

## **General Policy F.1**

## **RELEASE OF INFORMATION POLICY**

Catholic Charities has adopted this Release of Information Policy to comply with legal and accreditation standards governing release of treatment information and the draft regulations requirement to protect the security of electronic health information, as well as our duty to protect the confidentiality and integrity of confidential treatment information as required by law, professional ethics, and accreditation requirements.

### **Assumptions**

- ❖ Although consumer treatment records are the “property” of the facility, consumers have a right of access to the information contained in the records.
- ❖ Other than disclosures authorized by law, professional ethics, and accreditation standards, such as for continuity of care, billing, communicable disease reporting, and the like, the facility must obtain consent to release treatment information from the consumer or his or her parent/guardian.
- ❖ For especially sensitive information, such as AIDS/HIV, alcohol and drug abuse prevention and treatment, and the like, consumer consent to disclosure must be *informed*, that is, with knowledge of the risks and benefits of the disclosure.
- ❖ Any disclosure of confidential consumer or other information carries with it the potential for an unauthorized re-disclosure that breaches confidentiality.
- ❖ Catholic Charities incurs costs when releasing consumer information (copying, postage, and so forth) and may charge a reasonable fee to offset those costs.

### **General Principle**

The facility has a legal and ethical responsibility to preserve the privacy and confidentiality of consumer information. Accordingly, all personnel will adhere strictly to this basic principle: prior consent of the consumer is required before release or disclosure of consumer information except where a specific law or regulation or the internal administrative needs of the facility, such as peer review, require or permit such access without consumer consent.

### **Compliance with Laws and Regulations**

These policies and practices shall be consistent with state and federal laws and regulations that contain provisions relating to the release of information from consumer records. The Legal Department, Security Officer, and the Executive Director are responsible for reviewing the laws and regulations to this policy and any new laws and regulations, and amending this policy to comply with changed provisions.

### **Administrative Processes**

Each Catholic Charities program will process requests for information from consumer records in a timely, consistent manner as set forth in this policy.

### **Priorities and Time Frames**

The following priorities and time frames shall apply to release of information requests processed by the each program:

- ❖ Emergency requests involving immediate emergency care of consumer: immediate processing.
- ❖ Priority requests pertaining to current care of consumer: within one workday.
- ❖ Consumer request for access to own record: within three (3) workdays.
- ❖ Subpoenas and depositions: as required.
- ❖ All other requests: within five (5) workdays.

### **Courtesy Notification to Practitioners**

The program will notify the appropriate health care practitioner when any of the following occurs:

- ❖ Consumer or his or her representative requests information from the treatment record.
- ❖ Consumer or representative requests direct access to the complete treatment record.
- ❖ Consumer or representative institutes legal action.

### **Preparation of Response**

Unless the request specifies release of the complete treatment record, the Agency shall release only selected portions of the record. The department shall prepare an appropriate cover letter detailing the items included.

### **Prohibition of Redisclosure**

Unless a law or regulation requires a more specific prohibition on redisclosure (see Appendices for particular types of information, such as AIDS/HIV, alcohol and drug abuse, and other particularly sensitive treatment information), each disclosure outside the facility will contain the following notice:

**The attached treatment information pertaining to [name of consumer] is confidential and legally privileged. Catholic Charities has provided it to [name of recipient] as authorized by the consumer. The recipient may not further disclose the information without the express consent of the consumer or as authorized by law.**

### **Retention of Request**

Each program will retain the original request, the authorization for release of information, and a copy of the cover letter in the consumer's treatment record for the appropriate record retention period for treatment and business-related records.

### **Quality Control**

The Program Director, Privacy Officer or designee shall carry out a routine audit of the release of information at least quarterly, paying particular attention to the following:

- ❖ Validity of authorization.
- ❖ Appropriateness of information abstracted in response to the request.
- ❖ Retention of authorization, request, and transmitting cover letter.
- ❖ Procedures for telephone, electronic, and in-person requests.
- ❖ Compliance with designated priorities and time frames.
- ❖ Maintenance of confidentiality.

The Governance Council shall review this policy and associated procedures with risk management and legal counsel at least every two years.

### **Capacity to Authorize**

Catholic Charities requires a written, signed, current, valid authorization to release treatment information as follows:

<u>Consumer Category</u>	<u>Required Signature</u>
Adult Consumer	The consumer or a duly authorized representative, such as court-appointed guardian or attorney. Proof of authorized representation required (such as notarized power of attorney).

Deceased consumer	Next of kin as stated on admission face sheet (state relationship on authorization) or executor/administrator of estate.
Un-emancipated minor	Parent, next of kin, or legally appointed guardian\attorney (proof of relationship required).
Emancipated minor <sup>1</sup>	Same as adult consumer above.
Psychiatric, drug, alcohol program consumer/clients	Same as adult consumer above, but see Appendix D for special requirements.
AIDS/HIV or other sexually transmitted disease consumer	Same as adult consumer above, but see Appendix E for special requirements.

### **Content and Format of Authorization**

Written authorization must contain detailed, specific information directing the release of consumer information. Authorizations must include the following information:

- ❖ Name and address of the facility.
- ❖ Name of the consumer.
- ❖ Person or organization, including complete address, to whom the information is to be released.
- ❖ Purpose of the disclosure.
- ❖ Signature of the consumer or duly authorized representative.
- ❖ Date signed.
- ❖ Information to be released.
- ❖ Signature of witness.

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<sup>1</sup> State law defines what minors are “emancipated”, that is, able to act as an adult. Typical factors resulting in emancipation are marriage, pregnancy, earning a living as an adult, and having moved out of the family home.

### **Revocation of Authorization**

A consumer may revoke an authorization by providing a written statement to the program personnel. The revocation shall become effective when the program personnel receives it. Releases are valid for 6 months from the date they are signed.

### **Consumer Education**

To facilitate the timely and proper release of information, the facility will provide consumer an explanation of the release of information requirements as part of the admission process.

### **Refusal to Honor Authorization**

Program personnel or others authorized to release information will not honor a consumer authorization when they have a reasonable doubt or question as to the following information:

- ❖ Identity of the person presenting the authorization.
- ❖ Status of the individual as the duly appointed representative of a minor, deceased, or incompetent person.
- ❖ Legal age or status as an emancipated minor.
- ❖ Consumer capacity to understand the meaning of the authorization.
- ❖ Authenticity of the consumer's signature.
- ❖ Current validity of the authorization.

In such situations, the employee shall refer the matter to the Program Director for review and decision.

### **Electronic Records**

The above requirements apply equally to electronic records. No employee shall release electronic records without complying with this policy.