

OFFICE OF INFORMATION SERVICES
Information Security and Privacy Office

Operational Policy

Policy Title:	Individual Privacy: Restricting Access to Individual Information		
Policy Number:	OHA-100-005		
Original Date:	07/22/2014	Last Update:	10/03/2016
Approved:	Mark Fairbanks, OHA CFO		

Purpose

This policy is one of a series that outlines Oregon Health Authority (OHA) guidelines and expectations for the necessary collection, use, and disclosure of protected information about individuals in order to provide services and benefits while maintaining reasonable safeguards to protect the privacy of protected information.

Description

This policy describes an individual's right to restrict access, use and disclosure of personal information. All OHA staff should review privacy policies 100-002 through 100-008 to be sure they understand how these policies work together to protect individual privacy.

Applicability

This policy applies to all OHA staff including employees, volunteers, interns and agency contractors.

As keepers of the public trust, all agency employees have a responsibility to comply with state and agency policies, administrative rule, and state and federal law. The agency takes this responsibility seriously and failure to fulfill this responsibility is not treated lightly. Employees 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 OHA or that their information not be given to certain people who would otherwise have access to the information.
 - a. OHA is not required to limit access of members of the OHA workforce involved in decision making related to an individual's treatment or service.
 - b. OHA is not required to agree to a restriction that would keep OHA from being paid for services.
2. An individual may ask that OHA not use or disclose their information by completing form MSC 2095 or by submitting a request in another manner acceptable to OHA.
3. 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.

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4. When an individual asks to restrict the release of protected health information (PHI), OHA shall agree to the restriction if:
 - a. The disclosure is necessary to carry out payment or health care operations and is not 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 OHA in full.
 5. If the conditions of item 4 in this policy are not met, OHA may deny a restriction request or agree with the individual to implement a less stringent restriction to uses and disclosures of information. 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 OHA from making or obtaining payment for services.
 - c. Adversely affect 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 electronic records, and paper records if paper files exist.
 - c. Restrictions are binding on all members of the OHA workforce and OHA business associates.
 7. Prior to any use or disclosure of individual information, OHA staff shall review the individual file and confirm that the particular use or disclosure has not been granted a restriction.
 8. Restricted information may be disclosed for the limited purpose of providing emergency treatment. OHA shall ask the provider not to disclose the information again.
 9. OHA shall terminate restrictions when an individual agrees to or requests termination of the restriction orally or in writing.
 10. To terminate a restriction OHA shall inform the individual in writing that 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 OHA policy conflicts with federal or state statute or rule, that statute or rule supersedes unless the OHA policy provides more protection.

References

- [34 CFR 361](#)
- [42 CFR Part 2](#)
- [45 CFR Part 160](#)
- [45 CFR Part 164](#)
- [42 U.S.C. Chapter 114](#)
- [42 U.S.C. Chapter 144](#)
- [Privacy/Security Glossary of Common Terms](#)

Forms

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

Contacts

Information Security and Privacy Office (ISPO)

Phone: 503-945-6812 (Security)
503-945-5780 (Privacy)

Fax: 503-947-5396

dhsinfo.security@state.or.us

dhs.privacyhelp@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:OCRComplaint@hhs.gov>

Policy History

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