
PROCEDURE 2511-A**I. Disclosures to Persons Involved in a Consumer's Care or for Notification Purposes****A. Guardians and Other Legal Custodians**

1. At times, the North Sound Mental Health Administration (NSMHA) will have consumers who are not able to direct or make decisions about any or some of their health care. In those cases, the authority of someone else to direct or make decisions about the health care of a consumer, and, for that purpose, to have access to the Protected Health Information (PHI) necessary to make decisions or direct care, must be verified by the appropriate documentation. This documentation will outline the authority of the consumer and the limits to that authority, as well as the authority of the other individual involved in directing the consumer's care.

In all such cases, this documentation must be reviewed by the Privacy Officer or by legal counsel, if the Privacy Officer does not understand the limits or extent of the authority being granted. In all such cases, the decision to disclose, and the extent of the disclosures to be made, must be carefully and clearly communicated to team members by the Privacy Officer.

2. Any employee who is seeking access to a consumer's PHI at the request of an Agent, Guardian, Monitor, or State Entity assigned custody should:
 - a. Ensure that he or she clearly understands the limits of the disclosures of PHI that can be made; and
 - b. Consult with the Privacy Officer to determine if the disclosure should be made.
3. Withholding PHI: if a treatment team member believes that even though a disclosure of PHI is authorized, disclosure of the information will cause harm to the consumer, he or she should:
 - a. If the primary staff: make the decision to **not** disclose and document the decision in the record, including the reasons why, in their professional judgment, the PHI was not disclosed.
 - b. If not the primary staff: the team member should consult with the primary staff who will make the decision and follow the procedure in (a) above.

B. Family Members, Partners, and Others Authorized by the Consumer to be Involved in the Consumer's Care

1. Many consumers who are enrolled with NSMHA choose to have family members, significant others, friends, and other community supports' involved in their care on a regular, on-going basis. This is something NSMHA encourages because it is often beneficial to the consumer's ability to successfully integrate and stay in the community. It is important, however, that before any PHI is disclosed to these consumers, NSMHA understands the consumer's wishes with regard to these disclosures, and we offer them an opportunity to object or agree to the disclosure.

- a. In all cases, the PHI disclosed must be limited to what is directly relevant to the person's involvement in the **current** care of the consumer or to the payment for services delivered to the consumer.
 - b. Staff persons who make disclosures pursuant to this procedure should, in addition to documenting the disclosure, record the nature and the duration of the relationship, if known.
 - c. In all cases, the consumer must be offered the opportunity to agree or object to the individual's involvement in a private area. If the staff believes that this involvement will be regular and consistent in content, they can document the verbal permission of the consumer, which should include the date the permission was given by the consumer, and the names of the individuals to whom disclosures can be made. This permission can be given at any time. The form should note whether or not permission has been given to discuss the following information: treatment information, diagnosis, medications, attendance or other information, which should be listed.
 - d. In all cases, before disclosing information to someone involved in the consumer's care, the Privacy Officer should be consulted.
2. In some cases, the consumer will not want another person involved in their care except on a very limited basis or only in a specific circumstance.
 - a. In those cases, the consumer must be present to give his or her permission **directly** to the appropriate NSMHA staff member.
 - b. The employee should take the consumer to a private location and should ask for his or her agreement or objection, and should discuss the limits of the disclosures the consumer wishes to be made.
 - c. Each disclosure of PHI made should be documented in the record.
 3. If the consumer has presented as an emergency and:
 - a. Is not capable, in the judgment of NSMHA staff, to agree or object, and NSMHA staff believes the disclosure is in the best interests of the consumer, then the disclosure of the minimum necessary PHI can be made to the individual regarding death, serious illness or to avert harm or if directly relevant to that individual's involvement with the consumer's care or payment related to the consumer's care.
 - b. This disclosure should be documented in the record, along with the reasons NSMHA staff believed the disclosure should have been made.
 - c. If the consumer is **not** present, then only information regarding the consumer's death, serious illness or to avert harm or if directly relevant to that individual's involvement with the consumer's care or payment related to the consumer's care may be disclosed.

II. When a Disclosure of PHI May Not Be Made

In all cases, if the treatment team members or other professionals they have consulted believe that the disclosure of PHI, even if agreed to by the consumer, may cause harm to the consumer or others, they should refuse to make the disclosure.

III. Disclosures for Disaster Relief Purposes

- A. Disclosures for notification purposes may be made to a private or public entity charged by law or by charter to assist in disaster relief efforts.
1. The PHI needed for notification purposes includes the name, location, and general condition of the consumer.
 2. The requirements described in Section I (B)(3) above apply in these circumstances unless it is determined that the procedures will interfere with the ability of the relief agency to respond to the emergency situation.
 3. The decision about whether or not to disclose in these circumstances should be made by the senior staff person on site at each agency location.
 4. Disclosures may be made pursuant to this provision only within facilities located within the disaster zone, and only until such time as the disaster has abated.