

Operational Policy

Policy title:	HIPAA: Restricting Access to Individual Information		
Policy number:	ODHS OHA 100-005		
Original date:	07/22/2014 (OHA only)	Last update:	(Joint ODHS OHA) 01/24/2022
Approved:	Kris Kautz, OHA Deputy Director Don Erickson, ODHS Chief Administrative Officer		

Purpose

This Health Insurance Portability and Accountability Act (HIPAA) policy is one of a series that outlines Oregon Department of Human Services (ODHS) and Oregon Health Authority (OHA) expectations for the necessary collection, use, and disclosure of protected health information about individuals in order to provide services and benefits while maintaining reasonable safeguards to protect the privacy of protected information.

ODHS|OHA staff should review all ODHS|OHA privacy policies to be sure they understand how these policies work together to protect individual privacy.

Description

This policy describes an individual’s right to restrict access, use and disclosure of protected health information (PHI).

Applicability

This policy applies to all OHA staff (see OAR 943-014-0015) and ODHS staff working in Business Associate programs (see ODHS 100-013) including employees, volunteers, interns, and contractors. This definition of staff aligns with the HIPAA definition of workforce.

As keepers of the public trust, ODHS|OHA staff has a responsibility to comply with state and ODHS|OHA policies, administrative rule, and state and federal law. ODHS|OHA take this responsibility seriously and failure to fulfill this responsibility is not treated lightly. Staff who fail to comply with state or agency policy, administrative rule, or state and federal law may face progressive discipline, up to and including dismissal from state service.

Policy

1. Except in specific circumstances, an individual may ask that their information not be used by ODHS|OHA or ask that their information not be disclosed to certain people who would otherwise have access to the information.
 - a. ODHS|OHA is not required to limit access of the ODHS|OHA staff involved in decision making related to an individual’s treatment or service.

- b. ODHS|OHA is not required to agree to a restriction that would keep ODHS|OHA from being paid for services.
2. An individual may ask that ODHS|OHA not use or disclose their information by completing form MSC 2095.
3. ODHS|OHA shall honor requests to restrict individual information related to substance abuse treatment covered by 42 CFR part 2 or vocational rehabilitation covered by 34 CFR 361.38, except where disclosure is required by law.
4. When an individual asks to restrict the release of PHI, ODHS|OHA shall agree to the restriction unless:
 - a. The disclosure is necessary to carry out treatment, payment or health care operations or is otherwise required by law; and
 - b. The PHI pertains solely to a health care item or service for which the individual or a person on behalf of the individual has paid ODHS|OHA in full.
5. If the conditions of item 4 in this policy are not met, ODHS|OHA may deny a restriction request or agree with the individual to implement a less stringent restriction to uses and disclosures of information. ODHS|OHA shall only agree to the restriction if the restriction would not:
 - a. Adversely affect the quality of the individual's care or services.
 - b. Limit or prevent ODHS|OHA from making or obtaining payment for services.
 - c. Adversely affect ODHS|OHA's ability to administer programs and services.
6. When a request for restriction is granted, the individual shall be notified of the decision.
 - a. The decision to agree to a restriction shall be approved by a program supervisor.
 - b. The request and the reason for granting or denying the request shall be documented in the individual's records.
 - c. Restrictions are binding on the staff of the ODHS|OHA HIPAA-covered programs and Business Associate programs.
7. Prior to any use or disclosure of individual information, ODHS|OHA workforce shall review an individual's file and confirm that the particular use or disclosure has not been restricted.
8. Restricted information may be disclosed for the limited purpose of providing emergency treatment. ODHS|OHA shall ask the provider not to disclose the information again.
9. ODHS|OHA shall terminate restrictions when an individual agrees to or requests termination of the restriction orally or in writing. Any such termination of restrictions shall also be documented in the individual's record or file.
10. To terminate a restriction ODHS|OHA shall inform the individual in writing that ODHS|OHA is terminating its agreement to the restriction.
11. Information created or received while a restriction is in effect shall remain subject to the restriction.
12. If ODHS|OHA policy conflicts with federal or state statute or rule, that statute or rule supersedes unless the ODHS|OHA policy provides more protection.

References

[42 Part 2 Confidentiality of Substance Use Disorder Patient Records](#)

[45 CFR 160 General Administrative Requirements](#)

[45 CFR 164 Security and Privacy](#)

[34 CFR 361.38 State Vocational Rehabilitation Services Program](#)

[OAR 943-014-0015 Covered Entity Status for Purposes of the HIPAA Privacy Rules](#)

[ORS 646A.600 to 646A.628 Oregon Consumer Identity Theft Protection Act](#)

Forms

[MSC 2095 Request for Restriction and Use of Disclosures](#)

Policies

[ODHS 100-003 Uses and Disclosures of Individual Information](#)

Contact

Information Security and Privacy Office (ISPO)

Phone: 503-945-5780 (Privacy)

dhs.privacyhelp@dhsoha.state.or.us

U. S. Department of Health and Human Services, Office for Civil Rights

Medical Privacy, Complaint Division

200 Independence Avenue, SW

Washington, D.C. 20201

Toll free Phone: 877-696-6775

Phone: 866-627-7748

TTY: 886-788-4989

Email: <mailto:OCRCComplaint@hhs.gov>

Policy History

Version 1.0 established 07/22/2014

Version 2.0 Reviewed 10/03/2016

Version 3.0 ODHS|OHA 100-005 established 01/24/2022

Keywords

Access, Health Insurance Portability and Accountability Act , HIPAA, disclosure, protected health information, PHI, records, release, restrict, use

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