

# *Youth Focus Inc.*

## **MASTER POLICY ON USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION**

Policy: 642  
Client Rights

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### **POLICY:**

Our clients have entrusted their personal and clinical information to us. This information contains highly sensitive material and requires thoughtful and attentive management by those who have access to it. Youth Focus is committed to protecting our Clients' right to privacy and safeguarding their protected health information. This master policy and other specific, related policies are intended to implement Clients' right to privacy concerning their protected health information in accordance with federal and state law.

### **RESPONSIBLE PARTIES AND DUTIES:**

#### **Privacy Officer**

The Privacy Officer will develop policies and procedures to implement the privacy policies adopted by Youth Focus and will oversee the implementation of and compliance with these policies. The Privacy Officer will develop and implement initial and on-going training of Youth Focus employees, and, if needed, independent personnel working in or with Youth Focus. The Privacy Officer may delegate some of his or her responsibilities to the Medical Records Department or other appropriate personnel.

#### **Security Officer**

The Security Officer is responsible for overseeing security of Youth Focus's automated data, including maintenance of security passwords, restrictions of access to data files, and design of a system backup program to restore data in the event of loss. The Security Officer is also responsible for protecting the physical security of protected health information.

#### **Administrator**

The Administrator will establish privacy policies of Youth Focus and supervise the Privacy and Security Officers. The Administrator will determine the scope of access to protected health information for each job position, define violations of the privacy policies, and supervise implementing corrective actions for such violations.

#### **Persons Covered By This Policy**

People who volunteer, work or perform services at or for Youth Focus must respect the privacy of all Clients, become informed and trained regarding all privacy policies, comply with Youth Focus privacy policies, and report any breach of such policies, whether the breach was

committed by that individual or another person. No person may have access to protected health information until that person has agreed to adhere to the privacy policies of Youth Focus and has signed a privacy acknowledgment or confidentiality agreement. This policy covers officers, employees, vendors, independent contractors, trainees, faculty, students, volunteers, independent physicians and health care professionals working in or for Youth Focus and other persons who work or perform services at Youth Focus.

## **PROCEDURES:**

### **1. Guiding Principles**

- a. Only permitted individuals can have access to, use, or disclose protected health information. Permitted individuals are those whose job description or job responsibilities allow access to protected health information.
- b. Permitted individuals may only use protected health information for proper purposes.
- c. Permitted individuals may only disclose protected health information, if there is appropriate authorization by the Client or representative or a legal exception permitting such use or disclosure.

### **2. Definitions**

- a. *Disclosure* means the release, transfer, provision of access to, or divulging in any other manner, of information outside Youth Focus.
- b. *Protected Health Information* means information relating to the health or condition of a Client, the provision of care to a Client, or the payment for the provision of health care to a Client that identifies the Client and is transmitted or maintained in any form.
- c. *Use* means the sharing, employment, application, utilization, examination, or analysis of information within Youth Focus.

### **3. Access Rights**

- a. Access rights to protected health information are limited to that which is necessary to adequately perform one's specific job responsibilities. Access to a function on the computer does not imply that it is proper to search this information at will simply to satisfy curiosity. Hard copy records may be accessed by making a request to the department responsible for safeguarding such documents and should be signed out appropriately.
- b. Access rights to protected health information are defined in:
  - (1) Employee job descriptions;
  - (2) Policies and procedures, contract terms or job descriptions for vendors or independent contractors; or

- (3) Policies and procedures for volunteers, independent physicians and other independent health care professionals working in Youth Focus, trainees, faculty and students.
- c. Persons not employed by Youth Focus may have legitimate reasons to access Client information. Such access will be granted only when proper authorizations are in place. Such access will be time-limited. Non-employees having such access may include, but are not limited to, independent physicians and independent health care professionals working in Youth Focus, faculty, students, accountants, consultants, volunteers, insurers, vendors, and Youth Focus attorneys.
- d. For purposes other than treatment, Youth Focus will make reasonable efforts to limit the amount of protected health information provided to persons who are permitted access to such information to ensure that only the minimum necessary amount of information is accessed to accomplish the intended purpose of the use or disclosure.

