

NOTICE OF PRIVACY PRACTICES * * * Effective February 1, 2019

North Dakota Department of Human Services
HIPAA DN900 (02-19)

***THIS NOTICE DESCRIBES HOW YOUR MEDICAL INFORMATION MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION.
PLEASE REVIEW IT CAREFULLY.***

MEANING OF CERTAIN TERMS:

In this Notice, when we say “we” or “us”, we mean the staff of the Department of Human Services. When we say “Department”, we mean the Department of Human Services. When we say “you” or “your”, we are referring to the individual who is the subject of the protected health information (PHI) and a person who has authority to act on behalf of an individual in making decisions related to health care.

UNDERSTANDING YOUR PERSONAL HEALTH INFORMATION (PHI):

PHI covered by this Notice is any information that identifies you or could be used to identify you, that is created or received by the Department and that relates to your past, present, or future physical or mental health condition, including health care services provided to you and payment for such health care services. PHI may include your name, address, birth date, phone number, social security number, Medicare or Medicaid number, health information, diagnoses, treatments received, and information regarding your health insurance policies.

DEPARTMENT’S CONFIDENTIALITY COMMITMENT:

We are required under applicable state and federal law to maintain the privacy and security of PHI. We are required to provide you with this Notice about our privacy practices, our legal duties, and your rights regarding your PHI. We must follow the privacy practices described in this Notice while it is in effect. We reserve the right to change our privacy practices and this Notice at any time, provided such changes are permitted by law. We reserve the right to make changes to our privacy practices and the new terms of this Notice are effective for all PHI we maintain, including PHI created or received before we made the changes. Prior to making significant changes in our privacy practices, we will change this Notice, post it in the common areas of our facilities, on our website at www.nd.gov/dhs/misc/clientrights.html, and make it available to our clients and others upon request. A copy may also be obtained by contacting the Privacy Officer. We will notify you in the event a breach of your unsecured PHI occurs and is discovered.

HOW INFORMATION IS USED AND DISCLOSED BY THE DEPARTMENT:

The following describes the ways we may use and disclose PHI. Except for the purposes described below, we will only use and disclose your PHI with your written authorization or written authorization of an individual with the legal authority to act on your behalf:

For Treatment. We may use and disclose PHI for your treatment and to provide you with treatment-related health care services. For example, we may disclose your PHI to a physician who needs the information to treat you.

For Payment. We may use and disclose PHI so that we or others may bill and receive payment from you, an insurance company or third party, for the treatment and services you received. For example, we may disclose your PHI to the Medicaid or Medicare program or health plan payor to determine if they will make payment, to get prior approval, and to support any claim or bill. The disclosure may include information that identifies you, your diagnosis, or other necessary information for accurate payment.

For Health Care Operations. We may use and disclose PHI for health care operation purposes. These uses and disclosures are necessary to make sure that individuals receive quality care and to operate and manage our services and programs. For example, we may use and disclose your PHI to make sure the treatment or

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healthcare services you receive are of the highest quality.

Permitted or as Required by Law. We will use and disclose your PHI if state or federal laws permit or require it, including with the Secretary of Health and Human Services, Office of Civil Rights, for a compliance review or complaint investigation. Unless an exemption or restriction exists, we are required to disclose your PHI to you or to an individual with the legal authority to act on your behalf, specifically when you request access to, or an accounting of disclosures of, your PHI.

Appointment Reminders, Treatment Alternatives and Health Related Benefits and Services. We may use and disclose PHI to contact you to remind you of an appointment with us and to tell you about treatment alternatives or health-related benefits and services that may be of interest to you.

Research. We may use and disclose PHI for research in limited circumstances where the PHI will be protected by the researchers.

Business Associates and Qualified Service Organizations. We may disclose PHI to our business associates or qualified service organizations that perform functions on our behalf or provide us with services, if the information is necessary for such functions or services.

Health Oversight Activities. We may disclose PHI to a health oversight agency for activities authorized by law. These oversight activities may include licensure, inspections, investigations, audits, or facility accreditation. These activities are necessary to monitor the health care system, government programs, and compliance with civil rights laws.

