

Privacy Practices and Client Records

Consent to Release for Medical/Treatment/Therapy Information, Photograph, Tape Recording and Audio Recording

Purpose:

To identify the procedures used to document the disclosure of client information.

Policy:

A signed Release of Information must be obtained from an individual or an individual's legal representative prior to using or sharing the individual's confidential information for the provision of services, treatment, payment, or health care operations, unless otherwise permitted or required by law.

OHL is committed to protecting the privacy and confidentiality of an individual's case records and medical records. Where an individual's information is to be used or disclosed for purposes other than services, treatment, payment or health care operations, OHL will obtain a signed written authorization from the individual or the individual's legal representative, unless such use or disclosure is otherwise permitted by law.

Authorizing OHL to request to share information:

In the course of providing services to a client, OHL staff may deem it necessary to obtain or share information regarding services provided to the client. A copy of the signed permission is to be maintained in the client's file. The client will receive a copy of their records if requested by the client.

The consent to release must be completely filled out before it may be signed, including name, address and phone numbers for all parties involved.

The consent must have an expiration date of no longer than 6 months.

The consent must provide very specifically the exact information which is to be shared or received.

No blank or partially filled out consents must ever be left in the client's chart.

Having a client sign a blank authorization is strictly against agency policy.

Documentation and Retention of Authorization:

Each authorization shall be maintained in the individual's case record for a period of not less than six (6) years from the date of signature or from the date in which the authorization was last in effect, whichever is later.

Psychotherapy Notes:

OHL may not release psychotherapy notes as part of normal treatment and business operations without a specific and properly formatted consent to release. "Psychotherapy notes" means notes

recorded (in any medium) by a provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or group, joint or family session. Psychotherapy notes exclude medication prescription and monitoring, counseling session start and stop times, the modalities and frequency of treatment, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date. It is the explicit policy of OHL that at no time are staff to create and/or maintain client and/or treatment information outside of the official case record. Creation and/or maintenance of such records or notes outside of the client's official case record can subject the staff member to the Agency's Sanction Policy, up to and including termination from employment.

Photograph, Tape Recording and Audio Recording all require a written consent.

Staff must obtain the client's written permission to be taped, recorded or photographed and this consent must be in the client's chart. For children on site, the guardian must give written consent for the child to be recorded, taped or photographed; if the child is able, the child must also give his/her consent as well.

Withdrawal of Authorization

In the event an individual desires to withdraw his/her consent for services and the use and sharing of their confidential information, the individual must do so in writing. Such written revocation must be documented in the individual's case record. Upon receipt of a written withdrawal or permission, OHL may no longer use or disclose an individual's confidential information pursuant to the authorization, unless OHL has already taken action in reliance upon the authorization or for billing purposes.

OHL staff must explain the consequence of the withdrawal to the client. The staff may assist the client with completing the "Withdrawal of Consent to Share PHI" form. Once the client signs the form, a copy is placed in the client's case record. A copy of the Withdrawal of Consent form is also given to the client for his/her records.

Client/Employee Confidentiality

All employees maintain and respect the confidentiality of all clients and employees served by our agency. To this end, all employees will not discuss privileged, confidential, or medical information regarding clients with any unauthorized personnel. Staff will refrain from discussing client/employee information in open settings i.e., lobbies, break rooms, halls, cafeterias, elevators, or any other common areas. Staff members are never to discuss clients outside of the work setting or for any reason other than work-related issues. Violations of client confidentiality will result in disciplinary action including and up to termination.

Odyssey House will comply with HIPAA guidelines for client confidentiality. All client records are to be kept in a secure area. Access to client files is limited to the administrative program staff, employees that are designated to provide services to the individual, and agency staff responsible for data management (e.g., quality assurance, client tracking).

Client Record Content

Purpose:

To identify procedures used to identify information necessary for delivering and monitoring services, while protecting the right to confidentiality of OHL clients.

Policy:

It is the policy of OHL to maintain for each individual client, family unit, or group receiving service, a record of all essential information deemed necessary to provide appropriate services, protect the agency, and comply with all federal, state, and local laws.

