ADDICTION COUNSELING SERVICES OF COLORADO

Addiction Counseling Services of Colorado

HIPAA and Confidentiality Policies

Addiction Counseling Services of Colorado, also known as ACSC and "the agency" complies with all state and federal HIPAA and Confidentiality regulations.

ACSC will ensure that a confidential individual record must be maintained for each individual receiving services at ACSC. This record must not contain protected health information pertaining to other individuals receiving services. Each individual receiving treatment will be assigned their individual files to be maintained by ACSC, the agency and it's personnel.

ACSC will ensure that each individual client record includes at a minimum:

1. Demographic and medical information, including, but not limited to, individual name, address, telephone number, emergency contact information, physician or health provider information, and current diagnosis;
2. Screenings, assessments and reassessments, service plans, documentation of informed consent including consent to treatment, releases of information, physician or practitioner orders, documentation of services, treatment progress notes and medication, admission summary, discharge summary, and any endorsement or service-specific requirements.
3. Medical and psychiatric advance directives when such directives are furnished by the individual client;
4. The out-of-state offender questionnaire, if providing substance use disorder (SUD) services;
5. Court documents, when such documents are relevant to the individual's treatment;
6. Records of required communication with referral sources such as court, probation, or any other required agency who provides a Release of Information not more than one year old.
7. Drug and alcohol testing and monitoring results.
8. Initial Intake Packet with all policies and procedures of the agency, disclosure statements, Release of Information documents signed by the client who shall assign the DMV, probation or Judicial District and court the ability to have access to their files for progress and compliance checks.

9. History of offenses, SUD events, family dynamics, medical history, infectious disease questionnaire and any additional state and federal mandated documentation.

ACSC will ensure all individual records must be available to an individual or their designated representative through the agency holding a valid release of information signed within a year by the client, or their designated representative at reasonable times and upon reasonable notice in accordance with all applicable state and federal laws, including but not limited to HIPAA and 42 C.F.R. Part 2.

D. ACSC procedures for obtaining records policies are that the individual must provide the agency with written or emailed request for documentation at least 48 hours prior to the need of the client's request.

ACSC will provide in writing and posted on the agency's website, the right to appeal grievances regarding access to records to the BHA in addition to the Intake packet.

E. An individual, whether currently receiving services or discharged from ACSC, may inspect, or obtain a copy of their own record. ACSC will act on the request to review the individual's record within a reasonable time, which must not exceed thirty (30) days except when an extension is allowable in accordance with 45 C.F.R. 164.524(b)(2).

F. In accordance with the BHA state regulations, ACSC does not charge the individual or designated representative for inspection of the individual record.

G. Records are kept in accordance with all applicable state and federal laws and regulations. ACSC keeps all electronic health records private with 90 day password change requirements for all users and records are maintained for not less than 7 years.

H. Access to records contained within the individual's records must be accessed in a manner that is consistent with all applicable state and federal laws, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

I. If there are changes/corrections, deletions, or other modifications to any portion of an individual record, the person who is making the changes must note in the record the date, time, nature, reason, correction, deletion, or other modification, and their name, to the change, correction, deletion, or other modification.

J. ACSC records are retained as follows:

1. Adult outpatient endorsements are confidentially retained for seven (7) years from the date of discharge from the agency.

2. The confidentiality of the individual record, including all medical, behavioral health, psychological, and demographic information must be protected in accordance with all applicable federal and state laws and regulations, including during record use, storage, transportation, transmission, and disposal.

4. If ACSC closes a physical location and/or discontinues any endorsement, it must maintain records of individuals. Records that are not maintained in the EHR system will be filed in a 2 locking system storage facility.

K. Effect of rights of an individual

1. This does not limit the right of an individual or the individual's designated representative to inspect individual records, including the individual's medical or psychological data pursuant to Section 27-65-123, C.R.S.

2. ACSC will maintain responsibility or provide a custodian of medical records in the ACSC to maintain confidentiality of those records in its possession.

3. ACSC will comply with federal law compliant authorization, a valid subpoena, or a court order to inspect the individual's records.

