclosed by HCS and how I may obtain access to this information.

The above individual has a developmental disability and may or may not be able to fully understand his or her stated rights. Therefore, such rights may have also been reviewed with the individual's personal representative (i.e. parent, guardian, and/or correspondent). Every effort has been made to review these rights to the best of the individual's understanding including conveying information in the person's primary language.

Signature of Individual

Date

Signature of Personal Representative

Relationship

Date

(If Applicable)



Notice of Privacy Practices

Individual or Personal Representative (Parent/Guardian/Correspondent)

This notice describes how health and clinical information (protected health information) about our participants may be used and disclosed, and how our individuals, their guardians and/or their personal representatives can get access to this information. Guardians and personal representatives should be aware that the word "you" in this notice refers to the individual receiving services, and may also refer to your personal representative. Depending on your circumstances and in accordance with state law, this may be your legal guardian, health care agent, or designated legal representative who may include an actively involved family member such as a spouse, domestic partner, parent, adult child, adult sibling, or other family member. Please review it carefully.

Human Care Services for Families and Children ("HCS") is committed to protecting the privacy of you and your family, and sharing information about you only with those who need to know and who are permitted by law to receive this information. We are required by both federal and state law to protect the privacy and confidentiality of information that may reveal your identity, and to provide you with a copy of this notice which describes the health and clinical information privacy practices of our agency, its staff and affiliated service providers that jointly provide services for you. A copy of our current notice will always be posted in our reception area. You will also be able to obtain a copy by accessing our website at www.humancareservices.org, calling our office at (718) 854 -2747, or asking for one at the time of your next visit.

This revised notice is effective as of April 14, 2016. If you have any questions about this notice, please contact the HCS Privacy Officer at (718) 854 -2747, Ext. 1122.

Our Privacy Commitment to You

At Human Care, we understand that information about you and your services is personal. We are committed to protecting your privacy and sharing information only with those who need to know and are allowed to see the information to assure quality services for you. This notice describes how we use and disclose protected health information about you for treatment, payment and health care operations. It also describes your rights to access and control your protected health information and our responsibilities to maintain your protected health information. Protected health information (PHI) is information that may identify you and relates to your past, present or future physical or mental health condition, services and payment for such services. Sometimes this information is also referred to as clinical information. In this Notice, protected information will be referred to as "PHI" or "clinical information". When we say "we" or "HCS," we mean Human Care or our staff, as defined in the next paragraph.



Who will follow this notice?

All people who work for HCS in any facility or program directly operated by HCS including residences and nonresidential programs such as service coordination, community habilitation, day (nonresidential) services programs, and HCS administrative offices will follow this notice. This includes all HCS employees and volunteers whom HCS allows to assist you.

In addition, contractors, agencies, and other organizations that provide services on behalf of HCS who are authorized to access your records and have agreed to protect your information will follow this Notice.

What information is protected?

All information we create or keep that relates to you and your healthcare or treatment, including your name, address, birth date, social security number, medical information, individualized service plan, and other information (such as photographs and other images) is protected.

Your Clinical Information Rights

You have the following rights concerning your clinical information. When we use the word "you" in this notice we also mean your personal representative. Depending on your circumstances and in accordance with state law, this may be your legal guardian, health care agent, or designated legal representative who may include an actively involved family member such as a spouse, domestic partner, parent, adult child, adult sibling, or other family member.

You have the right to:

- See or inspect your clinical information and obtain a copy. Some exceptions apply, such as records regarding incident reports and investigations, and information compiled for use in court or administration proceedings. If we deny your request to see your clinical information, you have the right to request a review of that denial.
- Ask us to change or amend clinical information that you believe is incorrect or incomplete. We may deny your request in some cases, for example, if the record was not created by HCS or if after reviewing your request, we believe the record is accurate and complete.
- Request a list of the disclosures we have made of your clinical information during the six years prior to your request. The list, however, does not include certain disclosures, such as those made for treatment, payment, and health care operations, or disclosures made to you or made to others with your permission. The first accounting you request within a twelve (12) month period will be free. For additional accountings, we may charge you for the costs of providing the list. We will notify you of the costs involved, and you may choose to withdraw or modify your request at that time before any costs are incurred.
- Request that we communicate with you in a way that will help keep your information confidential.
- Request a restriction on uses or disclosures of your clinical information related to treatment, payment, health care operations, and disclosures to involved family. We, however, are not required to agree to your request unless you have paid for your services in full with your own money and are requesting restrictions on information pertaining only to those services for payment or health care operations and the disclosure is not required by law.