Law Enforcement or Other Agencies. We may disclose PHI to law enforcement personnel or other agencies for specific purposes, including reporting any suspected child abuse or neglect; domestic violence; or for the protection of vulnerable adults. We may also disclose PHI if the information is: (1) in response to a court order, subpoena, warrant, summons or similar process; (2) limited information to identify or locate a suspect, fugitive, material witness, or missing person; (3) about the victim of a crime even if, under certain very limited circumstances, we are unable to obtain the person's agreement; (4) about a death we believe may be the result of criminal conduct; (5) about criminal conduct on our premises or against our staff; (6) in an emergency to report a crime, the location of the crime or victims, or the identity, description or location of the person who committed the crime; and (7) is necessary to identify or apprehend an individual because of a statement by the individual admitting participation in a violent crime or the individual escaped from a correctional institution or lawful custody.

To Avert a Serious Threat to Health or Safety. We may use and disclose PHI when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person. Disclosures will only be made to a person or persons who may be able to help prevent the threat, including the target of the threat.

Public Health Risks. We may disclose PHI for public health activities. These activities generally include disclosures to prevent or control disease, injury or disability; report births and deaths, report suspected child abuse or neglect, report reactions to medications or problems with products, notify people of recalls of products they may be using, and the appropriate government authority if we believe a person has been the victim of abuse, neglect, or domestic violence. We will only make this disclosure if you agree or when required or authorized by law.

Workforce Safety and Insurance. We may disclose PHI for Workforce Safety and Insurance or similar programs that provide benefits for work-related injuries or illness.

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National Security and Intelligence Activities. We may disclose PHI to authorized federal officials for intelligence, counter-intelligence, and other national security activities authorized by law.

Military and Veterans. If you are a member of the armed forces, we may disclose your PHI as required by military command authorities. We also may disclose your PHI to the appropriate foreign military authority if you are a member of a foreign military.

Protective Services for the President and Others. We may disclose PHI to authorized federal officials so they may provide protection to the President, other authorized persons or foreign heads of state, or to conduct special investigations.

Data Breach Notification Purposes. We may use or disclose your PHI to provide legally required notices of unauthorized access to or disclosure of your PHI.

Inmates or Individuals in Custody. If you are an inmate of a correctional institution or under the custody of law enforcement personnel, we may disclose your PHI to the correctional institution or law enforcement personnel if the disclosure is necessary for the institution to provide you with health care, to protect your health and safety or the health and safety of others, or the safety and security of the correctional institution.

Lawsuits and Disputes. We may disclose PHI in response to a court or administrative order, or if we are a party to litigation or potential litigation. We also may disclose PHI in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request or to obtain an order protecting the information requested.

Business Partners. We may disclose PHI to our business partners who perform case management, coordination of care, other assessment activities, or payment activities, and who must abide by the same confidentiality requirements.

De-identified Information. We may disclose your information in a manner that does not identify you if there is no reasonable basis to believe that the information can be used to identify you.

Best Interest. We may disclose PHI in certain circumstances if, in the exercise of professional judgment, the disclosure is in your best interest.

Organ and Tissue Donation. If you are an organ donor, we may use or disclose your PHI to organizations that handle organ procurement or other entities engaged in procurement, banking, or transportation of organs, eyes, or tissues to facilitate organ, eye, or tissue donation and transplantation.

Coroners, Medical Examiners, and Funeral Directors. We may disclose PHI to a coroner or medical examiner to identify a deceased person or determine cause of death. We may also disclose PHI to a funeral director as necessary.

Individuals Involved in Your Care or Payment for Your Care. Unless you object, we may disclose to a member of your family, a relative, a close friend or any other person you identify, your PHI that directly relates to that person's involvement in your health care or payment for health care. If you are unable to agree or object to such a disclosure, we may disclose such information as necessary if we determine that it is in your best interest based on our professional judgment.

Disaster Relief. We may disclose your PHI to disaster relief organizations that seek your information to coordinate your care or notify family and friends of your location or condition in a disaster. We will provide you with an opportunity to agree or object to such a disclosure whenever it is practical to do so.

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Fundraising. Federal regulations require us to notify you that you have the option to opt out of fundraising contacts. However, we do not engage in fundraising activities.