#### **4. Client Rights**

- a. Youth Focus Clients have the right to be informed of their rights to privacy regarding protected health information and of Youth Focus's responsibilities to safeguard the confidentiality of a Client's protected health information. All Clients or their representatives will be provided with Youth Focus's Notice of Privacy Practices.
- b. Youth Focus Clients have the right to request to restrict or amend their protected health information, request access to or obtain a copy of their information, obtain an accounting of the disclosures by Youth Focus of their information, and request communication of their protected health information by certain means. Youth Focus has specific policies to implement each of these Client rights.
- c. Youth Focus's Privacy Officer is responsible for responding to any requests from Clients to restrict access to or amend their protected health information or receive communication of their protected health information by certain means, after consulting, as needed, with Youth Focus staff involved in the care of the Client. The Privacy Officer may delegate responsibility for these duties to the Medical Records Department.
- d. Youth Focus staff members who receive requests from Clients to restrict access to or amend their protected health information, or to receive communication of their protected health information by certain means, should refer the Clients and the requests to Youth Focus's Privacy Officer or Medical Records Department, as appropriate.
- e. Youth Focus Clients or their representatives must authorize the use or disclosure of their protected health information to third parties for any purposes other than for treatment, the Youth Focus to get paid by Medicare, Medicaid or another payor or Youth Focus operations, unless there is a legal exception that does not require an authorization by the Client. For example, health care operations for which Youth Focus may disclose protected health information without a Client's written authorization can include accreditation, certification, licensure, utilization review, consideration of the qualifications of health care professionals to treat Clients, risk management and quality assurance.

#### **5. Client Acknowledgment Required for Receipt of Notice of Privacy Practices**

- a. Youth Focus must provide each Client or representative with Youth Focus's Notice of Privacy Practices no later than the date of admission, *except* in emergency treatment situations, in which event Youth Focus must provide the Notice as soon as reasonably practical after the delivery of the emergency treatment.
- b. The Admissions Department of Youth Focus is responsible, at the time of an admission, for assuring that each Client or his representative:
  - (1) receives or has already received a copy of the Notice of Privacy Practices ; and
  - (2) signs a written acknowledgment of receipt of the Notice.
- c. If a Client's acknowledgment of receipt is not obtained, Admissions Department personnel must document their good faith efforts to obtain the acknowledgment and the reason why the acknowledgment was not obtained.
- d. Youth Focus will post its Notice of Privacy Practices in a clear and prominent location where it is reasonable to expect individuals seeking treatment from Youth Focus to be able to read the Notice.
- e. Whenever the Notice is revised, Youth Focus will make the revised Notice available upon request to existing Clients on or after the effective date of the revision and provide the revised Notice to new Clients at admission.
- f. Youth Focus will display the Notice on its website, if it has one, and make the Notice available to its Clients electronically, if it has the capabilities to do so.

**6. Use or Disclose Only the Minimum Necessary**

- a. Minimum necessary applies when:
  - (1) Youth Focus itself uses or discloses protected health information for a purpose other than treatment; or
  - (2) Youth Focus requests protected health information from another entity for Youth Focus to get paid or Youth Focus operations.
- b. Minimum necessary does not apply to:
  - (1) Disclosures to or requests by another health care provider for treatment of a Client;
  - (2) Uses or disclosures made to the Client;
  - (3) Uses and disclosures made pursuant to a Client's authorization;
  - (4) Disclosures made to the Secretary of United States Department of Health and Human Services; or
  - (5) Uses or disclosures that are required by law.

- c. When minimum necessary applies, persons working at Youth Focus should limit any request for or provision of protected health information to that which is reasonably necessary to accomplish the purpose for which the request is made.
  - (1) For a request that is made on a routine and recurring basis, Youth Focus will implement policies and procedures that limit the protected health information requested to the amount reasonably necessary to accomplish the purpose for which the request is made.
  - (2) With regard to all other requests, Youth Focus will review the request on case-by-case basis to determine that the protected health information sought is limited to the information reasonably necessary to accomplish the purpose for which the request is made.
  - (3) When minimum necessary applies, Youth Focus will not generally use, disclose or request an entire medical record, except when the entire medical record is specifically justified as reasonably necessary to accomplish the purpose of the use, disclosure, or request.