In accordance with § 2.3 Civil and criminal penalties for violations:

Enforcement. ACSC will actively enforce all confidentiality and HIPAA policies with quarterly checks of EHR and physical files by ensuring passcodes are changed, files are in a double locked storage area and randomly run reports to confirm access of EHR by appropriate persons with access approval.

Any breach of access will immediately be reported to the Executive Director and Program Director for further review, appropriate revisions and instruction / training to all personnel.

Complaints of noncompliance.

If ACSC is in ***receipt of complaints.*** The executive director and program director will provide a direct line of communication to receive complaints concerning the program's compliance with the requirements of this part by any client, counselor or supervisor.

ACSC will provide information regarding The ***Right to file a complaint within the Intake packet.*** A person may file a complaint to the Secretary for a violation of this part by a part 2 program, covered entity, business associate, qualified service organization, or lawful holder in the same manner as a person may file a complaint for a violation of the administrative simplification provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

ACSC will ensure that confidentiality and complaint follow-up will set forth policies strictly from ***Refraining from intimidating or retaliatory acts.*** No entity of the agency may intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any patient for the exercise by the patient of any right established, or for participation in any process provided for, by this part, including the filing of a complaint.

ACSC will not pursue a ***Waiver of rights*** program that may not require patients to waive their right to file a complaint as a condition of the provision of treatment, payment, enrollment, or eligibility for any program subject to this part.

General Provisions

For purposes of the regulations in this part:

If a Breach of confidentiality has occurred within the agency or outside of the agency, affecting the agency and their clients, the person having knowledge of that breach, on any level by any level of the agency must report the breach in writing and submit a Critical Incident document to the Behavioral Health Administration.

The Executive Director and Program Director will both hold open-door communications to ensure that anyone having knowledge of any type of, or perceived breach of confidentiality that may have occurred to report it within 24 hours and then be reported to BHA within 24 hours.

The breach will be thoroughly investigated and appropriately resolved including but not limited to, revising confidentiality policies, reviewing HIPAA and Confidentiality policies with signatures from all persons who work within and clients who are in treatment to review and understand the policies and the potential consequences up to and not limited to termination of employment and/or treatment status depending on the malice level or inappropriate knowledge level of those persons.

HIPAA means the Health Insurance Portability and Accountability Act of 1996, as amended by the privacy and security provisions in subtitle D of title XIII of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act").

HIPAA regulations means the regulations (commonly known as the HIPAA Privacy, Security, Breach Notification, and Enforcement Rules or "HIPAA Rules").

If ACSC has entered into a written agreement with a client under which that person:

> Acknowledges that in receiving, storing, processing, or otherwise dealing with any patient records from the part 2 program, it is fully bound by the regulations in this part; and
>
> If necessary, will resist in judicial proceedings any efforts to obtain access to patient identifying information related to substance use disorder diagnosis, treatment, or referral for treatment except as permitted by the regulations in this part.

This pertains to:

Substance use disorder (SUD) counseling notes means notes recorded (in any medium) by a part 2 program provider who is a SUD or mental health professional documenting or analyzing the contents of conversation during a private SUD counseling session or a group, joint, or family SUD counseling session

and that are separated from the rest of the patient's SUD and medical record. *SUD counseling notes* excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

Third-party payer means a person, other than a health plan, who pays or agrees to pay for diagnosis or treatment furnished to a patient on the basis of a contractual relationship with the patient or a member of the patient's family or on the basis of the patient's eligibility for Federal, state, or local governmental benefits.

If a patient agrees to be, or is legally required to be diagnosed, evaluated, or treated, or agrees to accept consultation, for any condition by a person; and

The person undertakes or agrees to undertake diagnosis, evaluation, or treatment of the patient, or consultation with the patient, for any condition.

Unsecured protected health information has the same meaning given that term in 45 CFR 164.402.

ACSC will take full responsibility *to ensure that any unsecured record* means any record, as defined in this part, that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in the guidance issued under Public Law 111-5, section 13402(h).

ACSC utilizes Reliatrax for Electronic Health Records and maintenance and maintains a Business Associate Agreement in compliance with HIPAA and Confidentiality regulations.

