

## *Florida Parishes Human Services Authority*

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**Procedure: HIPAA – General Privacy (Procedure #1)**  
**Procedure No.: 600.1**

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Florida Parishes Human Services Authority (FPHSA) will safeguard confidential information about persons served which includes:

1. Individually Identifiable Health Information (IIHI)

“IIHI” is any single item or compilation of health information or data that indicates or reveals the identity of an individual, either specifically or that does not specifically identify the individual but from which the individual’s identity can reasonably be ascertained.

2. Protected Health Information (PHI)

“PHI” is any individually identifiable health information (IIHI):

- whether oral or recorded in any form or medium that is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse;
- related to the past, present or future physical or mental health or condition of an individual;
- the provision of healthcare to an individual; or
- the past, present or future payment for the provision of health care to an individual and including any data transmitted or maintained in any other form or medium by covered entities, including: paper records, fax documents and all oral communications, or any other form, i.e. screen prints of eligibility information, printed emails that have identified individual’s health information, claim or billing information, hard copy birth or death certificate.

“PHI” does not include:

- School records that are subject to the Family Educational Rights and Privacy Act (FERPA); or
- Employment records held in FPHSA’s role as employer.

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3. Other Confidential Information about Individuals(OCII)

“OCIP” is any information, other than that described as PHI, about an individual who is granted confidentiality or privacy protection by federal or state laws, rules, and regulations.

***IIHI, PHI and OCII are protected information under this procedure.***

The following steps will be taken in regards to confidential information:

1. FPHSA will safeguard all confidential information about individuals, inform individuals about FPHSA privacy practices and respect individual privacy rights, to the full extent required under FPHSA policies and procedures.
2. FPHSA recognizes that the agency is most likely to obtain, collect or maintain individual information on:
  - Persons served;
  - Personal Representatives; and
  - Providers.
3. FPHSA shall provide training to its workforce on FPHSA privacy policies and shall require every member of the workforce to sign a FPHSA Statement of Understanding form, 600.1.1, outlining his/her role and responsibilities relating to protecting the confidentiality and privacy of persons served by FPHSA.

### **Safeguarding Information about Persons Served**

“Persons served” refers to an individual who requests and/or receives services from any FPHSA facility.

FPHSA staff, contracted providers, volunteers, and interns will respect and protect the privacy of records and information about persons served who request and/or receive services from FPHSA as provided in all FPHSA HIPAA Privacy Procedures and other applicable federal and state laws and regulations.

All PHI on persons served by FPHSA is confidential and must be safeguarded in accordance with FPHSA HIPAA Privacy policies and procedures, federal or state laws and regulations or other FPHSA policies and procedures.

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FPHSA staff and contract providers shall not disclose information unless:

1. The person served has authorized the use or disclosure of PHI in accordance with FPHSA HIPAA – Uses and Disclosures of Information on Persons Served (Procedure #3), 600.3.
2. The use or disclosure of PHI is specifically permitted under FPHSA HIPAA – Privacy Rights of Persons Served (Procedure #2), 600.2, HIPAA – Uses and Disclosures of Information on Persons Served (Procedure #3), 600.3, and HIPAA – De-identification of Information on Persons Served and Use of Limited Data (Procedure #4), 600.4.
3. The use or disclosure of PHI is otherwise allowed under federal or state laws or regulations.

Staff and contract providers shall follow the protocol when faxing PHI:

1. Each fax should have a cover page indicating the intended recipient, along with a contact person and contact information from FPHSA. A client's name or any identifying PHI shall not be used on a fax coversheet.
2. Each fax should also have the following notice on the coversheet:

### NOTICE PROHIBITING RE-DISCLOSURE OF SUBSTANCE USE DISORDER INFORMATION

This information has been disclosed to you from records protected by federal confidentiality rules (42 CFR part 2). The federal rules prohibit you from making any further disclosure of information in this record that identifies a patient as having or having had a substance use disorder either directly, by reference to publicly available information, or through verification of such identification by another person unless further disclosure is expressly permitted by the written consent of the individual whose information is being disclosed or as otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose (see § 2.31). The federal rules restrict any use of the information to investigate or prosecute with regard to a crime any patient with a substance use disorder, except as provided at §§ 2.12(c)(5) and 2.65.

Updated March 23, 2017

This document is intended solely for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this notice is not the intended

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recipient or individual responsible for delivering the message to the intended recipient, you are hereby advised that any dissemination, distribution or copying of this information is strictly prohibited. If you receive this communication in error, please advise us by telephone and destroy these papers.

### **Safeguarding Information from a Personal Representative**

Personal Representatives are individuals who have been authorized to have access to the PHI or OCII of a person served either by law or by the person served. Staff shall request a copy of any court orders involving personal representatives and shall keep this copy in the record of the person served.

There are two kinds of Personal Representatives:

1. **Those authorized by law** – They stand in the shoes of the person served and have the ability to act for the person and to exercise the person’s rights with respect to the privacy and confidentiality of such information to the extent authorized by law.
  
