

EDWIN FAIR MENTAL HEALTH CENTER, INC.
CONFIDENTIALITY OF CONSUMER INFORMATION

POLICY:

Center personnel shall safeguard the records of all consumers to ensure confidentiality of consumer information and to protect the record from fire, water damage, and other hazards. Maintenance of confidentiality is an ethical, as well as a legal responsibility. Confidentiality shall be maintained by all personnel. Each employee shall insure that only Edwin Fair Center personnel or authorized auditing or accrediting entities shall have access to consumer information. The protected health information (PHI) of all consumers will be safeguarded according to HIPAA regulations.

Confidential information includes all clinical information regarding the consumer, the fact that the consumer is coming to the Center, and times of appointments. Consumers shall be given advance notice of professional or educational visitation and given the opportunity to not participate or be observed by visitors. If consumer chooses to participate, a release shall be obtained.

No consumer record shall leave the Center. The only exception will be when records are court ordered to be utilized for legal proceedings.

PROCEDURES:

All clinical records shall be secured under lock each evening, per Policy & Procedure III-5.

Consumer information shall not be discussed in public areas of the building.

During the orientation process, all incoming employees shall be instructed in the expectation of strict maintenance of confidentiality.

Consumers shall be informed that their records may be subject to review by Federal, State, and local funding sources (see Consumer's Bill of Rights on Client Agreement Form).

Clinicians will comply with requirements of 42CF12, Part 2.

RELEASE OF CONFIDENTIAL INFORMATION:

Executive Director or Designee shall review all requests for consumer records and determine what information, if any, will be provided. Edwin Fair agency will adhere to HIPAA regulations regarding a consumer's right to access their record. If there are questions about the release of consumer records, the Designee shall consult with our Executive Director.

In general, consumer information shall be released only with written, informed consent of the consumer, or upon court order. A subpoena without a court order does not compel the program to provide records. When an employee receives a subpoena to appear in court, the employee **must** appear. If during their court appearance, the employee is asked to give testimony about a consumer's treatment, the employee will point out to the judge that the information is privileged. The judge will then rule on whether the information must be provided. This procedure will

also be observed with any other legal inquire of information such as search warrants, investigations and other legal action.

The consent for release of consumer information must be the original form. No photocopy or faxed copy will be acceptable unless approval is received from the Executive Director. The consent must contain the following:

1. The name of the program which is to make the disclosure.
2. The name or the title of the person or organization to which disclosure is to be made.
3. The name of the consumer.
4. The purpose or need for the disclosure.
5. The extent or nature of information to be disclosed.
6. An expiration date which permits release of the requested information.
7. The date on which the consent is signed.
8. The signature of the consumer or, when required, the signature of a person authorized to sign under that section in lieu of the consumer.

A consumer's written consent for the release of information shall be considered valid only when:

1. The consumer is informed, in a manner that assures his or her understanding, of the specific type of information that has been requested, and the period for which the information has been requested.
2. The consumer is informed of the purpose or need for the information.
3. Treatment services are not contingent upon **or influenced by** the consumer's decision concerning authorization for the release of information.
4. The consumer gives his/her consent freely and voluntarily.

In general, disclosure with consumer consent should be limited to what is needed for the purposes stated on the consent form. For example, personal and family histories and psychodynamic formulations might legitimately be sent to a treating physician or treatment program. This type of data is not sent to an insurance company for the purpose of processing a claim or to a state employment agency helping the consumer obtain work. Oklahoma law requires the reporting of incidents of suspected child abuse or neglect. An initial report may be made in accordance with state law, including identifying persons involved as consumers in an alcohol or drug program without consumer consent. However, any information requested in follow-up to the initial report requires consumer consent or a court order. If the information is requested for use in a criminal investigation or prosecution of a consumer, written consent is insufficient. A court order is needed.

A court order compels the program to provide the requested information; however, for alcohol and drug abuse consumers, special regulations apply. When a court order is received for the records of an alcohol or substance abuse consumer, staff shall consult with the Executive Director before providing any records. Staff will receive training at Orientation and annually concerning the procedures to take when our agency or staff are issued a search warrant, subpoena, court order, investigations, or other legal action. The Executive Director will be informed immediately when any such legal action takes place and will monitor our response.

If an emergency exists in which the consumer's life or limb are at risk or when a consumer threatens to harm a specific person or persons and duty to warn must be exercised, only that information necessary to protect life or limb shall be released without consent.

If a consumer requests information from their clinical record, that information will be made available to them as spelled out in the HIPAA regulations. We can deny a consumer access to his records only if there is threat of life or limb to the consumer or to someone identified in the records. Consumer information may be released to either parent of a minor, a legal guardian or a consumer's legally authorized representative.

When clinical information is released, a note shall be entered in the consumer's chart documenting what was released and to whom, and the information shall be marked with the following:

For mental health cases:

"This information has been disclosed to you from records whose confidentiality is protected by Federal Law. Federal regulations prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose."

For cases with primary or secondary diagnosis of substance abuse:

"This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR Part Two). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part Two. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse consumer."