ACSC will train and secure signed procedures and policies with all persons associated and/or employed by ACSC with respect to records, the sharing, employment, application, utilization, examination, or analysis of the information contained in such records that occurs either within an entity that maintains such information or in the course of civil, criminal, administrative, or legislative proceedings as described in Federal and State regulations. Signatures obtained through training programs at ACSC will serve as documented evidence that the person understands and commits to the regulations set forth in the state of Colorado and Federal HIPAA regulations.

ACSC Policies on Applicability Include:

Restrictions on use and disclosure. The restrictions on use and disclosure in the regulations in this part apply to any records which:

(Would identify a patient as having or having had a substance use disorder either directly, by reference to publicly available information, or through verification of such identification by another person; and

Contain substance use disorder information for any enrolled and/or emergent client in ACSC that is referred to or self-enrolled in their treatment program.

ACSC Complies with all "*Restriction on use or disclosure".* The restriction on use or disclosure of information to initiate or substantiate any criminal charges against a patient or to conduct any criminal investigation of a client applies to any information, whether or not recorded, which is substance use disorder information as part of an ongoing treatment episode which extends past that date; for the purpose of treating a substance use disorder, making a diagnosis for the treatment, or making a referral for the treatment.

ACSC is aware of and committed to the following Exceptions:

Communication between an entity having direct administrative control over that program. The restrictions on use and disclosure in the regulations in this part do not apply to communications of information between or among personnel having a need for the information in connection with their duties that arise out of the provision of diagnosis, treatment, or referral for treatment of patients with substance use disorders if the communications are:

Within the program; or between the program and an entity that has direct administrative control over the program. Confidentiality and HIPAA regulations apply in full, to all of those personnel listed above.

The restrictions on use and disclosure in the regulations in this part do not apply to communications from part 2 program personnel to law enforcement agencies or officials which:

Are directly related to a patient's commission of a crime on the premises of the program or against personnel or to a threat to commit such a crime; and are limited to the circumstances of the incident, including the patient status of the individual committing or threatening to commit the crime, that individual's name and address, and that individual's last known whereabouts.

Reports of suspected child abuse and neglect. The restrictions on use and disclosure in the regulations do not apply to the reporting under state law of incidents of suspected child abuse and neglect to the appropriate state or local authorities. However, the restrictions continue to apply to the original substance use disorder patient records maintained by the agency including their use and disclosure for civil or criminal proceedings which may arise out of the report of suspected child abuse and neglect.

ACSC complies with the Applicability to recipients of private information:

Restriction on use and disclosure of records. The restriction on the use and disclosure of any record subject to the regulations in this part to initiate or substantiate criminal charges against a patient or to conduct any criminal investigation of a patient, or to use in any civil, criminal, administrative, or legislative proceedings against a patient, applies to any person who obtains the record from a program, covered entity, business associate, intermediary, or other lawful holder, regardless of the status of the

person obtaining the record or whether the record was obtained. This restriction on use and disclosure bars, among other things, the introduction into evidence of a record or testimony in any criminal prosecution or civil action before a Federal or state court, reliance on the record or testimony to inform any decision or otherwise be taken into account in any proceeding before a Federal, state, or local agency, the use of such record or testimony by any Federal, state, or local agency for a law enforcement purpose or to conduct any law enforcement investigation, and the use of such record or testimony in any application for a warrant, absent patient consent or a court order.

Information to which restrictions are applicable. Whether a restriction applies to the use or disclosure of a record affects the type of records which may be disclosed. The restrictions on use and disclosure apply to any records which identify a specified patient as having or having had a substance use disorder. The restriction on use and disclosure of records to bring a civil action or criminal charges against a patient in any civil, criminal, administrative, or legislative proceedings applies to any records obtained by the part 2 program for the purpose of diagnosis, treatment, or referral for treatment of patients with substance use disorders.

ACSC identifies and follows the following confidentiality restrictions and safeguards.

