

HIPAA POLICY FOR OREGON PROVIDERS

Original Draft Date: April 2, 2003

Last Revision Date:

SUBJECT: Client's Right to Request Restrictions on Certain Uses and Disclosures of Protected Health Information

HIPAA CITES: 45 C.F.R. §164.522(a)

DEPARTMENT: Coos County Mental Health

POLICY NUMBER: 33

I. POLICY:

A. Coos County Mental Health Department recognizes the right of a client to request that Coos County Mental Health Department restrict its:

1. Uses or disclosures of the client's Protected Health Information to carry out Treatment, Payment or Health Care Operations pursuant to Policy # 10;
2. Disclosures of the client's Protected Health Information to the client's family member, other relative, close personal friend, or any other person identified by the client if the Protected Health Information is directly relevant to such person's involvement with the client's care (or Payment related to the client's care) pursuant to Policy # 17;
3. Disclosures of the client's Protected Health Information to notify, or assist in the notification of (including identifying or locating), the client's family member, Personal Representative or other person responsible for the client's care of the client's location, general condition or death pursuant to Policy #17; and
4. Disclosures to public or private entities authorized to assist in disaster relief efforts, for the purpose of coordinating with such entities the disclosures of the client's location, general condition or death to the client's family member, Personal Representative or other person responsible for the client's care pursuant to Policy # 17.

B. However, because Coos County Mental Health Department is not required to agree to such a restriction, the Department will evaluate such requests in accordance with this policy.

II. **PROCEDURES:**

A. Requests to Restrict Uses and Disclosures of Protected Health Information

1. The Department will provide the client with the appropriate Objection for Uses and Disclosure form and make a reasonable effort to assist the client to complete and submit the request for review. Samples of the forms are included in Policy 18.
2. Coos County Mental Health Department may consider a client's request that the Department restrict its uses and disclosures described in Section I.A above.
3. However, because Coos County Mental Health Department is not required to agree to a restriction requested by a client, it will only consider the addition of restrictions on disclosure in limited circumstances and as determined on a case-by-case basis. In all cases, no restrictions will be accepted by the Department without review and approval of the Risk Management Committee.

B. Exceptions to Restrictions. If Coos County Mental Health Department has agreed to restrict the use or disclosure of Protected Health Information pursuant to Section II.A above, the Department may use or disclose the restricted Protected Health Information in violation of such restriction if:

1. The client who requested the restriction needs emergency Treatment and the restricted Protected Health Information is needed to provide the emergency Treatment. Coos County Mental Health Department may use the restricted Protected Health Information, or may disclose such information to a Health Care Provider, to provide such Treatment to the client, provided the Department must request the Health Care Provider not further use or disclose such information;
2. Such use or disclosure is required to be disclosed to the Director, Office for Civil Rights of the U.S. Department of Health and Human Services in order to investigate or determine Coos County Mental Health Department's compliance with the Privacy Rule;
3. Such use or disclosure is permitted or required under Policy # 11, relating to uses and disclosures based on public policy which do not require a client's authorization.

C. Grounds For Terminating a Restriction. If Coos County Mental Health Department has agreed to restrict the use or disclosure of Protected Health Information pursuant to Section II.A above, the Department may terminate its agreement to restrict its use or disclosure of such Protected Health Information, if one of the following grounds for termination exists:

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1. the client agrees to or requests the termination in writing;
 2. the client orally agrees to the termination and the oral agreement is documented; or
 3. Coos County Mental Health Department informs the client that it is terminating its agreement to a restriction, except that such termination is only effective with respect to Protected Health Information about the client created or received after the Department has so informed the client.
- D. Documentation. Coos County Mental Health Department shall document any restriction in the client's medical record and such restriction will be prominently displayed in such manner as to alert Department Medical Records staff of the restriction. The Department shall maintain such documentation for no less than six (6) years from the date when the restriction was last in effect.