

Florida Parishes Human Services Authority

Procedure: HIPAA – Privacy Rights of Persons Served (Procedure #2) Procedure No.: 600.2

This procedure grants rights only to persons served or their personal representatives as defined in Florida Parishes Human Services Authority (FPHSA) HIPAA – General Privacy (Procedure #1), 600.1.

Persons served by FPHSA or their Personal Representatives have the following rights which FPHSA may not deny:

1. Access to their own information, consistent with certain limitations;
2. An accounting of disclosures FPHSA has made of their Protected Health Information (PHI) for up to six years prior to the date of requesting such accounting. Certain limitations do apply as outlined in this procedure;
3. Submit complaints if they believe or suspect that information about them has been improperly used or disclosed, or if they have concerns about the privacy procedures of FPHSA. This shall be done by submitting a FPHSA Privacy Complaint Report form, 600.1.12.

Persons served or their Personal Representatives may ask FPHSA to take specific actions regarding the use and disclosure of their information and FPHSA may either approve or deny the requests. Specifically, persons served by FPHSA or their personal representatives have the right to request that:

1. FPHSA restrict uses and disclosures of their PHI;
2. FPHSA send or receive information to or from FPHSA by alternative means, such as mail, e-mail, fax or telephone, or at alternative locations; and
3. FPHSA amend their information held by FPHSA.

Notice of Privacy Practices

FPHSA will use the FPHSA Notice of Privacy Practices, 600.1.2, to inform persons served or personal representatives authorized by law about how FPHSA may use and/or disclose their information. The FPHSA Notice of Privacy Practices also describes the actions persons served or their personal representatives may take, or request FPHSA to take, with regard to the use and/or disclosure of their information. The procedures related to the FPHSA Notice of Privacy Practices and the distribution of the notices is addressed in FPHSA HIPAA – General Privacy (Procedure #1), 600.1.

Nothing in this procedure, or the procedure related to the FPHSA Notice of Privacy Practices shall prevent FPHSA from changing its procedures or the notice at any time,

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provided that the changes in the procedures or notice comply with State and Federal laws. FPHSA is required to follow the terms of the notice currently in effect. However, FPHSA may change its privacy practices and make that change effective for all PHI maintained by the agency.

Decision-making Authority within FPHSA

Prior to any decision based on a request from a person served or his/her personal representative for FPHSA to amend health information in a medical record, the agency's Medical Director or a licensed health care professional designated by the Program Director shall review the request and any related documentation. The licensed health care professional may be a FPHSA staff member providing services to the persons served.

Prior to any decision to amend any other information, a FPHSA staff member, designated by the Program Director, shall review the request and any related documentation.

FPHSA may deny an individual or his/her personal representative access to health information on the grounds that access may result in risk or harm to the person served or to another person. However, prior to any decision to deny such access, the agency's Medical Director or a licensed health care professional, designated by the Program Director, shall review the request and any related documentation. The licensed health care professional may be a FPHSA staff member involved in the individual's case.

Decisions related to any other requests made to FPHSA under this policy shall be handled in a manner consistent with Federal and State rules and regulations and/or FPHSA policies and procedures applicable to the program, service or activity.

All such requests are subject to review by the FPHSA Privacy Officer. The Privacy Officer has the authority to reverse previously made decisions following a review that supports this reversal. In those instances, reasons for his/her decision will be documented on the Request for Review by the Program Privacy Officer form.

Rights of Persons Served or Their Personal Representatives

1. Right to request additional restrictions on uses or disclosures of their information:
 - a. Persons receiving services from FPHSA or their personal representatives have the right to request additional restrictions on the use and/or disclosure of their information;
 - b. FPHSA applies confidentiality laws applicable to specific programs or activities to protect the privacy of information on persons served. Even if those laws

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would permit FPHSA to make a use or disclosure of information, a person served by FPHSA has the right to request a restriction on a use or disclosure of that information;

- c. All requests will be submitted by completing a Restriction of Use and Disclosures Request form, 600.1.4;
- d. FPHSA is not obligated to agree to a restriction and may deny the request or may agree to a restriction more limited than requested; and

Exception: Certain programs can only use or disclose information that is authorized by the persons served or his/her personal representative. For persons served by those programs, FPHSA will honor their requests for restriction by making sure that the authorizations clearly identify the authorized recipients of the information.

