

**Policy Number:** 4-1

**Effective Date:** 11/15/19

**Topic:** Protected Health Information (PHI) –Definitions

**Applicable**

**Standards:** 28 PA Code 709.28

**Policy:** CCA and all CCA personnel shall comply with agency, state and federal laws regarding confidentiality of client records and privacy practices. For clarification, the following definitions shall be recognized by CCA and all personnel:

**Definitions:** “Protected Health Information (PHI)” is defined as individually identifiable health information relating to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual or the past, present or future payment, claims adjudication, and other records used to make decisions about an individual.

“Individual” is the person who is the subject of the PHI. The individual is “the client” for CCA purposes.

“Individually Identifiable Health Information” is information that is a subset of health information, including demographic information collected from an individual, and that:

1. is created or received by a health care provider, health plan, employer, or healthcare clearinghouse and;
2. relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual or the past, present or future payment for provision of health care to an individual;
  - a. identifies the individual or;
  - b. there is a reasonable basis to believe that the information can be used to identify the individual.

“Treatment” is the provision of health care or the coordination of health care among health care providers, the referral of a patient from one provider to another, or the coordination of health care or other services among health care providers and third parties authorized by the health plan or the individual. Treatment activities also include the management of healthcare and related services and consultation between providers.

“Health care operations” include conducting quality assessment and improvement activities, reviewing the competence or qualifications and accreditation/licensing of healthcare professionals, engaging in insurance activities related to the renewal of a contract for insurance, evaluating health care professionals, conducting or arranging for medical review and auditing services, and compiling and analyzing information in anticipation of or for use in a civil or criminal legal proceeding.

“Payment” activities include determination of coverage of health care benefits, billing, claims management and medical data processing, review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care or justification of charges and utilization activities including precertification and preauthorization of services.

“Consent” is given by the client at the time of intake and allows CCA to use or disclose PHI for purposes of treatment, payment and health care operations.

“Authorization” is required to release information for any other purpose beyond treatment, payment and health care operations. An authorization is also needed when psychotherapy notes are to be used or disclosed for any purpose, including payment, treatment and health care operations. The authorization and consent do not overlap.

“Disclosure” is the release, transfer or provision of access to, or divulging in any other manner of information outside the entity holding the information.

“Use” is the employment, application, utilization, examination, or analysis of information within an entity that maintains the information.

“Designated Record Set” is a group of records maintained by or for CCA that includes medical, billing, payment, claims adjudication or other records used to make decisions about an individual.

“Progress Notes” are defined as notes recorded in any medium by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual’s record.

“Direct Treatment Relationship” means a relationship between a health care provider and an individual.

“Indirect Treatment Relationship” is a relationship between a health care provider and an individual in which the provider delivers health care to the individual based on the orders of another health care provider and the health care services, products, diagnoses or results are typically furnished to the patient through another provider, rather than directly.

“Business Associate” is a person or entity who, on behalf of CCA, performs or assists in the performance of a function or activity involving the use or disclosure of PHI, or provides legal, actuarial, accounting, consulting, data aggregation, management, administration, accreditation or financial services involving disclosure of PHI.

“Law Enforcement Official” is an official of an agency or authority of the United States, a state or territory, a political subdivision of a state or territory or an Indian tribe, who is empowered by law to conduct:

- A. an investigation or official proceeding inquiring into a potential violation of or failure to comply with any law or,
- B. a criminal, civil or administrative proceeding arising from an alleged violation of, or failure to comply with any law.

“Required by Law” means a mandate contained in law that compels a covered entity to make or use a disclosure of PHI and this is enforceable in a court of law.

“Formal Complaint” is a real or imagined wrong or other cause for complaint or protest, especially unfair treatment, expressed by a client in a written format. People receiving public mental health services have the right to have their concerns and complaints heard formally through the written grievance process. In addition, they have the right to oral and written instructions for filing a grievance. A grievance can be filed by the individual receiving the services, by an agency on behalf of the individual or by any other person involved.