- Receive a paper copy of this notice. You may ask our staff to give you another copy or you may obtain one from our website at www.humancareservices.org.
- Be notified following a breach of unsecured PHI. When your clinical information is disclosed to unauthorized persons and can be read by them, we must notify you that this has happened.

Requesting Access to your Clinical Information

To request access to your clinical information or to request any of the rights listed here, you may contact our Privacy Officer at (718)-854-2747, Ext. 1122.

NOTE: Human Care Services requires you to make your requests in writing.

Our Responsibilities for Your Clinical Information

HCS is required to:

- Keep and maintain the privacy of your clinical information in accordance with federal and state laws.
- Give you this notice of our legal duties and practices concerning the clinical information we maintain about you.
- Follow the rules in this notice. We will not share information about you before you will have signed the “Consent for Release of Information from HCS” form.

How we use and disclose Clinical Information

HCS may use and disclose clinical information without your permission for the purposes described below. For each of the categories of uses and disclosures, we explain what we mean and offer an example. Not every use or disclosure is described, but all of the ways we will use or disclose information will fall within these categories.

Treatment

- We will use your clinical information to provide you with treatment and services. We may disclose clinical information to doctors, nurses, psychologists, social workers, qualified intellectual disability professionals (QIDPs), direct support professionals, and other HCS personnel, volunteers, or interns who work with us to provide you with services.

For example:

- involved staff may discuss your clinical information to develop and carry out your individualized service plan (ISP);
- other HCS staff may share your clinical information to coordinate different services you need, such as medical tests, respite care, transportation, etc.;
- we may also need to disclose your clinical information to your service coordinator and other providers outside of HCS who are responsible for providing you with the services identified in your ISP or to obtain new services for you;
- we may use and disclose clinical information to contact you as a reminder that you have an appointment for treatment or services at one of our programs.



Payment

• We will use your clinical information so that we can bill and collect payment from you, a third party, an insurance company, Medicare or Medicaid, or other government agencies.

For example:

- we may need to provide the New York City or State Department of Health (Medicaid) with information about the services you received in our facility or through one of our HCBS waiver programs so they will pay us for the services;
- we may disclose your clinical information to receive prior approval for payment for services you may need;
- we may disclose your clinical information to the federal Social Security Administration or the Department of Health to determine your eligibility for coverage or your ability to pay for services, or to coordinate your benefits and payment for services.

Health Care Operations

• We will use clinical information for administrative operations. These uses and disclosures are necessary to operate our programs and residences and to make sure all individuals receive appropriate, quality care.

For example:

- we may use clinical information for quality improvement to review our treatment and services and to evaluate the performance of our staff in caring for you;
- we may disclose information to clinicians and other personnel for on-the-job training;
- we may share your clinical information with other HCS staff to: obtain legal services, conduct fiscal audits, detect fraud and abuse, review incident management, and assure program compliance;
- we may share your clinical information with our staff to resolve complaints or objections to your services;
- We may disclose PHI for review and learning purposes. In addition, we may remove information that identifies you so that others can use the de-identified information to study health care and health care delivery without learning who you are.
- we may also disclose clinical information to our business associates who need access to the information to perform administrative or professional services on our behalf. These business associates have the same responsibility as HCS to protect the privacy of your information.

Other Uses and Disclosures that Do Not Require your Permission

In addition to treatment, payment, and health care operations, we will use your clinical information without your permission for the following reasons:

- When required to do so by federal or state law;
- For public health reasons, including prevention and control of disease, injury or disability, reporting births and deaths, reporting abuse or neglect, reporting reactions to medication or problems with products, and to notify people who may have been exposed to a disease or are at risk of spreading the disease;

