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|  | TEAM: Organization | EFFECTIVE DATE: June 25, 2019 | DOCUMENT TITLE: 2.12 Confidentiality and Privacy Protections |
| | REVIEW DATE: | REVISED DATE: | APPROVED BY: Board of Directors |

General Statement:

The disclosure of confidential information regarding all clients is strictly prohibited without prior written, informed consents signed by clients and/or legal guardians.

Purpose:

The organization protects the confidentiality of information about clients and assumes a protective role regarding the disclosure of confidential information.

Confidentiality is key to the safety and well-being of the clients served by Ray of Hope Advocacy Center (ROH). Therefore, ROH’s confidentiality policies and practices shall fully comply with state and federal law, regulations, guidelines and standards regarding confidentiality and release of information in regards to serving clients in domestic violence, sexual assault and trafficking situations. These laws and regulations include but are not limited to: 74 O.S. 18p-3; 42 USC 13925 (b)(2); 42 USC 10402 (a)(2)(E); 42 USC 11375 (c)(5); 45 USC 11301; Attorney General Standards: OAC: 75:15-5-4; AG: 75-30-5-4 & 4.1; and ODMHSAS Standards OAC 450:15-3-20.1 & 20.2; 450:27-3-4(3).

ROH upholds the confidentiality of domestic violence and sexual assault survivors and prohibits employees, volunteers, and visitors from disclosing information about persons served without their written consent. Examples of confidential and privileged information include client identity, client records, conversations with clients whether in person or on the phone or visually witnessing clients or visitors in ROH facilities.

“Client records” are both privileged and confidential and include, but are not limited to, all communications (whether recorded or not), records, and information regarding clients.

This confidentiality and privilege protection applies to current and former clients alike, to those seeking services and survives after a client’s death or incapacity.

To protect this information, ROH has implemented the following procedures utilized by employees when the need for disclosure of confidential information arises.

Procedures:

- A. All employees will strictly abide by the legal requirements on mandatory reporting and duty to warn procedures.
- B. Volunteers and other visitors will be expected to maintain the confidentiality of information that they see and hear while in ROH facilities. All employees, volunteers and visitors are required to sign a Confidentiality Acknowledgement.

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- C. Clients are informed during intake the conditions under which the release of confidential information may not require informed, written consent.
- D. When instances occur where no written consent is required, employees will only release the minimum information necessary to accomplish the legitimate purposes of the release. In all such instances, the minimum information will be released to accomplish the required release; however, as much as possible, disclosures may not identify the client’s reason for receiving services at ROH. The reasons for releasing information without consent include, but may not be limited to:
- a. Communications to law enforcement officers regarding information directly related to the commission of a crime on ROH premises or against employees or volunteers, or a threat of such crime.
 - i. Such communications involving persons with substance abuse disorders will be limited to the circumstances surrounding the incident, the client’s status, the name and address of the client, and his/her last-known whereabouts.
 - b. A review preparatory to research, research on the client’s information, or research conducted when a waiver of authorization has been approved by either an institutional review board or privacy board.
 - c. Communications pursuant to a business associate agreement, a qualified service organization agreement, or a qualified service organization/business associate agreement. All such individuals or groups will be required to sign appropriate protective agreements prior to the release of any information related to a client.
 - d. Reporting under state law incidents of suspected child abuse or neglect, elder abuse or vulnerable adult abuse to the appropriate authorities provided, however, for disclosures involving an individual with substance abuse disorder, this exception does not allow for follow-up communications.
 - e. Disclosure of client-identifying information to medical personnel who have a need for information about a client for the purpose of treating a condition which poses an immediate threat to the health of the client and which requires immediate medical intervention.
 - f. Communications necessary for audit and evaluation activities. Auditors and/or evaluators will be asked to sign a confidentiality agreement and will be informed of the very sensitive and confidential nature of the information of clients served by ROH.
 - g. Communications to coroners, medical examiners, and funeral directors for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law and as necessary to carry out their duties provided, however, such disclosure may not identify the client

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directly or indirectly as a person with substance abuse disorder, if applicable.