2. **Those authorized by the person served** – They are to be treated the same as the person served with respect to uses and disclosures of the person’s PHI. They are authorized by the person served and stand in the shoes of the person and have the ability to act for the person and to exercise the person’s rights with respect to privacy and confidentiality of such information to the extent authorized by the person served. This authorization by the person served will be documented in the record of the person served, identifying date and time, who is present and what is being authorized.

FPHSA will treat information provided by a Personal Representative about the person served in the same manner as it would as if the information came from the person served.

**Personal Representative of an adult or emancipated minor** – This is a person who has legal authority to act on behalf of the person served in making decisions related to the service that FPHSA provides. Examples would include a person to whom the person served has granted a power of attorney which includes the authority to make health care decisions, or a person who has been appointed by a court as the curator or guardian of the person served.

**Personal Representative of an un-emancipated minor** – This is a person such as a parent, guardian, or other person acting in *loco parentis*, who has legal authority to act on behalf of the person served in making decisions related to health care. However, such a person is not to be treated as a Personal Representative, and the minor has the authority to

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act on his or her own behalf with respect to PHI pertaining to a particular health care service, if:

1. The minor consents to the health care service and has not requested that such person be treated as the Personal Representative;
2. A court or another person authorized by law consents to the health care service; or
3. The parent, guardian, or other person acting in *loco parentis* agrees to a confidential relationship between the minor and FPHSA with respect to the health care service. FPHSA staff will abide by the following Louisiana statutes that authorize minors to consent to medical treatment without his/her parent's consent:

LA R.S. 40:1065.1: Consent for treatment of venereal diseases  
LA R.S. 40:1095: Consent to Medical Treatment  
LA R.S. 40:1096: Treatment for drug abuse  
LA R.S. 40:1097: Donation of blood

### **Exception for Abuse, Neglect, or Endangerment Situations**

FPHSA may elect not to treat an individual as the Personal Representative of a person if:

1. FPHSA reasonably believes that:
  - a. The person served has been or may be subjected to domestic violence, abuse, or neglect by such a person; or
  - b. Treating such person as the Personal Representative could endanger the individual; and
2. FPHSA decides, in the exercise of professional judgment that it is not in the best interest of the person served to treat the person as the Personal Representative.

### **Safeguarding information Obtained from Providers**

“Provider” is a person or entity who may seek reimbursement through a contract with FPHSA as a provider of goods, services or supplies to persons receiving services through FPHSA.

When FPHSA creates or obtains information about or from providers, FPHSA may use and disclose such information consistent with applicable federal and state laws, rules and regulations.

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Information regarding the qualifications of providers is public record.

FPHSA will safeguard information obtained from providers which contains IIHI or OCII consistent with FPHSA Privacy Policies and other applicable federal and state laws, rules and regulations.

IIHI and OCII obtained from or about providers in the performance of FPHSA's official duties shall be treated in the same manner as all other IIHI and OCII used or disclosed by FPHSA.

FPHSA will safeguard information from or about providers in the same manner it safeguards information about persons served.

## **Conflict with Other Requirements Regarding Privacy and Safeguarding**

FPHSA has adopted reasonable policies and procedures for administration of its programs, services and activities. If any state or federal laws or regulation, or order of a court having appropriate jurisdiction imposes a stricter requirement upon any FPHSA policy regarding the privacy or safeguarding of information, FPHSA shall act in accordance with that stricter standard.

FPHSA staff shall act in accordance with established FPHSA policy and procedures regarding safeguarding and confidentiality of an individual's information, whether health-related or not, in all FPHSA programs, services and activities.

In the event that more than one policy/procedure applies, and compliance with all such procedures cannot reasonably be achieved, the FPHSA staff member will seek guidance from supervisors according to established policy.

## **FPHSA Notice of Privacy Practices**

FPHSA will make available a copy of the FPHSA Notice of Privacy Practices, 600.1.2, to any persons applying for or receiving services from FPHSA. The Notice of Privacy Practices shall contain all information required under Federal regulations regarding the notice of privacy practices from PHI under HIPAA. FPHSA will request that each person requesting or receiving services from FPHSA sign an Acknowledgement of Receipt of Notice of Privacy Practices form, 600.1.3, upon the request for services.

## **Privacy Rights of Persons Served**

Procedure Number: 600.1  
Effective: 02/13/13  
Revised: 12/30/16; 06/29/18

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FPHSA policies and procedures, as well as other federal and state laws and regulations, outline the person’s right to access his/her own information, with some exception. This policy also describes specific actions that a person served or a person’s Personal Representative may take to request restrictions or amendments to his/her information, and the method for filing complaints. These specific actions are outlined in the FPHSA HIPAA – Privacy Rights of Persons Served (Procedure #2), 600.2.

