



## Phoenix House California Health Care Notice of Privacy Practices

It is the policy of Phoenix House of California to hold all information concerning clients and employees in strict confidence as required by applicable laws and regulations, including 42 CFR Part 2 (governing the confidentiality of client-identifying substance abuse treatment information) and 45 CFR Parts 160 and 164 (governing the security and privacy of protected health information ("PHI") mandated by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA")). Any employee, volunteer, stipend, intern or temporary staff who does not maintain the confidentiality of such information or who fails to comply with the policies and procedures set forth below shall be subject to disciplinary action, up to and including termination of employment.

### Disclosure of Client PHI:

1. When Client PHI May Be Disclosed. Phoenix House Staff shall not acknowledge the identity of any client or disclose any Client PHI to ANYONE, UNLESS:

- a. To clients, for legitimate treatment purposes (on a "need to know" basis);
  - b. To Treatment Staff for legitimate treatment purposes (on a "need to know" basis), as permitted by the procedure set forth below in Section III(1);
  - c. To Operations Staff, as permitted by the procedure set forth below in Section III(2);
  - d. To Client Billing Staff, as permitted by the procedure set forth below in Section III(3);
  - e. The client has given valid written authorization (consent) that specifically permits that disclosure;
  - f. The disclosure is made to medical personnel in a medical emergency;
  - g. The disclosure is to a funding/licensing and/or monitoring agency for audit or evaluation purposes at the facility; provided the auditor signs a statement of release or assurance of confidentiality;
  - h. To report a crime that occurred on program premises or against program personnel;
  - i. When reporting information pertaining to an alleged child abuser or neglecter, when fulfilling mandated child abuse reporting requirements;
  - j. To a business contact who has signed a Qualified Service Organization/Business Associate Agreement as permitted by the procedure set forth below;
  - k. The disclosure is authorized by an appropriate court order as defined in the federal regulations (not a subpoena or warrant);
- For research purposes, pursuant to a waiver from the Phoenix House Institutional Review Board (IRB); or
- m. For research purposes, through the use of a Limited Data Set as defined in HIPAA.

2. Accounting Required. Except with respect to clients in Phoenix House's in-prison treatment programs, each time Client PHI is disclosed, without the client's written authorization but as permitted above in



Sections II(1)(g), (h), (i), (k), or (l) (i.e., disclosures related to: an audit/evaluation, reporting a crime on program premises, fulfilling mandated child abuse reporting requirements, a court order, or a waiver from the IRB), and each time Client PHI is disclosed in violation of this Policy, an accounting of the disclosure must be recorded and maintained in the client's chart that includes:

- a. the date of the disclosure of the Client PHI;
- b. the nature of the Client PHI disclosed;
- c. the person, agency, or other entity to whom the Client PHI was disclosed; and
- d. the purpose for such disclosure.

4.No Other Disclosures Permitted. Unless specifically permitted above, Phoenix House Staff may NOT disclose any Client PHI.

**Rules Concerning the Internal Use and Disclosure of Client PHI (Within Phoenix House):**

1.Rules for Treatment Staff:

a. Treatment Staff Access to Client PHI. Except with respect to HIV- related information as set forth above, Treatment Staff may access or share Client PHI with other Treatment Staff for legitimate treatment purposes (on a "need to know" basis).

b. Treatment Staff Disclosures to Operations Staff. Any Program Director, Records Coordinator (as defined in the Client Records Policy) or other Treatment Staff designated by the Program Director may disclose Client PHI to Authorized Operations Staff as long as the Treatment Staff only provides the specific information requested and/or needed to be disclosed. Irrelevant Client PHI or a client's entire chart (unless an entire chart is specifically requested) should not be disclosed.

c. Treatment Staff Disclosures to Client Billing Staff. Any Program Director, or other Treatment Staff designated by the Program Director may disclose Client PHI to Client Billing Staff as long as only the minimum necessary information to accomplish the purpose of the disclosure is provided.

d. Treatment Staff Disclosures to Other Staff. Treatment Staff may not disclose Client PHI to Other Staff unless:

- i. As permitted by a valid written authorization (consent); or
- ii. For research purposes, pursuant to a waiver from the IRB or the use of a Limited Data Set as defined in HIPAA.

e. No Other Access Permitted. Except as set forth above, Treatment Staff shall not have access to Client PHI or share Client PHI.

f. Record-Keeping. All Client PHI maintained by Treatment Staff must be safeguarded pursuant to the Record-Keeping Requirements set forth below.