- h. Disclosure to professional licensure boards investigating alleged unethical behavior towards a patient or client provided, however, such disclosure may not identify the client directly or indirectly as a person with a substance abuse disorder, if applicable.
 - i. Information about the location of a child may be provided to his/her parent; however, the disclosure of the location may not identify the child as a person with a substance abuse disorder, if applicable.
 - i. State and federal laws relating to the disclosure of information regarding the whereabouts of a minor child or of a minor mother seeking services with a certified domestic violence organization will be considered and the Director of ROH will be consulted before any such information to a parent is released.
- E. All clients and/or legal guardians complete and sign informed consent forms during intake for all known, ongoing releases of information. All other informed written consents are completed and signed prior to the release of information.
- a. The informed written consent signed by clients and/or legal guardians shall include the following information:
 - i. Name of client whose information will be releases;
 - ii. Dated signature of the person whose information will be released, or the parent/legal guardian of the client if he/she is unable to provide authorization;
 - iii. Clear description of the specific information to be released and any limitations of the information to be released;
 - iv. Purpose for which the information is to be used;
 - v. Date the release was signed by the client or their guardian or representative;
 - vi. Date the release takes effect;
 - vii. Date the release expires, not to exceed 90 days;
 - viii. Name and title of the person to whom the information is being released;
 - ix. Name of the person or general designation of the program or person permitted to make the disclosure; and
 - x. A statement providing the client or legal guardian the authorization to withdraw the release at any time, orally or in writing and the steps to accomplish such withdraw.
 - b. For a consent for release (or a waiver of confidentiality) to be valid, it must:
 - i. Be voluntary;
 - ii. Relate only to the participant or the participant's dependents;

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- iii. Contain a confidentiality notice that complies with state and federal law;
- iv. Contain a statement in bold type stating **“The information authorized for release may include records which may indicate the presence of a communicable or non-communicable disease.”**
- v. Contain a statement indicating that the receipt of services are not contingent or dependent upon or influenced by the client’s decision to permit the information release;
- vi. ROH may only share the specific information the client allows in the release. The client chooses when, how and what personal information will be shared or not shared, and with whom.
- vii. When a court mandate requires ROH to disclose or release information about the client, ROH may only share the minimum information necessary to meet the statutory or court mandate.
- viii. ROH shall notify the victim of any disclosure and will continue taking steps to protect the victim’s safety and privacy.
- ix. The following must be documented in writing for the written consent for release of information to be considered valid:
 - 1. The client is informed, in a manner that assures his or her understanding, of the specific type(s) of information that has been requested, and the period of time for which the information has been requested;
 - 2. The client is informed of the purpose or need for the information; and
 - 3. Services are not contingent upon the client’s decision concerning authorization for the release of information.
- F. All clients and/or legal guardians are offered with a copy of signed consents and copies of the consents are integrated into the client’s record.
- G. When a request for the release of confidential information is received, ROH employees will determine whether the request is valid and reasonable prior to releasing the requested information.
- H. When questions arise concerning the best methods to use in responding to services of process, inquiries by attorneys or criminal justice system personnel or court orders, employees will contact the Director of ROH immediately and act in accordance with the guidance, policy, and/or direction given.
 - a. At times, confidentiality requirements and court orders, or other requests for information, may seem to be in apparent conflict. When this occurs, employees are required to utilize the services of ROH legal department to assist with such the conflict, and to seek to maintain and preserve the

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confidentiality and privacy of the client’s record and information to the greatest degree possible and appropriate under the law.

- b. The term “client records” includes, but is not limited to, all communications, records, and information regarding clients.
 - c. Case records, case files, or case notes will be confidential and will not be disclosed except with the written consent of the individual, or in the case of the client’s death or disability, or his/her personal representative or other person authorized to sue on the client’s behalf, or by court order for good cause shown by the judge.
 - d. District courts cannot order the disclosure of the address of a domestic violence shelter, the location of any person seeking or receiving services from a domestic violence or sexual assault program, or any other information which is required to be kept confidential.
 - e. Addresses, phone number and social security numbers of board members, employees, or volunteers are not construed as open records under the state’s Open Records Act.
- I. Clients have the right to inspect and copy their client records subject to federal and applicable state limitations on inspecting and/or copying psychotherapy notes and protected health information that is subject to law that prohibits access to the protected health information.
- a. Clients have the right to inspect and obtain a copy of records containing their personal information. All client records, including personal health information, maintained by ROH are either psychotherapy notes or subject to the state law restrictions in 74 O.S. 18p-3 requiring shelters are certified domestic violence programs to keep all client information confidential. The client may sign a written release, authorizing the shelter or certified domestic violence program to release that information AND in the case of psychotherapy notes further state law requires that the psychotherapist determine whether the release of such information could be detrimental to the client. Where a psychotherapist has determined that release of such information would be detrimental to the client, client information will only be released upon a court order, and then released to a judge, in camera to determine which if any records or information should be released.
- J. ROH will not disclose personally identifying victim information to any third party, including to any database operated by any party outside of the domestic violence program, except when allowable according to law or statute.
- K. The electronic database system used as the master client index system for ROH will collect all client contact information according to client name and client ID number. The system will be accessible only to essential employees and secure access will be limited program-by-program on an as-needed basis.

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- L. Client's ID numbers will be electronically generated and randomly assigned so that no information that could be used to identify the client (date of birth, SS#, etc.) shall be incorporated into the client's ID number.
- M. Grievances regarding the confidentiality and privacy practices should be handled in accordance to the ROH Grievance Policy.
- N. Nothing in this policy shall prohibit disclosure of information of Children's Program clients as required in 22 O.S. 1175 which relates to determination of competence.