Case Management Policy and Procedures

Subject: Confidentiality Laws from BDAP Treatment Manual
Policy # M 9.11.1
Effective Date: 7/1/08
Revision Date:

POLICY: Montgomery County Drug and Alcohol Subcontracted D&A Providers shall adhere to all laws and regulations pertaining to the confidentiality of client records and the conditions under which some or all of that information may be released. Relevant BDAP standards and statutes are:

The drug and alcohol system in Pennsylvania was developed in 1972 with the advent of the Governor’s Council on Drug and Alcohol Abuse. This Council was subsequently reorganized and its responsibilities and administrative authorities transferred to the DOH. During the same time that Pennsylvania was forming its drug and alcohol system, the federal government enacted two laws to protect confidentiality, one relating to alcohol abuse and the other relating to drug abuse. Subsequently, these statutes were amended and consolidated into one law covering both alcohol and drug abuse. The regulations authorized by this statute appear as 42 C.F.R. Part 2. In addition to 42 C.F.R. Part 2, drug and alcohol information is protected in a number of ways that include the following:

Act 63 71 P.S. § 1690.101 et seq. - established the Pennsylvania Advisory Council on Drug and Alcohol Abuse in 1972 whose authority was transferred to the Department of Health and addresses confidentiality requirements
28 Pa. Code Chapter 709 - standards for licensing freestanding treatment facilities to include adherence to confidentiality requirements
42 CFR Part 2 - federal regulation governing patient records and information
45 CFR Part 96 - federal regulation governing the privacy of health care information that went into effect on April 14, 2003
4 Pa. Code § 255.5 and § 257.4 - state regulations governing patient records
Act 126 42 Pa. C.S.A. § 6352.1 - state law clarifying what information may be exchanged between children and youth agencies, the juvenile justice system, SCAs and treatment providers.

Client confidentiality has become the principle cornerstone guiding the treatment of substance abuse disorders. The critical concepts to understand include:

- Those working with addicted individuals must always be conscious of where and how client identifying information is discussed;
Valid consent forms must be formatted to capture all of the required elements to include:

- Name of the client;
- Name of the program disclosing the information;
- Name of person, agency or organization to whom disclosure is made;
- Specific information to be disclosed;
- Purpose of disclosure;
- Statement of the client’s right to revoke consent (must allow verbal and written revocation);
- Expiration date of the consent;
- Dated signature of client;
- Dated signature of witness; and
- Copy offered to client

The information to be released must relate to the purpose of the consent;

HIPAA, under 45 C.F.R., contains confidentiality requirements that may supersede the requirements of 42 C.F.R.; and

BDAP often reviews the SCA and/or their provider consent forms; however, they are only approved by BDAP if the forms meet the state and federal drug and alcohol confidentiality requirements. If SCAs or their contracted treatment providers identify themselves as HIPAA-covered entities, they are required to obtain appropriate training from their agency regarding whether or not the consent forms meet HIPAA requirements.