Procedure:

- All client records shall contain the following basic, essential information in a comprehensive and useful form to enable OHL to provide services in a responsive manner consistent with risk management procedures.
 - Identifying client information (biographical data)
 - Reason for requesting or being referred for services
 - Plan of service
 - Record of all services provided to the client by OHL
- In addition to the client's basic information, all OHL records contain the following additional information when necessary and appropriate to services provided:
 - Medical, psychological, or psychosocial information;
 - Legal information;
 - Documentation of all disclosures, corrections, and amendments;
 - Financial information;
 - Any additional necessary documentation relevant to the delivery of services
- All OHL client records are kept up-to-date in the following manner:
 - All activities with the client are recorded from the point of intake through termination by the person providing service. This includes disclosure documents.
 - Recording of progress notes will be completed within 72 hours of client contact.
 - Reviews are to be completed on a quarterly basis.
 - All record entries for professional or clinical services are completed, signed, and dated by the person who provided the service.
- All entries made in OHL records are limited to specific, factual information pertinent to the type of service provided and client needs presented.
- Each agency division has clearly written procedures to guide personnel with regard to record content. These guidelines are easily accessible to staff and are program specific when required.

- Records are systematically screened by the agency in the following way:
 - Persons screening the records are knowledgeable in both clinical and risk management areas;
 - Records are screened for appropriate information and content at various points throughout service and at closing; and
 - Record screening procedures are determined by Program Supervisors in accordance with:
 - Services provided
 - Number of clients serviced
 - Length of treatment
 - Agency policies and procedures
 - Staff licensure requirements
 - Records selected for screening are chosen by random selection.
 - Quarterly record reviews are chosen by random selection.

Confidentiality and Privacy Protections (HIPAA)

Policy:

It is the policy of OHL to notify all clients of HIPAA guidelines prior to admission to any OHL services.

Procedure:

All clients prior to admission will be notified of the following:

Notice of Information Practice Health Insurance Portability and Accountability Act Privacy Notice

- **This notice describes how your health information may be used and disclosed and how you can get access to this information. Please review it carefully.**

About this notice

In this Privacy Notice, “Odyssey House Louisiana” or “OHL” means all participating programs in the civil parishes served.

Timely, accurate, and complete health information (this includes information that we compile in your client record) to serve you such as your name, address, phone number, Social Security number, diagnoses (when applicable) and treatment records, must be collected, maintained, and made available to members of an individual’s service team so that members of the team can accurately serve you. Most clients understand and have no objections to this use of their information.

On the other hand, you may not be aware of the fact that your health information may also be used as:

- A legal document describing the care rendered such as a client grievance
- Verification of services for which an individual or third-party payer is billed
- A tool in evaluating the competence and appropriateness of care for Continuous Quality Improvement (CQI).
- Training service professionals in their field or CQI activities
- A source of data for research
- A source of information for tracking disease so that public health officials can manage and improve the health of the nation
- A source of data for facility planning and marketing
- Conducting accreditation, certification, and licensing credentialing activities
- Engaging in business management or the general administration of the agency

Although clients trust their service providers to maintain the privacy of their health information, they are often skeptical about the security of their information when it is computerized or disclosed to others. Increasingly, clients want to be informed about what information is collected and to have some control over how their information is used.

With this in mind, the federal government has passed legislation requiring that we as a service provider furnish you with our **Notice of Information Practices**.

Understanding Your Case Record/Information

Each time OHL provides a service, additions are made to your client record (private health information). This information serves as:

- Basis for planning your care, services and treatment
- Means of communication among the many health and social service professionals who contribute to your care
- Legal documentation describing the care you received
- Means by which you or a third-party payer can verify that services billed were accurately provided
- A tool in educating health care professionals
- A source of information for public health officials charged with improving the health of the nation
- A tool by which we can assess and continually work to improve the care we render and the outcomes we achieve

Understanding what is in your record and how your health information is used helps you to:

- Ensure its accuracy
- Better understand who, what, when, where and why others may access your information
- Make more informed decisions when authorizing disclosure to others

Your Information Rights

Although your case record is the physical property of the healthcare practitioner or facility that compiled it, the information belongs to you.