## 2. Rules for Operations Staff:

a. Authorized Operations Staff Access to Client PHI. Authorized Operations Staff may access or share Client PHI as long as:

i. The Client PHI is only accessed from or shared with:

- a. The Program Director
- b. Treatment Staff specifically authorized by the Program Director
- c. Counseling Staff
- d. Other Authorized Operations Staff; OR
- e. Any Client Billing Staff or Quality staff; AND

ii. The Client PHI is accessed or shared only in connection with a regular job function of the Authorized Operations Staff; AND

iii. Authorized Operations Staff requesting Client PHI only requests the minimum necessary to accomplish the intended purpose.

b. Other Operations Staff Access to Client PHI. Other Operations Staff may receive specific authorization from an Authorized Operations Staff in the same Department to access or share Client PHI for a particular, limited purpose.

c. Special Rule Concerning Stipends/Interns. All Operations Staff may have access to the name, status and location of any client assigned to work in the Operations Staff's Department as a stipend or intern.

d. Non-Routine Requests. When Operations Staff needs access to Client PHI for a purpose that is not a regular job function of that Operations Staff, Operations Staff shall contact the Phoenix House Privacy Official, who shall then authorize the disclosure of the Client PHI only if:

- i. S/he determines that the need for the disclosure outweighs the need to keep the information confidential; and
- ii. S/he determines that the information requested is the minimum information necessary to accomplish the stated purpose of the request.

e. Operations Staff Disclosures to Other Staff. Operations Staff may not disclose Client PHI to Other Staff unless:

- As permitted by a valid written authorization (consent); or
- For research purposes, pursuant to a waiver from the IRB or the use of a Limited Data Set as defined in HIPAA.

f. No Other Access Permitted. Unless permitted by this Policy, Operations Staff shall not have access to Client PHI or share Client PHI with anyone.



g. Record-Keeping. All Client PHI maintained by Operations Staff must be safeguarded pursuant to the Record-Keeping Requirements set forth below.

### 3. Rules for Client Billing Staff:

a. Client Billing Staff Access to Client PHI. Client Billing Staff may access Client PHI as long as only the minimum necessary information needed to obtain payment or reimbursement for the provision of services to Phoenix House clients is accessed or shared.

i. Wherever possible, Phoenix House Staff should use the CID # (client identifier), and not the social security number, when processing Client PHI for client billing purposes.

b. Authorization Required to Seek Reimbursement from Third Party Payors. Client Billing Staff must not disclose any PHI to a third party payor without making sure that there is a valid written authorization (consent) for that client on file that authorizes the release of that information.

c. Client Billing Staff Disclosures to Operations Staff. Client Billing Staff may only disclose Client PHI to Authorized Operations Staff as long as only the minimum necessary information to accomplish the purpose of the disclosure is provided.

d. Client Billing Staff Disclosures to Other Staff. Client Billing Staff may not disclose Client PHI to Other Staff unless:

i. As permitted by a valid written authorization (consent); or

ii. For research purposes, pursuant to a waiver from the IRB or the use of a Limited Data Set as defined in HIPAA.

e. No Other Access Permitted. Except as set forth above, Client Billing Staff shall not have access to Client PHI or share Client PHI with anyone.

f. Record-Keeping. All Client PHI maintained by Client Billing Staff must be safeguarded pursuant to the Record-Keeping Requirements set forth below.

### 4. Rules for Other Staff:

a. Other Staff Access to PHI. Other Staff shall not be afforded access to or share Client PHI except:

i. As permitted by a valid written authorization (consent); or

ii. For research purposes, pursuant to a waiver from the IRB or the use of a Limited Data Set as defined in HIPAA.

b. No Other Access Permitted. Except as set forth above, Other Staff shall not have access to Client PHI or share Client PHI with anyone.



c. Record-Keeping. All Client PHI maintained by Other Staff must be safeguarded pursuant to the Record-Keeping Requirements set forth below.

