

Informed Consent & HIPAA

E-Learning

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Introduction

There are certain state regulations and federal laws that we follow in working with people with developmental disabilities.. These regulations and laws protect their rights. This course will give you an overview so that you can make sure rights are protected through the Informed Consent & Human Rights Committee and HIPAA regulations for written and electronic information.

Print these items: [HIPAA 1](#), [HIPAA 2](#), [Informed Consent](#)

[Read them for more information](#)

Informed Consent Committee

Informed Consent And Human Rights Committee

- **Provides consent for consumers unable to give informed consent who have no one authorized to give consent on their behalf.**
- **The committee meets on a monthly basis and consists of Heritage Centers Board Members, Employees, Parent/Advocates and an External Psychologist/Behavioral Specialist**

- If the team is planning on putting a restriction in place for an individual we serve, someone, probably the MSC, needs to get informed consent before the team can implement the restriction.
- This means having the individual (if capable), guardian, or family member sign the consent form. If the individual is not capable and has no one to sign, it is brought to the committee for consent.
- The committee will look at the plan and ask a lot of questions to determine whether the restriction is necessary before giving consent.
 - For example, they'll want to make sure that the restriction is in the person's best interest, that it's necessary to protect the health, safety, &/or well-being, and that less restrictive measures have been tried and failed. If less restrictive measures haven't been tried, the committee will want you to try something less restrictive first

Responsibilities of the Committee:

The Committee is responsible to review any of the following to determine whether the restriction is necessary for protecting the individual we serve's well-being:

- Medications used for behavior modification - any psychotropic med, meds used to control behavior, anti-depressants, anti-anxiety, etc. (*examples: Risperdal, Lexapro, Seroquel...*)
- Restrictions on use of alcoholic beverages
- Risky activities- sky diving, scuba diving, etc.
 - Any SCIP intervention that restrains a person we serve requires consent. You can always use SCIP if it's necessary, but before it's written into a behavior plan you have to get consent.
 - Helmets
 - Columbia toilet seats
- Capacity to make restitution –

- if an individual damages property he/she has to pay someone for the damage. You can't make a person we serve do this unless it's in a behavior plan, and the plan can't be in place without informed consent.
- Rights restrictions
 - locking pantry, fridge, closet, etc.
 - Unnatural consequences to behavior (for example, not being allowed to go out if they don't take a shower) as opposed to natural consequences.
 - Time-out
- Involvement in research projects

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Providing Consent- Who is authorized to give consent?

- **The individual, if deemed capable by a psychiatrist or licensed psychologist and is at least 18**
 - Anyone under 18, whether DD or not, is a minor and can't give consent. However, if someone is under 18 but married or has a child, he or she is considered an adult.
- **Court-appointed legal guardian**
- **Involved spouse**
- **Involved adult child**
- **Involved parent**
- **Involved adult family member**
- **Informed Consent/Human Rights Committee**

This listing is in order of whom the courts will first recognize for giving consent.

Objections to Informed Consent - The party who gives consent has the right to withdraw it at any time, or refuse to give it in the first place, but if the team strongly feels that the restriction is necessary (or if it's a doctor's order), the team can apply for a court order to get consent.

[Print the Informed Consent vocabulary and read the handout](#)

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HIPAA

HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT OF 1996 (HIPAA)

- **Individuals who are changing employers or leaving the workforce can not be denied health insurance coverage due to a pre-existing condition;**
- **To provide privacy and confidentiality of individually identifiable health care information;**
- **Fraud and abuse protection for all insurers;**
- **Security of electronic health information (effective April 2005).**

In a nutshell, HIPAA regulations state that no one can give out health information without written consent.

- ❖ You can't give out personal info to anyone who's not authorized to have it.

An individual's doctors, as well as other agencies that provide services to them, are called *covered entities*.

- ❖ This means that Heritage Centers can disclose the individual's health information to those entities without a signed authorization.

All health care providers, and any agencies governed by OMRDD, are required to comply with HIPAA.

HIPAA regulations govern the use and disclosure of a person's health information.

- ❖ Use refers to information that we within Heritage Centers (or staff within any one entity) share when providing services. You don't need authorization to use health information.
- ❖ Disclosure refers to information that is shared between two agencies or entities. You do need authorization to disclose information to a non-covered entity. Some examples of a non-covered entity are the individual's supervisor if they have a job in the community, or their teacher if they go to school.

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[HIPAA Terms handout](#) – print a copy of this for your use.

