

**HAMILTON CENTER, INC.
OPERATIONS MANUAL**

Section:	CONFIDENTIALITY	Policy No.: OP.9.5.02.00.00
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Policy:	RELEASE OF INFORMATION FROM CONSUMER RECORDS WHEN AUTHORIZATION IS NOT REQUIRED	Date Originated: 01/88
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PURPOSE

To provide the general framework which Hamilton Center, Inc. (HCI) will utilize to ensure compliance with the Health Insurance Portability and Accountability Act of 1996 and other federal and state laws related to the privacy and security of health information regarding appropriate uses and disclosures of protected health information (PHI).

POLICY

All client records are the property of HCI. As such, HCI is responsible for the safe keeping of records and is entitled to retain possession of records. The service recipient is the owner of the information contained in the record and therefore has the right to authorize the release of information or to refuse such release when authorization is required. It is the organization's duty and responsibility to protect and preserve the information contained in the record.

POLICY COMPONENTS

- A. The consumer may request to disclose protected health information from the HCI medical record to another party by completing an HCI approved authorization form.
- B. HCI may use or disclose PHI to provide treatment, access payment, manage health care operations, or to coordinate care with other healthcare providers, without first obtaining an authorization.
- C. As allowed by federal law, HCI will use or disclose certain protected health information even if it has not received an authorization in the following circumstances:
 - 1. To the U.S. Department of Health and Human Services for the purpose of investigating or determining compliance with the Health Insurance Portability and Accountability Act (HIPAA) regulations.
 - 2. For public health reporting, as required by state or federal law, not including Mental Health Records, Drug and Alcohol Treatment Records, and Communicable Disease Records, including HIV/AIDS Records, except as specifically allowed by law.
 - 3. To the Public Health Authority authorized to collect information for preventing or controlling disease, injury or disability pursuant to Indiana laws particularly:
 - a. Deaths Due to Unnatural Causes, I.C. 16-37-3-7,
 - b. Treatment of Persons with Disabilities I.C. 16-40-1-1 *et seq.*, and

- c. Infant Disease Screening I.C. 16-41-17 *et seq.*
 4. To the U.S. Food and Drug Administration to report:
 - a. Adverse events,
 - b. Track products,
 - c. Facilitate product recalls, repairs or replacement, or
 - d. Post-marketing surveillance.
 5. To the government authority authorized by law to receive reports when there is a duty to report under Indiana law and when HCI reasonably believes that the individual is a victim of abuse, neglect, exploitation or domestic violence, or of being an endangered adult. HCI will promptly inform the client about the report unless HCI believes that informing the consumer would place him/her at risk of serious harm or otherwise would not be in the client's best interest;
 6. To health oversight agencies authorized by law to conduct:
 - a. Audits, civil, criminal or administrative investigations,
 - b. Inspections, licensure or disciplinary actions,
 - c. Civil, criminal or administrative proceedings,
 - d. Oversight of the healthcare system,
 - e. A government benefits program,
 - f. A government regulatory program, or
 - g. A determination of civil rights laws;
 7. HCI may not disclose PHI to health oversight agencies as listed in #6 above, if the client is the subject of an investigation which is not directly related to the client's receipt of healthcare, claim for public health benefits or qualification for or receipt of public health benefits when the client's health is integral to the claim for services.
 8. In judicial and administrative proceedings in response to a court order and limited to the scope of the order as cited in Indiana law.
 9. For law enforcement purposes as required by I.C. 9-30-6-6, I.C. 35-47-7-1 or in the case of a committed client who has escaped from an HCI facility.
 10. When a duty to warn exists and
 - a. HCI believes in good faith that disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public,
 - b. Good faith is presumed if based on actual knowledge or reliance on a credible representation by a person with apparent knowledge or authority,
 - c. Disclosure will be to a person reasonably able to prevent or lessen the threat, including the target, and
 - d. Disclosure will be limited to the relevant situation.
 11. To the U.S. Secret Service for activities and protective services for the President and others as limited by I.C. 16-39-2-6 (a) (15)
- D. HCI may, at the discretion of the Privacy Officer, disclose a client's protected health information as outlined in Indiana law even if it has not received an authorization and has not presented the client with an opportunity to agree or object to the use or disclosure in the following circumstances:

