

Subject: Member Confidentiality

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Objective:

It is the philosophy of Health Share/Tuality Health Alliance (THA) that individuals and organizations are entitled to the private and confidential treatment of their personal health-related information.

- I. To ensure individual rights to privacy at all times, while also maintaining the integrity of the individual/patient-provider relationship.
- II. To protect the confidentiality of quality of care and peer review information and to ensure the confidentiality of related patient and provider information as it pertains to business conducted by THA committee meetings.
- III. To ensure that THA members have the opportunity to make choices regarding consent for the THA release of identifiable medical and/or personal health information, except when such release is required by law.

Policy:

- I. Both operational and member case documentation has the potential to contain private, confidential information. Therefore, all such documentation, including facsimile and email documentation, should be treated according to appropriate Federal and State rules and organizational policies for document confidentiality and retention.
- II. This confidentiality/protection applies to individual practitioner and patient identifiers, conditions, treatments, and social/economic data, as well as aggregate information about patient populations or services rendered.
- III. All THA employees, agents, and participants have the legal and ethical obligation to regard member information as confidential and to make it available only to authorized users. The method of information collection, whether by interview, observation, or review of documents, shall be conducted in a private setting to protect the information from unauthorized individuals. It is the responsibility of each individual to guard against inadvertent release of information by avoiding the discussion of member information in public areas.
- IV. All THA employees, agents, or participants, as well as business associates providing services to members, shall access only the information for which they need (minimum necessary information) to provide services.
- V. THA informs members and service providers of its policies to:
 - Obtain consent for use of member medical information;

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- Allow members access to their medical records; and
 - Protect access to member information.
- VI. It is the member's right to be protected against unauthorized disclosure and use of his/her personal information. This right shall be protected by a presumption against disclosure and applies to all settings. Member's identifiable health information shall not be released unless one of the following situations occurs:
- Written consent from the member has been obtained;
 - The release of the information is required by law; or
 - There is a valid insurance-related, plan-related, or health-related reason for which the information is needed by an entity with the authority to request and evaluate member-specific issues.
- VII. *Routine Consent*
Upon enrollment, each member or his/her authorized representative signs a routine consent statement as part of the Individual Enrollment Form. Routine consents covers the use of identifiable information needed for treatment, coordination of care, quality assessments, utilization reviews, fraud detection, and specific and known oversight reviews, such as CMS, OMAP, specific health plans, and accreditation.
- VIII. *Special Consent*
- a. To the extent that member information is to be used outside the scope of routine consent, a special consent form must be signed prior to the use and/or disclosure of that information. The form must contain:
 - The reason for the disclosure and use of the information;
 - The length of time the consent is to be valid; and
 - The signature of the member and the date of signing.A copy of the consent form will be kept in the member's medical record.
 - b. To the extent that information about THA members includes confidential protected health information or records about alcohol and drug abuse treatment, mental health treatment, HIV/AIDS, and /or genetics, THA staff will comply with the specific confidentiality requirements applicable to such information or records under Federal and State law.
- IX. *Members Unable to Give Consent*
When members are not able to give consent, their representatives (as defined in OAR 141-141-0000) may give consent on their behalf.
- X. *Providing Access to Medical Records*

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- a. Members may access their medical records by directly contacting their healthcare provider(s); similarly, any records maintained within THA may be requested through written completion of the THA Record Request form.
- b. Members are to be given the opportunity to review their medical records in a timely manner.
- c. Providers may not require monetary or other compensation for providing access to or transmission of medical records; THA, however, may require a fee for multiple requests of THA-held records within the same year.
- d. Confidential information may be faxed only when no other options are available and all safeguards are in place to protect the information from unauthorized viewing.

XI. *Use of Measurement Data*

- a. THA will inform peer review or quality improvement activities participants of the following:
 - The immunities available to them under the Federal Health Care Quality Improvement Act and related state laws; and
 - That the immunities may be compromised, thereby exposing participants to liability.
- b. Release of quality information will not contain individual member identifiers and will be in accordance with State and Federal laws.

XII. THA will protect all confidential records from unauthorized disclosure. Electronic storage and transmission of confidential member information and records shall assure accuracy, backup for retention and safeguards against tampering, backdating, or alteration.

References: 42 CFR 160 and 164
45 CFR 164.501
Health Share RAE Participation Agreement
OAR 410-141-0180
OAR 410-141-0261-0262
THA Policy Section II-THA Privacy Policies

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