**7. Client Authorization is Required For:**

- a. Disclosure to third parties outside Youth Focus for purposes other than
  - (1) To a health care professional or provider who is currently involved in treatment of the Client;
  - (2) To another health care facility to which the Client is being transferred;
  - (3) As required in a third party payment contract for Youth Focus to get paid; or
  - (4) As permitted by law.
- b. Use of psychotherapy notes by anyone other than the writer or creator of the notes within Youth Focus and among health care professionals involved in treating the Client at Youth Focus.
- c. Research where the Client will be identified.

**8. Use and Disclosure Permitted or Required by Law without Client Authorization**

- a. Youth Focus must report information to the police in cases involving bullet wounds, gunshot wounds, powder burns, poisoning, and knife wounds, if it appears that a criminal act was involved; and other wounds, illnesses, or injuries in which there is grave bodily harm or grave illness, if such harm or illness appears to have resulted from a criminal act of violence.
- b. Youth Focus must report information when there is reasonable cause to believe that a child or disabled adult has been the subject of abuse or neglect.
- c. Youth Focus must provide protected health information in response to, in compliance with and as limited by the relevant requirements of:
  - (1) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer or administrative law judge; or
  - (2) A grand jury subpoena.

- d. Youth Focus may disclose the following protected health information concerning the Client in response to a law enforcement official's request for information to identify or locate a suspect, fugitive, material witness, or missing person:
  - (1) Name and address;
  - (2) Information available in the Youth Focus directory concerning the Client unless the Client has restricted disclosure of such information; and
  - (3) Date and time of death, if applicable.
- e. Youth Focus may disclose protected health information to provide evidence of criminal conduct that occurred on the premises of Youth Focus.
- f. Youth Focus must provide protected health information in response to requests from the Medical Examiner or his/her deputy, the Coroner or his/her deputy, or their respective appointees, relating to the identification of deceased individuals, investigation of a death and/or the determination of a cause of death (not necessarily that of a Youth Focus Client).
- g. Youth Focus must allow various agencies access to protected health information so that the agencies may audit Youth Focus's operations. For example, the local health department may access medical records to investigate a disease or health hazard that may present a clear danger to the public health. The Joint Commission on Accreditation of Health Organizations may review protected health information when surveying Youth Focus for accreditation. State or federal fraud abuse agencies and state licensure or certification agencies may have the right to review protected health information to fulfill their responsibilities.
- h. Youth Focus must allow licensure and certification surveyors to review a Client's records unless the Client or his representative object.
- i. Youth Focus must report certain protected health information to state agencies to report deaths, cancer and other conditions.
- j. Youth Focus must provide to the recipient of an organ or tissue donation the medical records of the Client who donated the organ or tissue.
- k. Youth Focus must report communicable diseases and conditions that have been declared to be dangerous to the public health to the local health director of the county or district within the time period specified by law after the disease or condition is reasonably suspected to exist.

**9. Situations Where a Personal Representative May Act for a Client regarding Protected Health Information**

- a. Capable Adults. A competent and capable adult (age 18 or older) has the right to authorize the use and release of his or her health information and his or her directions control over those of any person acting in a representative capacity.
- b. Powers of Attorney.
  - (1) If a person holds a valid Power of Attorney, its terms govern if, when and how that person may authorize the use and release of protected health information. The Power of Attorney is valid only so long as the Client is capable of making his or her own decisions and has not revoked the Power of Attorney.
  - (2) If a person holds a valid Durable Power of Attorney, the terms of the Durable Power of Attorney govern if, when and how that person may authorize the use and release of protected

health information for the Client. The Durable Power of Attorney will apply if the Client is unable to make his or her own decisions and remains valid after the Client is no longer capable of making his or her own decisions.