Uses and Disclosures Requiring Written Authorization. We must obtain written authorization for the use and disclosure of your PHI for marketing purposes, disclosures that constitute the sale of your PHI, and for the use or disclosure of psychotherapy notes. We do not create or manage a public client directory.

YOUR RIGHTS:

You or an individual with the legal authority to act on your behalf, have the following rights regarding your PHI:

Right to Inspect and Copy. You have a right to inspect and obtain a copy of your PHI that may be used to make decisions about your health care or payment for your health care. This includes medical and billing records, other than psychotherapy notes. To inspect or obtain a copy of your PHI, you must make your request in writing. We have up to 30 calendar days from receiving your request to make your PHI available to you. We will make every effort to provide access to your PHI in the form or format you request, if it is readily producible in such form or format. If the PHI is not readily producible in the form or format you requested, the information will be provided in either a readable hard copy or other form and format as agreed to. We may charge you a reasonable fee for the costs of copying, mailing, or other supplies associated with your request. We may limit or deny your request in certain limited circumstances. You may have the right to request a review of the denial. We will notify you if we deny your request and tell you how to request a review of the denial, if applicable.

If we are unable to provide access to your PHI within 30 calendar days from receiving your request, we may extend the time by no more than 30 additional days. If we need to extend your access request, we will inform you, in writing, of the reasons for the delay and the date by which we will provide access.

Right to Direct PHI to a Third Party. You have the right to request that your PHI be sent to an individual or entity, designated by you. You must make your request in writing. Your written request must clearly identify the designated individual or entity and where to send the PHI. We will make every effort to provide the PHI in the form or format you request, if it is readily producible in such form or format. If the PHI is not readily producible in the form or format that you request, the PHI will be provided in either a readable hard copy or other form or format as agreed to.

Right to Amend. If you feel that the PHI we have is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as we maintain the information. To request an amendment, you must make your request in writing. In certain situations, we may deny your request. If we deny your request, you may have a statement of your disagreement added to your record.

Right to Request Restrictions. You have the right to request a restriction or limitation on the PHI we use or disclose for treatment, payment, or health care operations. You also have the right to request a limit on the PHI we disclose to someone involved in your health care or the payment for your health care, like a family member or friend. To request a restriction, you must make your request in writing. We are not required to agree to your request unless you are asking us to restrict the use and disclosure of your PHI to a non-Medicaid health plan for payment or health care operation purposes, and the information you wish to restrict pertains solely to a health care item or service for which you have paid the non-sliding fee "out of pocket" expense in full. If we agree, we will comply with your request unless the information is needed to provide you with emergency treatment or the disclosure is required by law.

Right to Revoke Permission. You have the right to cancel or revoke an authorization you signed for the use or disclosure of your PHI, except to the extent we have already acted based on your authorization.

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Right to an Accounting of Disclosures. You have the right to request a list of certain disclosures we made of your PHI for purposes other than treatment, payment, health care operations, or for which you provided written authorization. To request an accounting of disclosures, you must make your request in writing. We will account for disclosures we have made of your PHI for up to six years prior to the date on which the accounting is requested but not before April 14, 2003. We will not charge a fee for the first accounting given to you in a 12-month period. We may charge a reasonable cost-based fee for an additional accounting requested if 12 months have not passed since your last request.

Right to Request Confidential Communications. You have the right to request that we communicate with you about health care matters in a certain way or at a certain location, or both. For example, you can ask that we only contact you by mail or at work. To request confidential communications, you must make your request in writing. Your request must specify how or where you wish to be contacted. We will accommodate reasonable requests.

Right to a Paper Copy of This Notice. You have the right to obtain a paper copy of this Notice upon request. You may request a copy of this Notice at any time. Even if you have agreed to receive this Notice electronically, you are still entitled to a paper copy of this Notice. You may obtain a copy of this Notice at our web site, www.nd.gov/dhs/misc/clientrights.html, or you may obtain a paper copy of this Notice at all our facilities or by contacting the Privacy Officer.

To Exercise Your Rights. The above rights may be exercised only by written communication to us, in the form and manner prescribed by the Department, unless the written requirement is waived by the Department. Applicable forms may be obtained at any Department location or facility or on the Department's website: <http://www.nd.gov/eforms/?type=p&agency=3250>, and returned to any Department location or facility.