By law you have the right to:

- Request a restriction on certain uses and disclosures of your information
- Obtain a paper copy of the notice of information practices upon request
- Inspect and obtain a copy of your case record
- Amend your case record
- Obtain an accounting of disclosures of your health information
- Request communications of your health information by alternative means or at alternative locations
- Revoke your authorization to use or disclose health information except to the extent that the action has already been taken

The Responsibilities of Odyssey House Louisiana

This organization is required to:

- Maintain the privacy of your health information
- Provide you with a notice as to our legal duties and privacy practices with respect to the information we collect and maintain about you
- Abide by the terms of the notice
- Notify you if we are unable to agree to a request restriction
- Accommodate reasonable requests you may have to communicate health information by alternative means or at alternative locations

We reserve the right to change our practices and to make the new provisions effective for all protected health information we maintain. Should our health information practices change, we will mail a revised notice to the address you have provided to us within 30 days.

We will not use or disclose your health information without your authorization, except as described in this notice.

For more information or to report a problem:

If you feel that your privacy rights have been violated, you may make a complaint in writing directly to the OHL Human Resource Department.

You may also file a complaint by contacting the following:

- The U. S. Secretary of Health and Human Services by mail at 200 Independence Ave. S. W. Washington, DC 20201, or by telephone at 1-800-368-1019
- Department of Health and Human Services

There will be no retaliation for filing a complaint.

Examples of how we will disclose your information for services, treatment, payment, and agency operations.

1. We will use your health information for treatment.

Information obtained by your service provider will be recorded in your case record and used to determine the course of treatment and services that should work best for you. When a team of individuals are involved in your service delivery, with your written permission, we will share certain agreed-upon components of your record. This is to ensure that the team can best meet your needs.

2. We will use your health information for payment.

A bill may be sent to you or a third-party payer. The information on or accompanying the bill may include information that identifies you, as well as your diagnosis (if applicable), procedures, and supplies used.

3. Funders

The agency may use or disclose health information in order to receive funding for services. For example, the agency may provide health information directly to funders as part of a contractual agreement.

4. **We will use your health information for Continuous Quality Improvement agency operations.**

Members of the staff who oversee quality of operations may use information in your case record to assess the care and outcomes in your case and others like it. This information will then be used in an effort to improve the quality and effectiveness of the services we provide. In addition, supervisors of your service provider may also review your case record as part of the supervision process of the agency. We want to ensure that best practice occurs in service delivery.

5. **There will be some additional ways in which your information may be disclosed.**

Business Associates: There are some services provided in our organization through contracts with business associates. Examples include janitorial services, vendors who maintain copy machines, our auditors, our accrediting body, and other contract monitoring bodies. When these services are contracted, we may disclose your health information to our business associate so that they can perform the job we have asked them to do and bill you or your third-party payer for services rendered, or they may have access to your health information due to the proximity of health information to their work. To protect your health information, however, we require the business associate to appropriately safeguard your information through a business associate agreement.

Notification and Communication with the Family: Staff will not discuss your case with any outside person including other family members over the age of eighteen who are participating in our program services. However, should we fear for your personal safety, we may use or disclose information to notify or assist in notifying a family member, personal representative, or other person responsible for your care, of your location and general condition.

Marketing: We may contact you to provide reminders or information about your treatment alternatives or other health-related benefits and services that may be of interest to you. We may also send you information about our agency, such as newsletters, etc.

Fund Raising: We may contact you as part of a fund-raising effort.

Public Health: As required by law, we may disclose your health information to public health or legal authorities charged with preventing or controlling disease, injury or disability.

Government Programs Providing Public Benefits: An agency may disclose health information about you to another government agency offering public benefits if:

- the information relates to whether you qualify for or are signed-up for a Medicaid or the Children's Health Insurance Program and the law requires or specifically allows the disclosure; or

- the other government agency follows the same privacy protections we do, has programs that serve similar types of people, and the disclosure is needed to coordinate or improve your service.

Correctional Institution: Should you be an inmate of a correctional institution, we may disclose to the institution or agents thereof health information necessary for your health and the health and safety of other individuals.

