

Partners in Recovery

POLICY AND
STANDARDS

*Applicable Arizona Department of Health Services/Behavioral Health Services Rule(s):
R9-20-211 Client Records and R9-21-209 Records*

Policy Name: General Rules for Uses and Disclosures of Protected Health Information (PHI)

Policy Number: REC - 0010

H.M. Gilbert Jr., Executive Director, PIR

Date

Cross Reference(s)

Notice of Privacy Practices; Uses and Disclosures of PHI for Treatment, Payment, and Health Care Operations; Authorization to Use and Disclose PHI; Uses & Disclosures of PHI Requiring No Permission From the Member Uses and Disclosures of PHI for Judicial & Administrative Proceedings; Uses and Disclosures of PHI Requiring Prior Internal Approval; Uses and Disclosures for Specialized Governmental Function; Verification; Minimum Necessary Uses and Disclosures of PHI; Oral and Written Transmission of PHI; Right to Request Privacy Protection of PHI; Right to Request Privacy Protection of PHI; Member Right to Request Access to PHI; Member Right to Request Amendment of PHI; Member Right to Request an Accounting of Disclosures of PHI; Research; Limited Data Set and De-identification of PHI; Uses and Disclosures for Marketing, Fundraising, and Underwriting; Member Representation; Unauthorized Uses & Disclosures of PHI; and HR: Termination Policy.

Proprietary

Partners in Recovery Direct Care Clinics (DCC)

Policy Statement

Partners in Recovery and Direct Care Clinics (DCC) have established policies describing its uses and disclosures of protected health information (PHI) that meet federal regulatory requirements. Where a particular state law is more stringent than the federal requirement, the state law is followed.

Purpose

The purpose of this policy is to provide a general overview of DCC's uses and disclosures of PHI.

Most standards listed in this policy are described in further detail in another referenced policy.

Scope

Partners in Recovery Direct Care Clinics.

Key Terms

Should the reader need to inquire as to the definition of a term used in this policy, the Partners in Recovery Key Term Glossary can be found in the back of the Policy and Procedure Manual.

Standards

- I. DCC preserves the privacy and confidentiality of members' PHI in accordance with applicable state and federal laws.
 - A. Arizona law provides for the release or disclosure of member information in the following:
 1. ARS 12-2292(B);
 2. ARS 12-2294;
 3. ARS 36-504; and
 4. ARS 36-509.
 - B. Federal law provides for the release or disclosure of member information in the following:
 1. 45 CFR Parts 160 and 164; and
 2. 42 CFR Part 2.
- II. DCC furnish members a *Notice of Privacy Practices* that describes their guidelines regarding uses and disclosures of PHI. DCC use or disclose PHI in a manner consistent with the *Notice of Privacy Practices* (see *Notice of Privacy Practices*).

- III. DCC are permitted to use or disclose PHI for treatment, payment, or health care operations without authorization from the member (see *Uses and Disclosures of PHI for Treatment, Payment, and Health Care Operations*).
- IV. Unless otherwise permitted or required by law DCC obtain a valid *Authorization to Use and Disclose PHI Form* prior to using or disclosing PHI for reasons other than treatment, payment, or health care operations (see *Authorization to Use and Disclose PHI*).
- V. Other situations in which DCC may use or disclose PHI without permission from the member include:
 - A. For disclosures required by law, for public health and health oversight activities, for disclosures of certain information about decedents to certain officials, and in situations in which abuse, neglect or domestic violence is suspected (see *Uses & Disclosures of PHI Requiring No Permission From the Member*);
 - B. With prior internal approval, for judicial and administrative proceedings, for law enforcement purposes, and to avert a serious threat to health or safety (see *Uses and Disclosures of PHI for Judicial & Administrative Proceedings* or *Uses and Disclosures of PHI Requiring Prior Internal Approval*); and
 - C. For specialized government functions and workers' compensation or other related programs (see *Uses and Disclosures for Specialized Governmental Functions*).
- VI. DCC are permitted to disclose certain PHI to a family member, other relative, close friend or any other person identified by the member. The PHI disclosed must be directly relevant to that person's involvement with the member's care, or to payment related to the member's care. Such disclosure is only permitted if:
 - A. The member is present for the disclosure, has the capacity to make health care decisions, and DCC does one of the following:
 - 1. Obtains the member's agreement;
 - 2. Provides the member with the opportunity to object to the disclosure, and the member does not express an objection; or
 - 3. Reasonably infers from the circumstances, based the exercise of professional judgment, that the member does not object to the disclosure.
 - B. In cases where the member is not present, or the opportunity for the member to agree or object to the use or disclosure cannot practicably be provided because of the member's incapacity or an emergency circumstance, DCC determines, in the exercise of professional judgment, whether the disclosure is in the best interests of the member and, if so, discloses only the PHI that is directly relevant to the person's involvement with the member's health care.

