



1 **~~7013 6001-A~~ CONFIDENTIALITY / CONFIDENTIALITY OFFICER**

2
3 REVISION DATE: ~~XX/XX/XXXX~~, 9/1/2014

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5 EFFECTIVE DATE: July 31, 1993

6 REFERENCES: ~~42 U.S.C. § 290-dd-2; A.R.S. §§ 36-568(01), 36-551(07), 41-~~
7 ~~1346, 41-1959; A.R.S. § 36-509; 36-568(01), and, 36551(01); A.A.C. R6-6-~~
8 ~~103; 2, et seq., and, R6-6-102. A.R.S 36-509, 42 USC 290dd.~~

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10 **PURPOSE**

11 This policy applies to all Division of Developmental Disabilities (the Division)
12 staff. ~~It outlines the-~~ This policy establishes general guidelines for
13 confidentiality and the role of a Confidentiality Officer.

14 **DEFINITIONS**

15 1. "Confidentiality Officer" means an employee of the Division whose
16 role is to administer and supervise the use and maintenance of all
17 Personally Identifiable Information.

18 2. "Department" means the Department of Economic Security.

19 3. "Medical Records" means all communications related to a patient's
20 physical or mental health or condition that are recorded in any
21 form or medium and that are maintained for purposes of
22 evaluation or treatment, including Records that are prepared by a
23 health care provider or by other providers, in both hard copy and
24 electronic form. Records do not include materials that are prepared



25 [in connection with utilization review, peer review, or quality](#)
26 [assurance activities as specified in A.R.S. § 12-2291.](#)

27 [4. "Member" means the same as "Client", a person receiving](#)
28 [developmental disabilities services from the Division as](#)
29 [specified defined in A.R.S. § 36-551.](#)

30 [5. "Personally Identifiable Information" or "PII" means a person's](#)
31 [name, address, date of birth, social security number, trial](#)
32 [enrollment number, telephone or fax number, email address, social](#)
33 [media identifier, driver's license number, places of employment,](#)
34 [school identification or military identification number or any other](#)
35 [distinguishing characteristic that tends to identify a particular](#)
36 [person as specified in A.R.S. § 41-3804\(K\).](#)

37 [6. "Records" means the following:](#)

38 [a. All books, papers, maps, photographs or other documentary](#)
39 [materials, regardless of physical form or characteristics,](#)
40 [including prints or copies of such items produced or](#)
41 [reproduced on film or electronic media pursuant to A.R.S. §](#)
42 [41-151.16, made or received by any governmental agency in](#)
43 [pursuance of law or in connection with the transaction of](#)



44 public business and preserved or appropriate for
45 preservation by the agency or its legitimate successor as
46 evidence of the organization, functions, policies, decisions,
47 procedures, operations or other activities of the government,
48 or because of the informational and historical value of data
49 contained in the Record.

50 b. Includes Records that are made confidential by statute.

51 c. -Does not include library or museum material made or
52 acquired solely for reference or exhibition purposes, extra
53 copies of documents preserved only for convenience of
54 reference and stocks of publications or documents intended
55 for sale or distribution to interested persons.

56 5.7. "Substance Use Disorder" means a cluster of cognitive, behavioral,
57 and physiological symptoms indicating that the individual continues
58 using the substance despite significant substance-related problems
59 such as impaired control, social impairment, risky use, and
60 pharmacological tolerance and withdrawal.



61 6.8. "Substance Use Disorder Record" means documentation of the
62 identity, diagnosis, prognosis, or treatment of any patient which
63 are maintained in connection with the performance of any program
64 or activity relating to substance abuse education prevention,
65 training, treatment, rehabilitation, or research, which is conducted,
66 regulated or directly or indirectly assisted by any department of
67 agency of the United States.

68 **A. CONFIDENTIAL INFORMATION ~~Confidential Information~~**

- 69 1. The ~~Department of Economic Security (DES)/~~ Division of
70 Developmental Disabilities (the Division) (DDD) shall adhere to
71 the statutory, administrative rule, and Departmental requirements
72 that all Records containing Personally Identifiable Information
73 (PII) obtained, and records or prepared during the application and
74 provision of services ~~concerning any applicant, claimant, recipient,~~
75 ~~employer or Member is are~~ are to be considered confidential and
76 privileged, unless otherwise ~~provided~~ required by law.
- 77 2. The ~~his~~ Division shall ensure the PII for confidentiality includes
78 Members or persons involved in dependency actions, case



79 closure of parental rights ~~s-actions~~, or in any action taken by
80 protective services ~~action for the Member as~~ remains confidential.

81 3. The Division shall, for Medical Records and Substance Use Disorder
82 treatment Records:

83 a. Restrict access to authorized personnel only;

84 b. Store paper Records in locked cabinets, drawers, or file
85 rooms;

86 c. Store electronic Records in compliance with the HIPAA
87 Privacy and Security Rules.

88 ~~3.4. Division employees shall use locked cabinets, drawers, or file~~
89 ~~rooms to store paperphysical Mmedical Rrecords, including~~
90 ~~Substance Use Disorder treatment records, when not in use and~~
91 ~~restrict access to authorized personnel only.~~

92 ~~4.5. The Division shall limit employees who have~~ access to Substance
93 Use Disorder ~~treatment Rrecords shall be limited to those~~ staff that
94 have a need to know that specific information to perform their
95 assigned job duties.



97 6. The Division shall use information only as intended for use as the
98 minimum amount necessary for the provision of
99 services. ~~employees shall not access or misuse any Confidential~~
100 Information, to which the Division has not provided authorization
101 for use.

