

SUBJECT: HIPAA RIGHT OF A CONSUMER TO REQUEST
RESTRICTION OF USES AND DISCLOSURES OF PHI

EFFECTIVE
DATE: 04-30-10 (replaces 04-01-05)

APPROVED BY:

Reviewed (no changes): 03-31-11 _____

Executive Director

POLICY

It is the policy of McIntosh Trail Community Service Board to provide consumers the right to request restrictions on how the organization will use and disclose protected health information (PHI) about them for treatment, payment and healthcare operations as required by the Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information (Privacy Standards), 45 CFR Parts 160 and 164, and any and all other Federal regulations and interpretive guidelines promulgated thereunder. A determination to restrict uses or disclosures must be made very carefully to ensure the request can be met.

PROCEDURE

Requests for Restrictions and Timely Action:

1. The organization must permit a consumer to request restrictions on the use and disclosure of the consumer's PHI.
2. The request must be in writing and routed to the Privacy Officer. The Privacy Officer and his/her designee are the only individuals who may agree to any such restriction.
3. The organization is not required to act immediately and should investigate its ability to meet the request prior to agreeing to any restriction. The organization does not have to agree to the request for restriction.
4. If the organization agrees to the request for restriction, both the organization and their business associates shall honor the restriction, until the organization or the consumer requesting the restriction terminates the restriction.
5. In case of an emergency treatment situation, the organization is allowed to release PHI to the health care provider and the health care provider will be requested to not further use or disclose the PHI.
6. If the agency agrees to the request for restriction, the clinical record is flagged and the restriction to which the organization and the consumer have mutually agreed is documented in the record.
7. All documentation related to restricting access to PHI must be retained for a minimum of six (6) years.

Denial of Request:

1. The agency may deny any request.
2. The consumer must be notified of the denial.

Terminating a Restriction:

The organization may terminate its agreement to a restriction, if:

1. The consumer agrees to or requests the termination in writing. If the consumer terminates the restriction, the organization may use and disclose PHI as permitted under the Privacy Rule, applicable law and regulations and DBHDD policies.
2. The consumer orally agrees to termination and oral agreement is documented.

If the organization terminates the restriction without the consumer's agreement, it may only terminate the restriction with respect to protected health information that it creates or receives after it informs the consumer of the termination.