Rules Concerning the External Disclosure of Client PHI (Outside of Phoenix House):

1. Third Party Requests

a. Any requests for Client PHI by third parties (agencies or persons who are not Phoenix House Staff) must be:

- i. In writing;
- ii. On official letterhead if from an agency, organization or business; and
- iii. Signed by the person making the request or an authorized representative of the agency, organization or business.

b. Before responding to any request for Client PHI by a third party, appropriate Staff must ensure that any disclosure in response to the request would not violate this Policy, including ensuring that any disclosure pursuant to a written authorization meets the requirements below.

**Disclosures Pursuant to a Written Authorization:**

a. Authorization Must Be Reviewed. Before releasing any Client PHI pursuant to a written authorization (consent), staff must:

- i. review the authorization to ensure that the authorization has been completely filled out and signed by the client (as well as the parent or guardian for clients under 18 years of age);
- ii. review the authorization to ensure that the authorization permits the relevant category of information to be released for the specified purpose;
- iii. review the authorization to ensure that the authorization has not expired; and
- iv. review the client's file to ensure that there has been no written revocation of the authorization. (See Section(IV)(2)(e) below regarding revocation procedure.)

b. Requirement for the Release of Client PHI Pursuant to Authorization.

Any letter or other document leaving the facility which contains Client PHI must carry the following "written notice of prohibition on re- disclosure" required by federal law if the information is being released pursuant to an authorization:

This information has been disclosed to you from records protected by Federal Confidentiality Rules (42 CFR Part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other



information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

c. Criminal Justice Referrals. A client referred by the criminal justice system, including corrections, the courts and/or probation/parole, whose release from confinement, or probation/parole is conditional on his/her participation in treatment, must sign an authorization (consent) allowing Phoenix House to communicate with the criminal justice system BEFORE s/he is referred into a Phoenix House program.

i. This authorization must be valid until such time as the court or other agency releases the client from his/her sentence obligation.

ii. This authorization must be revocable except in certain limited circumstances as approved by the Vice President, Clinical Director. Since these consents must usually be revocable, the client and all parties to the client's referral into treatment under these circumstances must understand that a condition of the client's participation in treatment is that the authorization must remain in effect so that Phoenix House can make the reports required by such referral.

d. Client to Receive Copies of Authorizations. Clients must be provided with copies of any authorizations that they have signed.

e. Revocation of Authorization. Clients seeking to revoke an authorization (consent) must revoke such authorization in writing.

i. Treatment staff should assist the client in completing a written revocation, whether it is written directly on the authorization or on a separate piece of paper.

ii. The revocation should be dated and signed by the client. If the revocation is on a separate piece of paper, the revocation should reference the specific authorization being revoked.

iii. A note concerning the revocation should be written on the authorization, including the effective date of the revocation. If the revocation was written on a separate piece of paper, the revocation should also be stapled to the authorization.

iv. No authorizations should be thrown out or destroyed after they have been revoked.

### 3. Qualified Service Organizations/Business Associate Agreements:

a. Certain persons or agencies that provide services to Phoenix House or its clients, including consultants and independent contractors, may be able to receive Client PHI pursuant to a Qualified Service Organization/Business Associate Agreement ("QSO/BAA"). The following exceptions should be noted:

i. Third party payers for client billing may not enter into a QSO/BAA with Phoenix House for client billing purposes.

ii. Other substance abuse treatment organizations may not enter into a QSO/BAA with Phoenix House.



b. The Vice President, Clinical Director should be contacted to ascertain whether a QSO/BAA would be appropriate and for assistance with having an appropriate QSO/BAA written.

#### 4. Court Orders and Subpoenas

a. Only special kinds of court orders that meet the requirements of federal law may authorize the release of Client PHI.

b. Subpoenas and other legal documents purporting to require the release of Client PHI should be forwarded to the Vice President, Clinical Director for review before any Client PHI is released in response. (Staff should also notify the Vice President, Clinical Director regarding the receipt of such documents.)