- c. Personal Representatives. Health care information may be released to a Client's personal representative, who does not have legally conferred authority but who is involved in a current Client's care, for the purpose of providing health care to the Client if:
- (1) The Client has authorized orally or in writing the disclosure; or
  - (2) The Client is in a physical or mental condition such that he or she is not capable of objecting, and there are no prior indications that he or she would object.
- d. Family Members.
- (1) Under State law, the Client's written consent is not required for release of a current Client's personal and medical records to family members. When applying this provision of State law, Youth Focus staff should consider "family members" to be those family members who have been involved with Client and/or in the Client's care at Youth Focus but do not otherwise have a legally conferred authority to act for the Client, such as a Power of Attorney. Youth Focus staff have discretion and should use reasonable judgment in making this determination.
  - (2) Youth Focus staff should verify the identity and relationship of any person who claims to be a family member of a current Client in accordance with the Master Policy.
  - (3) For any family member who has not previously been involved with a current Client and/or in the current Client's care at Youth Focus, Youth Focus staff should advise any current Client, who is capable of understanding and making a decision, of a family member's request for protected health information or access to or copies of records and afford the Client the opportunity to consent or object. If the Client consents, Youth Focus staff should document the Client's consent by obtaining the Client's signature on a consent form or documenting the Client's verbal consent, if the Client is unable to sign.
  - (4) If the Client objects to the disclosure requested by the family member, Youth Focus staff should obtain confirmation of the Client's ability to make a choice from the Client's attending physician or Youth Focus's Medical Director and have a second staff person at Youth Focus confirm with the Client that the Client does object and what protected health information the Client does not want disclosed to the family member. If confirmation is obtained, Youth Focus staff should not make the disclosure in accordance with the Client's wishes and should document the Client's choice and the Client's ability to make the choice. If the Client's objection is not confirmed, Youth Focus staff should exercise reasonable judgment in determining whether the Client consents to the disclosure requested by the family member and whether the disclosure is in the Client's best interests and act accordingly in responding to the family member's request.
  - (5) Youth Focus's Administrator, Privacy Officer, senior social worker, or Director of Nursing may perform the duties under this section.
- e. Deceased Individuals. The executor or administrator of a deceased individual's estate has the authority to determine the disclosure of confidential information in the deceased individual's medical record. If the estate is unadministered, the closest next of kin has such authority.

- f. In cases or suspected cases of abuse, neglect, or endangerment, Youth Focus may decide not to treat a person as the personal representative with authority to act for a Client.

#### **10. Verification Requirements for Disclosure of Protected Health Information**

- a. Youth Focus is required by federal and state laws to verify the identity of a person requesting protected health information and the authority of that person to have access to protected health information, if the identity or authority of the person is not known to Youth Focus.
- b. When verifying identity or family relationship, Youth Focus may rely on representations or documentation of identity such as, but not limited to: photo identification, driver's license, birth certificate, marriage license, or other documentation, statements, or representations that, on their face, meet the applicable requirements so long as such reliance is reasonable under the circumstances.
- c. Youth Focus may rely, if the reliance is reasonable under the circumstances, on any of the following to verify identity when the disclosure of protected health information is to a public official or person acting on behalf of a public official:
  - (1) If the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;
  - (2) If the request is in writing, the request is on the appropriate government letterhead; or
  - (3) If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official.
- d. Youth Focus may rely, if the reliance is reasonable under the circumstances, on any of the following to verify authority when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:
  - (1) A written statement of the legal authority under which the information is requested, or, if a written statement would be impracticable, an oral statement of such legal authority; or
  - (2) If a request is made pursuant to legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.
- e. Youth Focus personnel will satisfy the verification requirements of this policy if they use their professional judgment when making a use or disclosure for Youth Focus's Client directory, in emergency circumstances, to a family member involved in the Client's care, for notification purposes, or for disaster relief purposes.
- f. Youth Focus personnel will meet the verification requirements of this policy if they act on a good faith belief in making a disclosure to avert a serious threat to health or safety.

#### **RESPONSIBILITY:**

Responsibility for the content and administration of this policy resides with Youth Focus's Privacy Officer and Administrator.