Law Enforcement: We may disclose your health information for law enforcement purposes as required by law or in response to a valid subpoena. In Louisiana, agency staff does not usually have the right of unconditional privileged communication. Therefore, staff may be required to testify and our records be subpoenaed; exceptions would be lawyers, medical doctors and priests under the seal of the confessional.

Abuse and Neglect:

- If we discover that a child (under the age of eighteen) disabled (mentally or physically) or elderly family member (65 or older), has been physically, emotionally, or sexually abused, we are required by law to report this to the Louisiana Department of Child Protective Services or Elderly Protective Services.
- If we learn that a service provider, such as a physician or counselor, has been sexually inappropriate with a client, we are required by law to report the activity to the District Attorney and to the agency that licensed such healthcare provider.

Danger to Self or Others: If, in our professional opinion, we believe that someone in the family poses a clear and immediate danger to self or others, we break confidentiality and notify the proper authorities.

Outside Monitoring or Evaluation: Federal law makes provision for your health information to be released to an appropriate health oversight agency, public health authority or attorney, provided that a workforce member or business associate believed in good faith that we have engaged in unlawful conduct or have otherwise violated professional or clinical standards and are potentially endangering one or more patients, workers or the public.

Any use of your protected health information outside of this notice will not occur without your written permission.

Confidentiality of Client Records

Rationale:

In conjunction with the requirements mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), OHL has put in place policies regarding confidential client information, including Protected Health Information (PHI).

Procedure:

All supervisors are responsible for enforcing these policies. Employees who violate these policies are subject to discipline up to and including termination from employment.

Questions concerning this policy can be addressed to the OHL Human Resource Department.

Policy:

OHL may not use or disclose client information, including PHI, except as permitted or required. OHL is required by HIPAA regulation to have a notice in public view and available to clients that states that OHL may not use or disclose PHI in a manner inconsistent with established regulation and policy. Reference to this policy is to be included on all release of information forms in use by OHL.

All employees are required to sign the OHL Confidentiality Agreement form at Employee Orientation. The Confidentiality Agreement is maintained at the program site.

De-Identifying Information

Purpose:

To set forth OHL policy regarding the use or disclosure of de-identified health information and to identify the procedures by which health information is de-identified.

Standard:

A client's health information is "de-identified" if it does not identify the client or if OHL has no reasonable basis to believe that the information can be used to identify the client.

Policy:

OHL may use the client's health information to create de-identified information or disclose a client's health information to a business associate for the purpose of creating de-identified information. Information that is de-identified in accordance with this policy is not subject to OHL privacy and security protections afforded to individually identifiable health information, unless the de-identified information is re-identified.

Procedure:

1. OHL may determine that a client's health information is de-identified by using the following method:
 - a. A client's health information is de-identified if the following 18 identifiers are removed from the client's health information, including identifiers that pertain to the client or the client's relatives, household members, or employer:
 - names
 - addresses (including OHL addresses if OHL constitutes the client's "home")
 - telephone numbers
 - fax numbers
 - e-mail addresses
 - Social Security numbers
 - medical record numbers
 - health plan beneficiary numbers
 - any and all account numbers
 - any certificate/license numbers
 - all elements of dates, with the exception of the year, including birth date, intake date, service termination date, or date of death (all elements of date, including year, must be removed for individuals over the age of 89)
 - vehicle identifiers
 - devise identifiers
 - web universal resource locaters (URLs)
 - internet protocol (IP), address numbers

- biometric identifiers, including finger and voice prints (identifiers such as age, race, gender, and ethnicity do not have to be removed; however, if the identifier is so unique to the client that it could be reasonably used to identify the client, then the identifier should be removed)
 - full face photo image(s)
 - any other unique identifying number or code
- b. OHL should not have actual knowledge that the information, alone or in conjunction with other information, could be used to identify the client who is the subject of information.
- c. If a client who is the subject of the information is age 89 or older, all identifiers relating to the client's age (including the year of the client's birth), must be removed.
- d. Prior to disclosing a client's de-identified information, the staff in charge of overseeing HIPAA requirements shall be responsible for:
- determining that the information has been de-identified in accordance with one of the methods specified above;
 - verifying that the process of de-identification has been documented; and
 - confirming that the information cannot be used alone or in combination with other information to identify the client
- e. Any code or other means of record identification designed to enable re-identification of de-identified information may not be disclosed, except as otherwise permitted by OHL's policies or as required by law.
- f. In the event that the de-identified information becomes re-identified, OHL policies and procedures regarding the uses of disclosures of individually identifiable health information will govern.