1. To a person who may have been exposed to a communicable disease or is at risk of contracting or spreading a disease if HCI or a public health authority is authorized by law to notify the person,
2. In response to a subpoena, discovery request or other lawful process as allowed by I.C. 16-39-2-6(a)(3) and records related to an identified client
 - a. The request will be honored if accompanied by a written consent/authorization signed by that consumer in accordance with IC 16-14-1-6-8;
 - b. An order issued by any Indiana or federal court will be honored; or
 - c. If the request is not accompanied by a written authorization by the consumer, or authorized representative, the originating attorney will be contacted for consent to release information or a court order. The subpoena may be forwarded to the HCI attorney for filing of a motion to quash the subpoena.
3. To law enforcement officials upon request to identify or locate a suspect, fugitive, material witness or missing person, HCI may disclose only limited information, including:
 - a. Name,
 - b. Address,
 - c. Date and place of birth,
 - d. Social security number,
 - e. ABO blood type and rh factor,
 - f. Type of injury, if applicable
 - g. Date and time of treatment,
 - h. Date and time of death (if applicable), and
 - i. A description of distinguishing physical characteristics including height, weight, gender, race, hair and eye color, and the presence or absence of facial hair, scars, and tattoos.
4. HCI may not disclose to law enforcement officials PHI related to the client's DNA or DNA analysis; dental records; or typing, samples, or analysis of body fluids or tissue.
5. When law enforcement officials request information about a suspected crime victim, with the client's written consent, HCI may disclose protected health information, (excluding Mental Health Records, Drug and Alcohol Treatment Records, and Communicable Disease Records, including HIV/AIDS Records)
6. To law enforcement officials about a client who has died for the purpose of alerting law enforcement of the death if HCI suspects that the death resulted from criminal conduct.
7. To law enforcement when HCI is providing emergency healthcare in response to a medical emergency, it may disclose limited protected health information, including, to the extent necessary, Mental Health Records, and Drug and Alcohol Treatment Records, but excluding Communicable Disease Records including HIV/AIDS Records, in order to alert law enforcement to the commission and nature of a crime on its premises or against a person who works for HCI or a threat to commit such a crime, the location of such crime or the victims, and the identity, description, and location of the perpetrator.

- If HCI believes that the medical emergency is a result of abuse, neglect, or domestic violence, any disclosures to law enforcement officials must be authorized under Indiana law on abuse reporting.
8. HCI may disclose protected health information, excluding Drug and Alcohol Treatment Records, Communicable Diseases, including HIV/AIDS Records, to a coroner, medical examiner or funeral director without authorization from the executor or next of kin in order to carry out duties authorized by law.
 9. For HCI approved research, Mental Health Records and Drug and Alcohol Treatment Records, but excluding Communicable Disease Records, including HIV/AIDS Records, for research if there is written documentation of:
 - a. Approval of the HCI research project by the Professional Affairs Committee of the HCI Board of Directors,
 - b. Date of such approval, and
 - c. Assurance that all research projects will comply with HCI policies and procedures regarding research practice.
 10. For government security, HCI may disclose PHI excluding Mental Health Records, Drug and Alcohol Treatment Records and Communicable Disease Records, including HIV/AIDS Records; of armed forces personnel to military command authorities for the proper execution of a military mission, to the Department of Veterans Affairs upon separation or discharge from the military to determine eligibility for benefits and to a foreign military authority regarding its own military personnel if permitted or required by regulation. HCI will consult with the HCI attorney before releasing PHI in these circumstances.
 11. For national security and intelligence activities to authorized federal officials for the conduct of lawful intelligence, counter intelligence and other national security activities under the National Security Act, HCI may disclose PHI, excluding Mental Health Records, Drug and Alcohol Treatment Records and Communicable Disease Records, including AIDS/HIV Records.
 12. To correctional institutions and other law enforcement custodial situations, HCI may disclose PHI, excluding Mental Health Records, Drug and Alcohol Treatment Records and Communicable Disease Records, including HIV/AIDS Records of an inmate to a correctional institution or law enforcement official with lawful custody if the official represent that the PHI is necessary for:
 - a. Provision of healthcare to the client,
 - b. Health and safety of the client or other inmates,
 - c. Health and safety of officers or employees,
 - d. Health and safety of people transporting inmates,
 - e. Law enforcement on the premises, and
 - f. Administration and maintenance of the safety, security and good order of the correctional institution
 13. Pursuant to I.C. 16-39-2-6-(a)(7)(D), HCI may release PHI to law enforcement officials information regarding a person in the custody of a law enforcement officer or agency if the HCI determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient. Information is limited to:
 - a. Medications currently prescribed for the person, and
 - b. The person's history of adverse medication reactions.

- E. Any HCI program operating under the auspices of the Family Educational Rights and Privacy Act (FERPA) will also comply with this federal law.

Applicable Indiana Code Citations:

Disclosure without patient's consent; interpretation of records; immunities
I.C. 16-39-2-6-(a)(7)(D)

Public Health Reporting

I.C. 16-41-2-3
I.C. 16-41-2-2 and 410 IAC 1-2.1-2
I.C. 16-37-3-7
I.C. 16-40-1-1
I.C. 16-41-17

Child Abuse or Neglect

I.C. 31-33-5-1
I.C. 35-46-1-4
45 CFR 84

Endangered Adult

I.C. 35-46-1-13
I.C. 12-10-3-9

Law Enforcement

I.C. 35-47-7-1
I.C. 9-30-6-6

Secret Service

I.C. 16-39-2-6 (a) (15)

Family Educational Rights and Privacy Act (FERPA)

20 USC 1232 g
34 CFR 99