

[INSERT NAME OF MENTAL HEALTH COUNSELING ORGANIZATION]

**Policy Number:** \_\_\_\_\_

**Effective Date:** \_\_/\_\_/\_\_

**Subject:** \_\_\_\_\_

**Revised:** \_\_/\_\_/\_\_

**Policy Name: Request for Restrictions**

**Approved:** \_\_\_\_\_

## POLICY

A patient/client has the right to impose restrictions on the use or disclosure of PHI in some circumstances in which use or disclosure would otherwise be permitted under HIPAA.

## PROCEDURE

1. Types of Requests. A patient/client may request that the Covered Entity restrict use or disclosure of PHI for purposes of treatment, payment and health care operations, and may request a restriction on information given to family members, friends, and others involved in his or her care. [Disclosures to family members for patients/clients receiving treatment in federally funded drug and alcohol treatment programs require patient authorization under 42 C.F.R. Part 2, so those patients/clients would have no need to impose a restriction in this area.]
2. Making Requests
  - 2.1 Requests for restrictions on the use of PHI for treatment, payment and health care operations must be made in writing on a Request for Restriction on Use and Disclosure of Health Information. If a patient/client informs any staff member that he/she wants to request a restriction on the use of the patient's/client's PHI, the staff member should provide the patient/client with the proper form. The staff member should not ask the patient/client the reason for his/her request. All requests shall be forwarded to the Privacy Officer, who will make the decision on all requests. The Privacy Officer may accept or reject the request, in his/her discretion (consistent with other applicable law and ethical requirements), for any reason, except as provided in 2.2 below.
  - 2.2 The Covered Entity must comply with the request if:
    - 2.2.1 A patient/client requests a restriction on the disclosure of PHI to a health plan for purposes of carrying out payment or health care operations,
    - 2.2.2 The disclosure is not otherwise required by law, and
    - 2.2.3 The disclosure concerns PHI which pertains solely to a health care item or service for which the Covered Entity has been paid out of pocket by the patient/client in full.
3. Accepted Requests
  - 3.1 The patient/client will be notified in writing whether or not the Covered Entity will agree to restrict use of the patient's/client's PHI as requested. A copy of the letter will be filed in the patient's/client's record. If the Covered Entity agrees to restrict use of the patient's/client's PHI or is required to restrict use of the patient's/client's PHI as provided in 2.2 above, a copy of the letter will be sent to each department/program that has access to the patient's/client's PHI. The

restrictions must be followed by each staff member, unless the PHI is needed to provide emergency treatment to the patient.

- 3.2 Once a request for restriction has been accepted, the Covered Entity will flag or make some other notation in the patient's/client's record with respect to the PHI that has been restricted to ensure that such information is not inadvertently disclosed.
- 3.3 If PHI subject to a restriction is provided to another health care provider in an emergency, the staff member must request that the health care provider receiving the information not redisclose the PHI.

#### 4. Termination of Restriction

- 4.1 Any restriction on the use or disclosure of PHI may be terminated only under one of the following circumstances:
  - 4.1.1 The patient/client requests or agrees, in writing, to terminate the restriction;
  - 4.1.2 The patient/client orally agrees to terminate the restriction, and the oral agreement is documented by a staff member; or
  - 4.1.3 The patient/client is given written notice that the Covered Entity no longer agrees to be bound by the restriction. In this case, the Covered Entity will still be obliged to honor the restriction for PHI created or received before the written notice.
- 4.2 Any staff member who receives, either orally or in writing, a notice of termination from a patient/client must document the termination in the patient's/client's record and inform the Program Director.

## **ATTACHMENTS**

Request for Restriction on Use and Disclosure of Health Information Form

## **REFERENCES**

45 C.F.R. §164.522(a)

45 C.F.R. §164.530(j)