#### 5. Reporting Crimes on Program Premises or Against Program Personnel

a. When reporting a crime on the program premises or against program personnel as permitted by Section II(1)(h) above, only information regarding the circumstances of the crime, including the suspects name, address, last known whereabouts, and status as a patient in the program, may be disclosed. Clinical information that is unrelated to the crime may not be disclosed.

b. Client-identifying information about the victim remains confidential and should not be disclosed without the client victim's consent.

#### 6. Government Audits

a. Client PHI may not be released to an official conducting an audit on behalf of a government agency, unless:

i. The client has signed a valid written authorization (consent) that permits the release of the information to the government for audit purposes; OR

ii. The government agency auditor has signed an Audit Agreement. (A copy of the Audit Agreement is attached to this Policy.)

#### **Privacy Rights of Clients:**

1. Phoenix House must provide all clients (except clients in Phoenix House's

in-prison treatment programs) with a Notice that describes how their Client PHI may be used and informs them of the following individual rights:

a. The right to request restrictions on certain uses and disclosures of their Client PHI;

b. The right to request that Phoenix House Treatment Staff communicates with the client by alternative means or at an alternative location;

c. The right to inspect and copy a client's own health information, provided such a request is made in writing;



- d. The right to request an amendment to the client's records;
- e. The right to request and receive an accounting of the disclosures made by Phoenix House in the past 6 years (see Section II(3) above);
- f. The right to complain to the Contact Office (see Section I(3)(b) above) and the Secretary of the United States Department of Health and Human Services if the client believes that his/her privacy rights have been violated and the right not to be retaliated against for filing such a complaint; and
- g. The right to contact the Contact Office (see Section I(3)(b) above) for further information.

2. Any Phoenix House Staff who receives a request or complaint from a client related to the rights of clients set forth above shall immediately forward the request or complaint to the Program Director, who shall respond within thirty (5) days in consultation with the Vice President, Clinical Director if necessary.

Documentation of all requests or complaints and Phoenix House's response to such requests or complaints must be maintained in the appropriate client's file and copies shall be forwarded to the appropriate Privacy Official.

b. Although clients of Phoenix House's in-prison treatment programs are not entitled to the Notice described in paragraph VIII(1) above, requests related to such rights should be addressed in the manner as set forth in this paragraph.

- 3. Documentation that each client received the notice must be maintained in each client's chart.
- 4. The Client Notice must be posted in a clear and prominent location in each facility where clients are receiving services.
- 5. Retaliation against a client for his/her exercise

**Complaints:**

- 1. Any complaints concerning violations of this Policy shall be directed to the Contact Office of the region where the violation of this Policy allegedly occurred.
- 2. The Contact Office shall document all complaints received and the staff's position, if any.
- 3. Retaliation against a person who files a complaint regarding violations of this Policy is strictly prohibited.

**Violations of Policy:**

- 1. When Client PHI or Employee PHI is disclosed or used in violation of this Policy, steps must be taken to mitigate, to the extent practicable, any harmful effect caused by such disclosure or use.
- 2. Any violations of this Policy must be documented and maintained in the appropriate Regional Director's Office. A copy of such documentation shall be forwarded to the Vice President, Clinical Director.





3. Appropriate disciplinary action must be taken against any Staff who fails to comply with this Policy. Documentation of such disciplinary action must be maintained in the Staff's personnel file, with a copy forwarded to the appropriate Regional Director's Office.

4. An accounting must be maintained of any unauthorized disclosures as required by Section II (3) of this Policy, by performing the following:

a. Stop the breach. Immediate action may help avoid or mitigate the effects of a breach. Make sure to document:

- i. the date of the disclosure of the Client PHI;
- ii. the nature of the Client PHI disclosed;
- iii. the person, agency, or other entity to whom the Client PHI was disclosed; and
- iv. the purpose for such disclosure.

b. Notify the privacy officer (Vice President, Clinical Director)

c. Respond promptly

d. Investigate appropriately

e. Mitigate the effects of the breach

f. Correct the breach

g. Impose sanctions

h. Determine if the breach is reportable to the individual and HHS: This will be reported to HHS within the mandated timeframe.