

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: Authorization to Use and Disclose Protected Health Information (PHI)

Policy Number: REC - 0012

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

Date

Cross Reference(s)

Verification; Notice of Privacy Practices; Minimum Necessary Uses and Disclosures of Protected Health Information (PHI); Record Retention Transport and Destruction; Research; Oral and Written Transmission of Protected Health Information (PHI); Uses and Disclosures of Protected Health Information (PHI) for Treatment, Payment, and Healthcare Operations.

Policy Statement

Partners in Recovery and Direct Care Clinics (DCC) do not use or disclose protected health information (PHI) for purposes other than payment, treatment or health care operations without valid authorization from the member, unless permitted or required to do so by law.

Proprietary

Partners in Recovery Direct Care Clinics (DCC)

Purpose

The purpose of this policy is to provide guidelines for DCC to obtain a member's written authorization to use and disclose PHI and the process for doing so.

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. Except as otherwise permitted or required by law, DCC does not use or disclose a member's PHI without first obtaining a valid *Authorization to Use and Disclose Protected Health Information (AUD)* form from the member.
 - A. DCC use a Partners in Recovery *AUD* form consistent with applicable federal regulations which has been customized to a 4th grade reading level and is also available in Spanish.
 - B. A valid *AUD* form may contain additional elements or information provided that such additional terms are not inconsistent with, and do not conflict with, the existing items.
 - C. If presented with a written authorization form other than Partners in Recovery standard *AUD* form, prior approval must be obtained from the Compliance Department before any PHI is used or disclosed pursuant to such form.
- II. DCC will obtain a completed *AUD* form prior to using or disclosing PHI for purposes other than treatment, payment, or health care operations unless the use or disclosure is otherwise permitted or required by law. In some instances, Partners in Recovery obtains and/or requires an *AUD* form for activities that qualify as treatment, payment, or health care operations.
 - A. A valid *AUD* form is obtained before disclosing information about the member's treatment or services for substance abuse, in accordance with the federal substance abuse confidentiality regulations at 42 CFR Part 2. The member's written authorization is not required in only 4 limited situations:
 1. Medical emergencies;
 2. Research activities;
 3. Audit and evaluation activities; and

4. As authorized by a court order.
- B. There are also 4 exceptions for certain circumstances in which the federal substance abuse confidentiality regulations do not apply:
1. Crimes on program premises or against program personnel;
 2. Reporting suspected abuse or neglect;
 3. Communications within a program or between a program and an entity having direct administrative control over the program; and
 4. Communications between a program and a qualified service organization.
 - Any disclosure of information regarding a member's substance abuse treatment or services must be accompanied by the following statement: *"This information has been disclosed to you from records that may be protected by federal confidentiality rules (42 CFR Part 2) and may also be protected by state laws regarding confidentiality of patient records. These rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient."*

III. General guidelines for disclosing PHI pursuant to an *AUD*

- A. When DCC obtains or receives an *AUD* form for the use or disclosure of PHI, such use or disclosure must be consistent with the terms and conditions set forth in the form.
1. The type of information disclosed pursuant to an *AUD* form is determined by the specific description given on the form, and is limited to this type of information only. For instance, if the form is filled in to indicate disclosure of "dates of service and providers seen," this is the only type of PHI we are authorized to disclose, and we would not disclose any information on the type of services rendered, etc.
 2. The extent or scope of the information disclosed pursuant to an *AUD* form is determined by the purpose as outlined on the form, and is limited to this information only. For instance, if the form is filled in to indicate "to resolve my appeal," then we would only disclose PHI pertinent to the service(s) under appeal.
- B. Prior to disclosing PHI pursuant to an *AUD* form, DCC staff checks the form for completion of the required elements listed below. As set forth in Standard V (D) below, the *AUD* form is preprinted with the stipulation of the member's right to revoke their authorization at any time. If any of the following required elements are missing, the

form is not valid and any disclosure pursuant to the form would constitute a breach. Have the member correct the form accordingly.

1. A description of the information to be used or disclosed that identifies the information in a specific and meaningful way.
 2. The name or other specific identification of the person or class of persons authorized to make the disclosure. This should indicate Partners in Recovery or the appropriate DCC entity name, in some fashion.
 3. The name or other specific identification of the person or class of persons to whom the information may be disclosed.
 4. A description of the purpose of the disclosure. If the disclosure is being made at the request of the member, or if the member elects not to provide a statement of the purpose, the purpose section may read, "at the member's request."
 5. An expiration date or expiration event that relates to the individual or to the purpose of the disclosure. Make sure the form will still be in effect on the date of planned disclosure (i.e., the expiration date or event has not passed/occurred).
 6. The signature of the individual and the date.
 7. The bracketed information in Section 7 must be customized for the particular Partners in Recovery entity.
- C. The Partners in Recovery AUD form contains all required statements required under HIPAA to place the member on notice of certain specified rights.
- IV. An *AUD* form is invalid if it has any of the following defects:
- A. The expiration date has passed or the expiration event (as identified on the form) is known by DCC to have already occurred.
 - B. The *AUD* form has not been filled out completely and correctly.
 - C. The *AUD* form is known by DCC to have been revoked.
 - D. The *AUD* form is combined with any other document to create a compound authorization.
 - E. The *AUD* has been provided as a condition to the provision of treatment, payment, enrollment, or eligibility for services/benefits.
 - F. UPC or DCC knows that material information in the *AUD* form is false.
- V. Other important guidelines

- A. For any use or disclosure of psychotherapy notes, which should be exceedingly rare, a valid *AUD* form must always be obtained.
- B. DCC do not make it a condition of treatment, payment, enrollment, or eligibility that a member sign an *AUD* form to use or disclose PHI.
- D. A member may revoke authorization at any time if this request is made to DCC in writing. Revocation will not include action that DCC has taken based on a previous authorization.
- E. DCC documents the presence of an *AUD* form in the clinical system, and retains all signed *AUD* forms for at least 6 years or longer if required by state law.
- F. The member has a right to receive a signed copy of the *AUD* form. The *AUD* form directs the member to retain a copy, if he/she is sending a signed copy to Partners in Recovery and also informs the member how to request a copy from us.
- G. If the *AUD* is signed by a personal representative of the member, they must provide a description of their authority to act on behalf of the member in making decisions related to healthcare. DCC may request a copy of the relevant legal documentation granting such authority.
 - For information regarding the member's substance abuse treatment or services, and the member is a minor: if parental consent is required before the minor may obtain the substance abuse treatment or services, both the minor and the parent(s) must sign the *AUD* form. However, if the minor has the legal capacity under state law to obtain the substance abuse treatment or services, only the minor may authorize disclosure and sign the *AUD* form.

VI. Documentation/Record Retention

- A. Copies of all written or electronic communications or forms are maintained in DCC designated record set.
- B. All statements supporting any action or activity identified in this policy that require documentation are documented in DCC designated record set.

Associated Partners in Recovery Direct Care Clinic Forms & Attachments

Authorization to Use and Disclose Protected Health Information Form--English version

Authorization to Use or Disclose Protected Health Information Form –Spanish version

Authorization to Use or Disclose Protected Health Information Form Instructions

Authorization to Use or Disclose Protected Health Information Form FAQ's

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