- To report domestic violence and adult abuse or neglect to government authorities if you agree or if necessary to prevent serious harm;
- For health oversight activities, including audits, investigations, surveys, inspections, and licensure. These activities are necessary for government to monitor the health care system, government programs, and compliance with civil rights laws;
- For judicial and administrative proceedings, including hearings and disputes. If you are involved in a court or administrative proceeding we will disclose clinical information if the judge or presiding officer orders us to share the information;
- For law enforcement purposes; in response to a court order or subpoena; to report a possible crime; to identify a missing person, suspect or witness; to provide identifying data in connection with a criminal investigation; and to the district attorney in furtherance of a criminal investigation of client abuse;
- Upon your death, to coroners or medical examiners for identification purposes or to determine cause of death, and to funeral directors to allow them to carry out their duties;
- For research purposes, subject to the requirements of applicable law. For example, a research project may involve comparisons of the health and recovery of all patients who received a particular medication. All research projects are subject to a special approval process which balances research needs with a patient's need for privacy. When required, we will obtain a written authorization from you prior to using your health information for research.
- To prevent or lessen a serious and imminent threat to your health and safety or to the health and safety of someone else;
- To authorized federal officials for intelligence and other national security activities authorized by law or to provide protective services to the President and other officials;
- To correctional institutions or law enforcement officials if you are an inmate and the information is necessary to provide you with health care, protect your health and safety or that of others, or for the safety of the correctional institution;
- To governmental agencies that administer public benefits if necessary to coordinate services and benefits you receive or apply for.

Disclosures to Certain Persons If You Agree or Do Not Object

We may disclose clinical information to the following persons if we tell you we are going to use or disclose it and you agree or do not object:

- To family members and personal representatives who are involved in your care, or in payment for your care, if the information is relevant to their involvement, or to notify them of your condition and location;
- or
- To disaster relief organizations that need to notify your family about your condition and location should a disaster occur.

Authorization Required for All Other Uses and Disclosures

For all other types of uses and disclosures not described in this Notice, we will use or disclose clinical information only with a written authorization signed by you that states who may receive the information, what information is to be shared, the purpose of the use or disclosure, and an expiration date for the authorization.



- Written authorizations are always required for use and disclosure of psychotherapy notes (notes of counseling sessions that are kept separate from an individual’s clinical record), the sale of PHI, and for marketing purposes.
- Under New York State Law, confidential HIV-related information (information concerning whether or not you have had an HIV-related test, or have HIV infection, HIV- related illness, or AIDS, or which could indicate that a person has been potentially exposed to HIV), cannot be disclosed except to those people you authorize in writing to have it.
- If you have received alcohol or substance abuse treatment from an alcohol/substance abuse program that receives funds from the United States government, federal regulations may further protect your treatment records from disclosure without your written authorization.

NOTE: We do NOT use your clinical information for marketing or fundraising purposes, nor will we ever sell your clinical information.

Our Responsibility to You

HCS is required by state and federal law to maintain the privacy of your health information. We are required to give you this notice of our legal duties and privacy practices with respect to the health information that we collect and maintain about you. We are required to follow the terms of this notice.

Revocation

If you authorized us to disclose information about you, you may revoke that authorization at any time. If you revoke your authorization in writing we will no longer use or disclose your clinical information for the reasons stated in your authorization.

We cannot, however, take back disclosures we made before you revoked and we must retain clinical information that indicates the services we have provided to you.

Changes to this Notice

We reserve the right to change the terms of this notice from time to time and to make the revised notice effective for all PHI we maintain. You can always request a written copy of our most current privacy notice from our Privacy Officer, or you can access it on our website at www.humancareservices.org.

Complaints

If you believe your privacy rights have been violated:

- You may file a complaint with our Privacy Officer.
- You may contact the Secretary of the Department of Health and Human Services. [200 Independence Ave. S. W. Washington D. C. 20210, phone 1-877-696-6775]
- You may file a grievance with the Office for Civil Rights Region II office at Jacob Javits Federal Building, 26 Federal Plaza – Suite 3312, New York, NY 10278. Voice phone (800) 368-1019; FAX (212) 264- 3039; TDD (800) 537-7697, or by email: OCRComplaint@hhs.gov.

All complaints must be submitted in writing. You will not be penalized for filing a complaint.



Contacting Us

You can contact our Privacy Officer by writing to:
Human Care Services for Families and Children, Inc.
Attention: Privacy Officer 1042 38th Street Brooklyn NY 11219
Or by calling (718)854-2747 x 1122.

You will not be penalized for filing a complaint.