**Applicable Forms:** NA

**Reviewed:** 11/15/19

**Revised:** NA

**Policy Number:** 4-2

**Effective Date:** 11/15/19

**Topic:** PHI and HIPAA Practices – General Rules

**Applicable**

**Standards:** 28 PA Code 709.28

**Policy:** CCA and all agency personnel shall comply with agency, state and federal laws regarding PHI and HIPAA Guidelines.

CCA personnel will ensure that all patient medical records are handled in a professional manner which is designed to prevent loss, misfiling, tampering, alteration, destruction, and unauthorized or inadvertent disclosure of any information in the absence of the patient's written consent.

**Procedures:**

1. New personnel shall review all agency policies and procedures regarding confidentiality, privacy practices, and client records within one week from date of hire, and shall address any questions regarding privacy with the Clinical Supervisor.
2. New personnel will receive training during onboarding process to ensure that they are proficient in CCA confidentiality policy and procedure.
3. CCA clinical staff will receive training at least every 12 month during group clinical supervision regarding confidentiality policy and procedures.
4. New personnel shall review and sign a Staff Receipt and Acknowledgement Form which attests CCA's Confidentiality and Privacy Agreement. A copy of the signed agreement shall be maintained in the personnel record. The Staff Receipt and Acknowledgment signed agreement reflects employees agreement with the provisions found below:
  - a. CCA staff is prohibited from using or disclosing PHI except as consented or authorized by the client, or the client's guardian.
  - b. CCA staff shall not convey to a person outside of the CCA DDAP-certified program that a client attends or receives services from the program or disclose any information identifying a client as an alcohol or other drug services client unless the client consents in writing for the release of information, the disclosure is allowed by a court order, or the disclosure is made to a qualified person for a medical emergency, audit or program evaluation purposes.

- c. CCA must obtain a general consent from the client, or guardian in order to use or disclose PHI about the client for treatment, payment and health care operations.
- d. CCA can disclose PHI to the client, or representative of the client (i.e. a parent, or legal guardian), without any condition.
- e. CCA can disclose PHI for purposes other than payment, treatment and health care operations only if it obtains a written authorization from the client.
- f. CCA must disclose PHI in two instances: when requested by the client and when requested by a health oversight agency, such as Medicaid, for compliance and enforcement purposes.
- g. CCA must make all reasonable efforts not to use or disclose more than the minimum amount of PHI necessary to accomplish the intended purpose of the use or disclosure. This is known as minimum necessary disclosure (see Policy 4-12).
- h. Federal laws and regulations do not protect any threat to commit a crime against CCA or its personnel, or any information about a crime committed by a client either at the agency or program or against any person who works for the agency or program.
- i. Federal laws and regulations do not protect any information about known or suspected child abuse or neglect from being reported under state law to appropriate state or local authorities. If a CCA clinician knows or suspects the occurrence of abuse or neglect involving an individual under age 18 years, involving an individual under 21 years who is developmentally disabled, or physically impaired, or involving an adult who is elderly, developmentally disabled or physically impaired, the clinician will report that information to the public children services agency or adult service agency in the county in which the child or adult resides or in which the abuse or neglect has occurred.
- j. When another entity requests the release of PHI of a client through an authorization, CCA must verify the identity and authority of the person requesting the PHI. This may include a known place of business, address, phone or fax number as well as a known human being. The authorization must be valid (see Policy 4-8).

- k. PHI of deceased clients will be maintained for as long as CCA maintains the records.
- l. CCA will destroy any unnecessary documentation that contain PHI in a timely fashion. This includes, but is not limited to, incorrect documentation, and messages from clients that are no longer needed.
- m. CCA staff members will not disseminate any client or company information to an outside source (attorney, press and any other entity outside of CCA).
- n. If violence is intended or threatened toward CCA or its staff members, PHI can be released to prevent harm to self or others.

**Applicable Forms:** Professional Services Agreement, Staff Receipt and Acknowledgement Form

**Reviewed:** 11/15/19

**Revised:** NA