102 7. Division employees shall not directly or indirectly disclose, publish,
103 communicate, or make available Confidential Information to any
104 entity or person that does not have a need or the authority to
105 know and use the Confidential Information, except as required for
106 the Division to perform authorized job duties or otherwise
107 permitted by this policy.

108 8. Division employees shall return any Rrecords containing
109 Confidential Information in the employee's possession to the
110 Division upon termination of the relationship with the Division or
111 when a change occurs in their role with the Division.

112 9. Division employees who receive inquiries for Rrecords containing
113 Confidential Information from the media, law enforcement, court,
114 or other outside entities shall contact the Records Management
115 Unit, who will provide a response to the inquiry.



116 11. The Division shall ~~maintain controls for access that~~ limit access to
117 computer systems, ~~R~~records, and data to authorized users with
118 approved applications and levels of access in compliance with the
119 HIPAA Privacy and Security Rules.

120 12. The Division shall ensure the secure encrypted storage of PII at
121 rest as well as employ the use of encryption during transit of PII.

122 13. The Division shall consider the ~~"P~~ermissible ~~U~~se" of PII ~~race,~~
123 ~~ethnicity, preferred language, gender identity, and sexual~~
124 ~~orientation~~ data to include the following:

125 a. Assess health care disparities within Member populations.

126 b. Design intervention programs to address the needs of
127 Member populations.

128 c. Develop and direct outreach material for Members.

129 d. Informing providers about individuals' language needs and
130 pronouns.

131 e. Notify Members how the PII will be de-identified, used, and
132 disclosed solely to authorized individuals.



133 Maintain the PII using safeguards to ensure privacy of
134 information by securing the Records in accordance with this
135 policy.

136 14. The Division shall consider the "Impermissible uUse" of PIIrace,
137 ethnicity, preferred language, gender identity, and sexual
138 orientation data to include the following:

139 a. Use and disclosure of an individual's PII data without written
140 authorized consent. Disclosure to unauthorized users; and.

141 b. When evaluating an application for services to
142 determine whether to offer coverage, set rates, or apply
143 exclusions or limits to benefit determinations (i.e., medical
144 underwriting).

145 Sharing an individual's PII data gender identity, sexual
146 orientation or race/ethnicity information member without
147 written explicitauthorized consent.

148 **B. CONFIDENTIALITY OFFICERConfidentiality Officer**

149 1. The Division shall Each District Program Manager (DPM) must
150 designate, in writing, a person as a Confidentiality eOfficer for



151 ~~each dDistrict and provide the name of the designee to the~~
152 ~~Assistant Director and District staff.~~

153 ~~A.2.~~ ~~The eConfidentiality eOfficer shall completely support the district in~~
154 ~~the proper use of all PII personally identifiable information,~~
155 ~~including storage, disclosure, retention, and destruction proper~~
156 ~~disposal of this information per Ddepartmental procedures of the~~
157 ~~Department, DES and the Department of Library, Archives and~~
158 ~~Public Records Division, and state law.~~

159 ~~Confidentiality Oofficers or their designee(s) must shall verify~~
160 ~~ensure that at the time of eligibility determination, the Division~~
161 ~~notifies mMembers/responsible persons are notified of their rights~~
162 ~~efto confidentiality regarding the disclosure of PII personally~~
163 ~~identifiable information. such as name, Social Security Number~~
164 ~~(SSN), ASSISTS or Arizona Health Care Costs Containment System~~
165 ~~(AHCCCS) I.D. This notification must occur at the time of eligibility~~
166 ~~closure and during subsequent Individual Support Plans (ISPs).~~
167 ~~Rights of confidentiality include:~~



- 168 a. ~~The right to inspect/review their own records without unnecessary~~
169 ~~delay (within 45 days) with the understanding that they may not~~
170 ~~be denied access to such records;~~
- 171 b. ~~The right to be informed of the procedures for inspecting,~~
172 ~~reviewing, and obtaining copies of their records;~~
- 173 c. ~~The right to receive one copy of their medical record free of charge~~
174 ~~annually;~~
- 175 d. ~~The right to be informed of a description of circumstances~~
176 ~~whereby, for legitimate cause, the agency may deny a request for~~
177 ~~copies of a case record, even though the record may be reviewed;~~
- 178 e. ~~The right to a listing of types and locations of records maintained~~
179 ~~and the titles/addresses of the officials responsible for such~~
180 ~~records;~~
- 181 f. ~~The right to a policy regarding written consent for release of~~
182 ~~information shall insure that personally identifiable information~~
183 ~~shall not be released outside the DES/DDD without the written and~~
184 ~~dated consent of the responsible person except as required by~~
185 ~~federal law, State statute, court order, or in the event that the~~
186 ~~health or safety of the member is in jeopardy;~~



187 ~~g. Subpoenas are not court orders. Notify the Office of Compliance~~
188 ~~and Review (OCR) immediately upon receipt of a subpoena for~~
189 ~~records and forward the subpoena to that office via interoffice mail~~
190 ~~to Site Code 016F;~~

191 ~~h. The right to file complaints;~~

192 ~~i. The right to seek correction of records; and~~

193 ~~j. Should the agency refuse to amend the records, the member or~~

194 ~~the responsible person shall have the right to a hearing. Should the~~

195 ~~hearing find favor with the agency, the member or the responsible~~

196 ~~person shall have the right to insert in the record a statement or~~

197 ~~explanation.~~

198 ~~A. _____~~

199 ~~B.3. Consent forms must be time limited and maintained in the central~~

200 ~~case record. Those consent forms taken during intake expire in 90~~

201 ~~days. Subsequent releases are valid for only up to six months. The~~

202 ~~person signing the consent must have the capacity to understand~~

203 ~~the nature of the consent. The consent must be voluntary and~~

204 ~~signed without coercion.~~