Faxing of Confidential Information

Rationale:

Often OHL personnel or organizations with which OHL does business will transmit or receive confidential information by fax rather than by a slower method, such as mail. Personnel could, in error, send faxes to unauthorized recipients; faxes could be intercepted or lost in transmission; or OHL may not receive a fax intended for OHL because of one of these reasons. Thus the potential for breach of client confidentiality exists every time someone faxes such information.

Policy:

All personnel must strictly observe the following standards relating to the facsimile communications of confidential client information:

1. OHL, its officers, agents and employees will send confidential information by fax only when the original record or mail delivered copies will not meet the needs of immediate client care.
2. Personnel may transmit confidential records by fax only when urgently needed for client care required by a third party for ongoing certification of payment for a hospitalized client.
3. Personnel must limit the information transmitted to only that information which is necessary to meet the requester's needs.
4. Except as authorized by law, a properly completed and signed authorization must be obtained before releasing client information.
5. The cover page accompanying the fax must include the "Fax Confidentiality Notice" and contain no identifying information.
6. Personnel must make reasonable efforts to ensure that they send the fax to the correct destination.
7. Personnel must, for a new recipient, verify the fax number before sending the fax and verify the recipient's authority to receive the confidential information.
8. Fax machines must be in secure areas, with limited access.
9. Each department is responsible for ensuring that incoming faxes are properly handled, not left sitting on or near the machine, and are distributed to the proper recipient expeditiously while protecting confidentiality during the distribution, as by sealing the fax in an envelope.
10. Personnel must report any misdirected faxes to the Human Resource Department.
11. Users must immediately report violations of this policy to their program, department, or site head and the HR department.

Minimum Necessary Disclosure

Purpose:

To set forth the policy of OHL policy and procedures regarding the minimum necessary requirements for use and disclosure of Protected Health Information (PHI).

Policy:

It is the policy of OHL to make reasonable efforts based upon its professional judgment to use, disclose, and/or request only that PHI which is minimally necessary to accomplish the purpose of the use, disclosure, and/or request.

When sending client records, OHL will only send those records that are the property of OHL. Records that are in the client chart that were obtained from another agency (medical/psychiatric/criminal/OCS records from another provider) are considered the property of that agency and are not to be sent or given regardless of who requests that information. If the request is for such records, staff will direct the requestor to contact those appropriate agencies.

Procedure:

1. **Uses of PHI and Role-Based Access:** OHL limits access of PHI to:
 - those employees directly working on a case and their supervisor
 - those employees directly involved in the management of specific PHI such as the program secretaries and intake workers
 - those employees directly involved in CQI activities (with a signed confidentiality agreement)
2. **Disclosures and Requests:**
 - a. For any type of disclosure or request for disclosure that is made on a routine and reoccurring basis, OHL has developed standard operating protocols (SOPs) that limit the PHI, or the requests for disclosure, to that which is reasonably necessary to achieve the purpose of the disclosure or request. Such SOPs will identify the types of PHI to be disclosed, the types of persons to receive the PHI, and the conditions that would apply to such types of disclosures. OHL will make reasonable accommodations on where and how PHI is communicated.
 - b. For any type of disclosure or request for disclosure that is NOT made on a routine and reoccurring basis, OHL will develop criteria, on a departmental basis, which will be used by the CQI coordinator to evaluate such non-routine disclosure or request to verify that the PHI disclosed or requested is only that amount which is necessary to accomplish the purpose of the disclosure or request.
 - c. Disclosures made to public officials when the information is requested is the minimum necessary for the stated purpose(s).