- e. All such requests are subject to review by the FPHSA Privacy Officer.
2. Right to Request Information from FPHSA by Alternative Means or at Alternative Locations:
- a. FPHSA should accommodate reasonable requests by persons served or their personal representatives to receive communications by alternative means, such as by mail, e-mail, fax or telephone;
 - b. FPHSA should accommodate reasonable requests by persons served or their personal representatives to receive communications at an alternative location;
 - c. In some cases, sensitive health information or health services must be handled with strict confidentiality under federal and state laws. FPHSA will comply with the more restrictive requirements; and
 - d. All such requests are subject to review by FPHSA Privacy Officer.
3. Right to Access their Information:
- a. Persons served or their personal representatives have the right to access, inspect, and obtain a copy of information on their own cases in FPHSA files or records, consistent with applicable federal and state laws and regulations.
 - b. All requests for access must be made by completing a FPHSA Access to Records Request form, 600.1.5; and

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- c. Persons served or their personal representatives may request access to their own information kept by FPHSA by using a personal identifier (such as the individual's FPHSA case number).

If FPHSA maintains information about the individual in a record that includes information about other people, the persons served is authorized to see only information about him or herself, except as provided below:

- 1) If a person identified in the file is a minor child of the person served, and the individual is authorized under Louisiana law to have access to the minor's information or to act on behalf of the minor for making decisions about the minor's care, the person served may obtain information about the minor.
- 2) If the person requesting information is recognized under Louisiana law as a guardian or legal custodian of the person served and is authorized by Louisiana law to have access to the individual's information or to act on behalf of the persons served for making decisions about the individual's services or care, FPHSA will release information to the requestor.
- 3) Entities or advocates who are authorized under federal or state laws to advocate for individuals will be given access to information on the individual they represent to the extent allowed under the applicable federal or state law to the extent necessary to perform the task or duty that the advocate has been charged under law to do on behalf of the person served.
- 4) FPHSA may deny persons served or their personal representatives, with reasons in writing, access to their own health information if federal or state law prohibits the disclosure. Under federal law, individuals have the right to access, inspect, and obtain copies of health information on their own cases in FPHSA files or records except for:
 - Psychotherapy notes;
 - Information compiled for use in civil, criminal, or administrative proceedings;
 - Information that is subject to the Federal Clinical Labs Improvement Amendments of 1988, or exempt pursuant to 42 CFR 493.3(a)(2);
 - Information that, in good faith and using professional judgment, FPHSA believes could cause harm to the person served or to any other person;
 - Documents protected by attorney work-product privilege; and
 - Information where release is prohibited by state or federal laws.

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- 5) FPHSA may also deny, with reasons in writing, a request for access made by the individual's personal representative for any of the grounds stated above, or if, in good faith and using professional judgment, FPHSA believes that disclosure of such information to the personal representative or to any other person to whom the person has authorized disclosure could cause harm to the person served, or to any other person, or that the requestor has caused or may cause harm to the individual or any other person.
- 6) Before FPHSA denies an individual or his/her personal representative or anyone else disclosure or access to PHI because there is a good faith belief that disclosure or access could cause harm to the person or to another person, FPHSA's decision to deny must be made by a licensed health care professional with reasons in writing and FPHSA must make a review of this denial available to the person served and/or requestor. If the requestor wishes to have this denial reviewed, the review must be done by a licensed health care professional who was not involved in the original decision.

All such requests and denials are subject to review by the FPHSA Privacy Officer. The Privacy Officer has the authority to reverse previously made decisions following a review that supports this reversal. A review may take place at the request of the person served. The request must be made in writing using the FPHSA Request for Review for Denial of Access to Health Information Form, 600.1.13.

- 7) FPHSA and its program offices may establish reasonable conditions for access to information.
- 8) FPHSA will respond to requests for access to one's own records in writing. This will be done by utilizing the appropriate form identified below:
 - Acceptance of Access to Records Request, 600.1.6
 - Denial of Access to Records Request, 600.1.7

4. Right to Request Amendments to PHI:

- a. Persons served or their Personal Representatives have the right to request that FPHSA amend their information in FPHSA files and records;
- b. All requests for amendments must be made by having the requestor complete a FPHSA Amendment/Correction of Health Record Request form, 600.1.8;

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- c. FPHSA is not obligated to agree to an amendment and may deny the requests or limit its agreement to amend; and
 - d. All such requests are subject to review by FPHSA Privacy Officer or designee.
5. Right to an Accounting of Disclosures of PHI:
- a. Persons served or their personal representatives have the right to receive an accounting of disclosures of PHI that FPHSA has made for any period of time, not to exceed six years, preceding the date of requesting the accounting; and
 - b. The accounting will only include PHI not authorized by the persons served or their personal representative for use or disclosure, and will not include information collected, used or disclosed for treatment, payment, health care operations or a limited data set, or other uses or disclosures for which accounting is not required.
 - c. Persons served shall make this request by completing the FPHSA Accounting of Disclosures Request form, 600.1.14.