FOR MORE INFORMATION:

If you have questions and would like additional information, you may contact the Administrative Assistant, toll-free at 1-800-472-2622, ND Relay TTY toll-free at 1-800-366-6888, or by mail to: North Dakota Department of Human Services, State Capitol, 600 East Boulevard Avenue, Dept. 325, Bismarck, ND 58505-0250.

TO FILE A COMPLAINT:

If you believe that your privacy rights have been violated, you may file a complaint with the unit of the Department where you received services. All complaints must be made, in writing, by filing SFN 934, "Request for Informal Privacy Conference". If you need additional information on how to file a privacy complaint involving a unit of the Department, you may contact the Department's Privacy Officer, toll-free at 1-800-472-2622, ND Relay TTY toll-free at 1-800-366-6888, or by mail to: Privacy Officer, North Dakota Department of Human Services, State Capitol, 600 East Boulevard Avenue, Dept. 325, Bismarck, ND 58505-0250. You may also file a complaint with the Secretary of Health and Human Services by writing to or calling: U.S. Department of Health and Human Services, Office for Civil Rights, 200 Independence Avenue, SW, Room 509F, HHH Building, Washington, D.C. 20201, toll-free at 1-800-368-1019, TDD toll-free at 1-800-537-7697, or email: ocrmail@hhs.gov.

There will be no retaliation against you for filing a complaint.

ADDITIONAL NOTICE REGARDING CONFIDENTIALITY OF SUBSTANCE USE DISORDER PATIENT RECORDS

The confidentiality of substance use disorder patient records maintained by Substance Use Disorder Programs is protected by Federal law and regulations. Generally, a Substance Use Disorder Program may not inform any

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person outside the Substance Use Disorder Program that a patient attends the program, or disclose any information identifying a patient as having or having had a substance use disorder unless:

1. The patient consents in writing;
2. The disclosure is allowed by a proper court order;
3. The disclosure is made to medical personnel in a medical emergency;
4. The disclosure is made to qualified personnel for research, audit, or program evaluation;
5. The patient commits or threatens to commit a crime on the premises of the program or against program personnel;
6. The disclosure is made to the appropriate state or local authorities to initially report suspected child abuse or neglect; or
7. Federal law or regulations allow the disclosure of such information.

MINOR PATIENTS:

Federal law and regulations, along with North Dakota State Law, restrict the disclosure of information regarding a minor, 14 years of age or older with sufficient capacity, unless the minor has consented in writing to the disclosure. This includes any disclosure of patient identifying information to the parent or guardian of a minor, 14 years of age or older, for the purpose of obtaining financial reimbursement.

Federal law and regulations, along with North Dakota State law, restrict the disclosure of information regarding a minor, 13 years of age or younger with sufficient capacity, unless both the minor and his or her parent, guardian, or other person authorized under State law to act in the minor's behalf, have consented in writing to the disclosure.

VIOLATIONS:

Violation of Federal law and regulations by a Substance Use Disorder Program is a crime. In accordance with Federal regulations, suspected violations may be reported to one of the United States Attorney's Office for District of North Dakota at:

Quentin N. Burdick United States Courthouse
U.S. Attorney's Office
655 First Avenue North, Suite 250
Fargo, ND 58102-4932
Phone: 1-888-716-7395
Fax: (701) 297-7405
TTY Phone: (701) 297-7444

William L. Guy Federal Building
U.S. Attorney's Office
220 East Rosser Ave, Room 372
Bismarck, ND 58502-0699
Phone 1-888-828-8050
Fax: (701) 530-2421
TTY Phone: (701) 530-2441

Or to the Substance Abuse and Mental Health Services Administration (SAMHSA) at:

Substance Abuse and Mental Health Services Administration
5600 Fishers Lane
Rockville, MD 20857
Phone: 877-726-4727
800-487-4889 (TDD)

See 42 U.S.C 290dd-2(g) for federal law; 42 CFR Part 2 for federal regulations governing the Confidentiality of Substance Use Disorder Patient Records; and North Dakota Century Code Sections 50-06-15 and 14-10-17.