- VII. In an emergency situation, DCC are permitted to disclose limited PHI in order to notify, or assist in the notification of, a family member, a personal representative of the member, or another person responsible for the member's care regarding the member's location, general condition, or death.
- VIII. DCC staff makes a reasonable effort to verify the identity and authority of persons requesting PHI before disclosing PHI to them (see *Verification*).
- IX. DCC make a reasonable effort to limit the use and disclosure of PHI to the minimum necessary to accomplish the intended purpose of the use, request, or disclosure (see *Minimum Necessary Uses and Disclosures of PHI*).
 - A. For *use*, DCC make reasonable efforts to limit the access of employees or classes of employees to the category of PHI for which access is needed to carry out their duties and to the conditions appropriate for such access.
 - B. For *routine requests and disclosures*, DCC implement policies and procedures that limit the PHI requests or disclosed to the amount reasonably necessary to achieve the purpose of the request or disclosure.
 - C. For *non-routine requests and disclosures*, DCC determine the minimum necessary for each request or disclosure by reviewing the proposed disclosure against a series of criteria designed to limit the PHI disclosed accordingly.
- X. DCC provide guidelines for safeguarding PHI during oral and written transmissions (see *Oral and Written Transmission of PHI*).
- XI. DCC acknowledge the following member rights:
 - A. The right to request privacy protection of their PHI. This means members may request restriction on certain uses and disclosures of their PHI, including DCC's uses or discloses of PHI for treatment, payment, or health care operations (see *Right to Request Privacy Protection of PHI*).
 - B. Members may request confidential communications such that DCC will send correspondence containing PHI by alternative means or to an alternate location (see *Right to Request Privacy Protection of PHI*).
 - C. The right to request access to PHI maintained by and DCC in the designated record set, including inspecting and obtaining copies of it, for as long as the PHI is maintained by DCC in the designated record set (see *Member Right to Request Access to PHI*).
 - D. The right to request that DCC amend incomplete or incorrect PHI about the member contained in the designated record set, for as long as the PHI is maintained by DCC in the designated record set (see *Member Right to Request Amendment of PHI*).

- E. The right to request an accounting of disclosures of PHI made by DCC for up to six years, with some exceptions (see *Member Right to Request an Accounting of Disclosures of PHI*).
- XII. DCC may use or disclose PHI for research purposes with proper Authorization from the member or a waiver from an IRB or Privacy Board (see the *Research* policy).
- XIII. DCC may use and disclose health information that meets the HIPAA standards for de-identification, and is therefore not considered PHI (see *Limited Data Set and De-identification of PHI*). For information to be considered de-identified, staff remove the 18 items identified in the *Limited Data Set & De-identification of PHI* policy.
- XIV. DCC disclose PHI when required by the Secretary of the Department of Health and Human Services (HHS) to investigate their compliance with HIPAA, or by state regulatory bodies to investigate their compliance with applicable statutes and regulations as state law permits.
- XV. DCC do not use PHI for fundraising, marketing, or underwriting purposes (see *Uses and Disclosures for Marketing, Fundraising, and Underwriting*).
- XVI. DCC may disclose PHI to business associates and allow business associates to create or receive PHI on their behalf. DCC obtain satisfactory assurance that the business associates will appropriately safeguard the information in the form of a Business Associate Agreement.
- XVII. Except concerning suspected abuse, neglect, or endangerment, DCC treat a Personal Representative of the member as the member for all purposes related to PHI (see *Member Representation*).
- DCC follows applicable laws when determining whether a person has authority to act on behalf of a member who is an adult or an emancipated minor in making decisions related to health care, and treats PHI in accordance with such laws.
- XVIII. Disclosures by whistleblowers and workforce member crime victims are not considered violations of privacy standards under certain circumstances.
- XIX. DCC mitigate, to the extent practicable, any harmful effect that is known to Partners in Recovery of a use or disclosure of PHI in violation of their Policies and procedures, or those of a Business Associate (see *Unauthorized Uses & Disclosures of PHI*).
- XX. DCC do not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against members who exercise their rights related to privacy.
- XXI. DCC apply appropriate sanctions against employees who fail to comply with their privacy policies and procedures (see *HR: Termination Policy*).

Associated Partners in Recovery Direct Care Clinic Forms & Attachments

Authorization to Use and Disclose PHI Form

#