- d. Disclosures may be made when the information is requested by another entity covered under HIPAA guidelines.
- e. Disclosures may be made when the information is requested by a professional who is a member of the OHL workforce or is a business associate providing professional services to OHL, when information requested is the minimum necessary for the stated purpose(s).
- f. Disclosures may be made when the information is requested for research purposes, provided the disclosure is in compliance with the OHL research policy.

3. Exceptions to the Minimum Necessary Requirement:

The minimum necessary requirements will not apply in the following instances:

- disclosures or requests by OHL for purposes of service treatment
- uses or disclosures made to the individual who is the subject of PHI
- uses or disclosures made pursuant to a valid authorization initiated by the individual
- disclosures to the secretary of the Department of Health and Human Services (HHS)
- uses or disclosures that are required by law
- uses or disclosures required for compliance under HIPAA, including compliance with the implementation specifications for conducting standard data transactions

4. Disclosure of an Individual's Entire Record:

OHL will not disclose an individual's entire record unless such disclosure is specifically justified as the amount that is reasonably necessary to accomplish the intended purpose or one of the exceptions noted above applies.

5. Disclosures of Confidential Information:

Individuals seeking copies of or to view their confidential information may request this information from the Administrator, Director or site supervisor of the program in which they received the service, or from the OHL central offices if they seek confidential information after having received services from multiple programs. Administrative personnel will review and respond to the request for confidential information. Either the "Request for Access to Confidential Information – Current Client" or "Request for Access to Confidential Information – Former Client" form must be used when the client is requesting such information.

6. Reliance Upon a Request for Disclosure:

OHL may rely on a request for disclosure as the minimum necessary for the stated purposes when (Please see related policy in Identity Verification of Persons Requesting PHI):

- making permitted disclosures to public officials, if the public official represents that the information is the minimum necessary for the stated purpose(s);
- the information is requested by another covered entity;
- the information is requested by a professional who is a member of the OHL workforce or is a business associate of OHL for the purposes of providing professional services to OHL, if the professional represents that the information requested is the minimum necessary for the stated purpose(s); or

- the information is requested for research purposes and the person requesting the information has provided documentation or representations to OHL verifying such intended purpose.

7. Uses and Disclosures Without Consent:

OHL may use or disclose confidential information to carry out services, treatment, payment, or health operations:

- when OHL has an indirect treatment relationship with the individual
- when OHL has created or received the confidential information in the course of providing services to the individual who is an inmate (or under certain circumstances)
- in emergency situations, if OHL attempts to obtain such consent as soon as reasonably practical after the delivery of emergency services or treatment
- if OHL is required by law to serve the individual, and OHL attempts to obtain such consent but is unable to obtain such consent
- if OHL attempts to obtain consent from the individual but is unable to do so due to substantial barriers in communication with the individual, and staff determine that. In the exercise of professional judgment, the individual's consent to receive services/treatment is clearly inferred from the circumstances.

8. Disclosure of Confidential Information to Business Associates:

OHL may disclose confidential information to a Business Associate and may allow a Business Associate to create or receive confidential information on its behalf, if OHL obtains satisfactory assurance the Business Associate will appropriately safeguard information as documented in a Business Associate Agreement.

9. Disclosures by Workforce Members who are Victims of a Crime:

- OHL is not considered to have violated the requirements of this policy if a member of its workforce who is the victim of a criminal act discloses confidential information or PHI to a law enforcement official, provided that:
- the information disclosed is about the suspected perpetrator of the criminal act; and
 - the information disclosed is limited to the information listed in this policy as minimum necessary information

Withdrawal of Authorization (HIPAA)

Policy:

In the event an individual desires to withdraw his/her consent for services and the use and sharing of their confidential information, the individual must do so in writing. Such written revocation must be documented in the individual's case record. Upon receipt of a written withdrawal of permission, OHL may no longer use or disclose an individual's confidential information pursuant to the authorization, unless OHL has already taken action in reliance upon the authorization. This is the same policy for photographs, audio and video taping.

Procedure:

OHL staff must explain the consequence of the withdrawal to the client. The staff may assist the client with completing the "Withdrawal of Consent to Share PHI" form. Once the client signs the form, a copy is placed in the client's case record. A copy of the Withdrawal of Consent form is also given to the client for his/her records.