### **Uses and Disclosures of Information on Persons Served**

FPHSA shall not use or disclose any information about a person served by FPHSA programs without a signed authorization for release of that information from the individual, or the individual’s authorized representative, unless authorized by this procedure, or as otherwise allowed or required by state or federal laws, as outlined in the FPHSA HIPAA – Uses and Disclosures of Information on Persons Served (Procedure #3), 600.3, HIPAA – De-identification of Information on Persons Served and Use of Limited Data (Procedure #4), 600.4, and Duty to Warn Procedure, 750.4.

### **Minimum Necessary Information**

FPHSA will use or disclose only the minimum amount of information necessary about persons served, and only to the extent provided in FPHSA policies and procedures. When using or disclosing an individual’s health information from a provider or health plan, FPHSA staff must make reasonable efforts to limit the amount of information to the minimum necessary needed to accomplish the intended purpose of the use, disclosure, or request, as outlined in FPHSA HIPAA – Minimum Necessary Information (Procedure #6), 600.6.

The “Minimum Necessary Requirement” does not apply to:

1. Disclosures to or requests by a health care provider for treatment;
2. Uses or disclosures made to the individual or his/her authorized representative;
3. Uses or disclosures authorized by the individual or his/her authorized representative;
4. Disclosures made to the Secretary of the United States Department of Health and Human Services in accordance with Federal HIPAA regulations at 45 CFR 160, Subpart C;
5. Uses or disclosures that are required by law; and
6. Uses or disclosures that are required for compliance with Federal HIPAA regulations 45 CFR, Parts 160 and 164.

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## **Administrative, Technical and Physical Safeguards**

FPHSA program offices and staff will take reasonable steps to safeguard confidential information from any intentional or unintentional use or disclosure, as outlined in FPHSA HIPAA – Administrative, Technical, and Physical Safeguards (Procedure #8), 600.8.

## **Use and Disclosures for Research Purposes and Waivers**

FPHSA may use or disclose an individual's health information for research purposes as outlined in FPHSA HIPAA – Uses and Disclosures for Research Purposes and Waivers (Procedure #5), 600.5. This procedure specifies requirements for using or disclosing health information with and without an individual's authorization, and identifies some allowable uses and disclosure of information when FPHSA is acting as a Public Health Authority.

## **De-identification of Information of Person Served and Use of Limited Data Sets**

FPHSA staff will follow standards under which information on persons served can be used and disclosed if that information that can identify a person has been removed or restricted to a limited data set. Unless otherwise restricted or prohibited by other Federal or State laws, FPHSA can use and share information as appropriate for the work of FPHSA, without further restriction, if FPHSA or another entity has taken steps to de-identify the information as outlined in the FPHSA HIPAA – De-identification of Information on Persons Served and Use of Limited Data (Procedure #4), 600.4.

## **Business Associate Relationships**

FPHSA may disclose PHI to Business Associates with whom there is a written contract or memorandum of understanding as outlined in FPHSA HIPAA – FPHSA Business Associate Relationships (Procedure #7), 600.7.

## **Enforcement, Sanctions and Penalties for Violations of Individual Privacy**

All employees, volunteers, interns, contracted providers, and other members of the FPHSA staff must guard against improper uses or disclosures of information on persons served by FPHSA or be subject to disciplinary action as outlined in the FPHSA HIPAA – Enforcement, Sanctions, and Penalties for Violations of FPHSA Privacy Procedures, 600.9.

## **FPHSA Privacy Office**

Procedure Number: 600.1  
Effective: 02/13/13  
Revised: 12/30/16; 06/29/18



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1. FPHSA shall establish a Privacy Office which shall consist of the FPHSA Privacy Officer and such staff as deemed necessary.
2. The Privacy Officer shall be accountable to the Executive Director.
3. The Privacy Officer shall be responsible for FPHSA compliance with confidentiality and privacy requirements imposed on FPHSA and for oversight of internal enforcement.
4. The Privacy Officer shall have the authority to:
  - a. Investigate complaints related to confidentiality and privacy;
  - b. Conduct internal compliance audits related to confidentiality and privacy;
  - c. Advise FPHSA Executive Management Team and the workforce on issues related to confidentiality and privacy;
  - d. Arbitrate any and all disputes related to confidentiality and privacy;
  - e. Advise the general public and public officials on FPHSA confidentiality and privacy policies and practices;
  - f. Modify or change FPHSA confidentiality and privacy policies and procedures as needed or as required by law; and
  - g. Any other duties assigned by the Executive Director.
5. In the performance of duties, the Privacy Officer may consult with FPHSA's legal services when deemed necessary by the Privacy Officer and the Executive Director.
6. The Privacy Officer shall have the authority to delegate tasks to staff members. When such delegation occurs, that staff members of FPHSA shall be directly answerable to the Privacy Officer when performing those tasks.
7. The Privacy Officer may perform his/her duties through authorized designees.
8. The Privacy Officer will provide a monthly report to the Executive Director identifying privacy issues and how they have been/are being resolved.

### **Changes to FPHSA's HIPAA Privacy Practices**

Procedure Number: 600.1  
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FPHSA may change its Privacy Practices upon approval of the Executive Director and make that change effective for all information maintained by FPHSA.