TERMS

- ❖ Protected Health Information (PHI)- any medical info, or info that could identify the person (name, social security #, address, diagnosis, ...)
- ❖ Treatment, payment, & health care operations (TPO)- the 3 purposes for which you are allowed to use or disclose a person's PHI. Without a signed release, you can only use the info for those 3 purposes: to provide treatment or care to the person, to secure payment for services, or operations (such as quality assessment & improvement, protocol development, case management, training & certification of staff, business development & management, etc.)
- ❖ Notice of privacy practices- You probably had to sign one of these if you've gone to the doctor in the past year or two. It's a notice telling you how the provider uses & discloses your PHI, & your rights

regarding that info. We also have to have one signed for each new individual that comes into the agency.

- ❖ Authorization- a document signed by the patient allowing disclosure of info for a purpose other than TPO, or to a non-covered entity. If info is being disclosed for TPO purposes to a covered entity, a signed authorization is not needed.
- ❖ Accounting of disclosures- a form that an entity must complete whenever they disclose info for purposes other than TPO, & w/out a signed authorization.
- ❖ Minimum necessary- when disclosing info, you only disclose what the entity needs to know in order to do what they need to do.
- ❖ Privacy rights of minors- parents have access to their minor child's info (under age 18), but the provider can use his/her own judgment as to whether or not to share the info (would it be in the child's best interest?)
- ❖ Confidentiality of PHI- keeps medical info out of the hands of those who might use it for commercial advantage, personal gain, or malicious harm.
- ❖ HIV Confidentiality Law- Confidential HIV info is any info indicating that you have had an HIV-related test, have an HIV-related illness or AIDS, or have an HIV-related infection, as well as any info that could identify you as having had a test or being infected with HIV. By NYS law, this info can only be given to those allowed to have it by law, or authorized by you. This info may be used by anyone who needs it to treat you (doctors, hospital staff), to process billing records, or to monitor or evaluate quality of care in the facility. These people cannot disclose the info to anyone not authorized to have it.
- ❖ If a document with individual info on it has to be discarded, it must be shredded, not just thrown in the garbage.
- ❖ When faxing info, double-check the fax number & make sure you're dialing it correctly. It's also a good idea to call first & let the recipient know the fax is coming so they can be standing by the fax machine. If confidential info goes to the wrong place because of a wrong fax number, it violates the confidentiality. Also, be sure to use a fax cover sheet, which has a confidentiality notice at the bottom (copy in trainer materials). If you're receiving a confidential fax, you should be at the fax machine when it comes.
- ❖ Don't talk about individuals we serve in public places, even if you're not using their names. If you have to vent, do it in private.

- ❖ Confidential info is only to be disclosed on a “need to know” basis, meaning for treatment, payment, or operations (TPO).
- ❖ The laws that apply to paper documents also apply to electronic information.
- ❖ Always log off or shut down when you’re not using the computer, to prevent unauthorized parties from opening confidential documents.

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Electronic Passwords

Never share your password. Anyone who’s authorized to use our computers will have their own password & won’t need yours. Don’t write your password anywhere. Memorize it. Using things like your pets’ or kids’ names, your birthday --anything that other people might know—could allow other people to guess your password through trial & error. Change your password every now & then, just in case, and change it if you suspect it’s been stolen.

Security Standards

When you’re hired, your supervisor notifies MIS to give you access only to files that you’ll need (ex: each MSC has rights only to their own caseload). If you leave the agency or get a new position, HR notifies MIS to cut your access to those files.

Never install or download software without approval from MIS, & never disable anti-virus software. No porn, gambling, e-bay, personal transactions. No illegal activity. MIS can check on where you’ve been on the internet, so if you’re doing something you shouldn’t, you can get caught. Also, don’t e-mail confidential info to your home e-mail so you can work from home. This poses the risk that others (your spouse, kids, roommate) could see that information.

Never open an e-mail attachment if:

- ✗ You don’t know the sender
- ✗ You’re not expecting an attachment
- ✗ The attachment looks suspicious in any way
- ✗ It’s not business related. Any personal e-mail attachments need to be opened at home on your own computer.

If you know or suspect any security issues or a problem with an attachment you've opened, report it to your supervisor or MIS right away. The sooner it's taken care of, the less damage will be done.

Accounting of Disclosures

An accounting is required for any disclosures made outside the scope of treatment, payment & operations, and without a signed authorization.

It has to include:

- The date of the disclosure
- The name &, if known, the address of the entity that received the info
- The type of info disclosed
- The purpose of the disclosure

There are some exceptions to this rule, which include:

- Disclosures made to the patient, etc. (the person that the info is about)
- To covered entities (anyone involved in the person's treatment or care)
- To law enforcement officials
- For national security reasons

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Quiz and Evaluation

Print off the [Quiz](#) and the [Evaluation](#).

Complete both and send them to the Training Dept at 2643 Main St. to receive credit for taking this course. If you have additional questions or concerns about this course, feel free to contact the department at 716-833-8603 x301.

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