Patient records subject to the regulations may be used or disclosed only as permitted by the regulations in this part and may not otherwise be used or disclosed in any civil, criminal, administrative, or legislative proceedings conducted by any Federal, state, or local authority. Any use or disclosure made under the regulations in this part must be limited to that information which is necessary to carry out the purpose of the use or disclosure.

Acknowledging the presence of patients: Responding to requests.

The presence of an identified patient in a health care facility or component of a health care facility that is publicly identified as a place where only substance use disorder diagnosis, treatment, or referral for treatment is provided may be acknowledged only if the patient's written consent is obtained in or if an authorizing court order is entered in accordance. The regulations permit acknowledgment of the presence of an identified patient in a health care facility or part of a health care facility if the health care facility is not publicly identified as only a substance use disorder diagnosis, treatment, or referral for treatment facility, and if the acknowledgment does not reveal that the patient has a substance use disorder.

Any answer to a request for a disclosure of patient records which is not permissible under the regulations must be made in a way that will not affirmatively reveal that an identified individual has been, or is being, diagnosed or treated for a substance use disorder. An inquiring party may be provided a copy of the regulations in this part and advised that they restrict the disclosure of substance use disorder patient records but may not be told affirmatively that the regulations restrict the disclosure of the records of an identified patient.

ADDICTION COUNSELING SERVICES OF COLORADO

SUMMARY OF POLICIES

1. Federal & Colorado Legal Framework

HIPAA & 42 CFR Part 2

- **HIPAA** (Health Insurance Portability and Accountability Act) governs the privacy and security of all individually identifiable health information. Covered entities must protect patient information in all forms—electronic, paper, and oral—and provide patients with notice of privacy practices, including their rights and the facility's legal duties.
- **42 CFR Part 2** is a federal confidentiality statute specifically protecting the identities and records of individuals receiving substance use disorder (SUD) treatment. The 2024 Final Rule aligns Part 2 with HIPAA, allowing single-consent forms for multiple disclosures, stricter breach notification requirements (within 60 days), and higher civil penalties for violations. Written patient consent is still required for most SUD record disclosures, which remains stricter than standard HIPAA authorization.
- **Colorado State Law**: Facilities must comply with the Behavioral Health Administration (BHA) rules, including 2 CCR 502-1, which covers governance, records care and retention, and confidentiality. Violation of federal confidentiality statutes is also a violation of BHA rules.

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2. Core Policy Elements

A. Notice of Privacy Practices

- Provide all patients with a clear, accessible notice of privacy practices, outlining uses/disclosures of protected health information (PHI), patient rights, and facility legal duties. Notices must be updated to reflect the 2024 alignment of HIPAA and Part 2, including new consent and breach notification requirements.

B. Consent & Disclosure

- Obtain written patient consent for disclosures of SUD treatment records, except for limited exceptions (treatment, payment, operations) now permitted under Part 2.
- Use a single consent form for multiple disclosures, with clear revocation procedures and simplified language.
- Limit redisclosure of SUD records—any recipient must be informed that further disclosure is prohibited without patient consent.

C. Security & Breach Notification

- Implement administrative, physical, and technical safeguards to protect PHI and SUD records.
- Notify affected patients and SAMHSA within 60 days of any breach affecting 500+ patients.
- Conduct regular risk assessments and staff training on privacy/security protocols.

D. Record Retention & Access

- Maintain records in accordance with Colorado BHA rules and federal standards.
- Allow patients to access their records, request amendments, and obtain an accounting of disclosures.
- Review open and closed records for compliance every 6 months, as outlined in your facility's quality assurance procedures.

E. Staff Training & Accountability

- Ensure all personnel—including interns and volunteers—are trained on HIPAA, Part 2, and Colorado confidentiality requirements.
- Supervisors must conduct regular reviews of staff performance, group facilitation, and compliance with privacy/confidentiality standards.

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3. Facility-Specific Procedures (Based on ACSC Policies)

- Adapt services to individual progress, cultural, and comprehensive needs.
- Conduct early intervention and court-ordered services in compliance with BHA rules.
- Limit group sizes and schedule sessions to ensure privacy and therapeutic effectiveness.
- Integrate quality assurance surveys and monthly staff meetings to address compliance and improvement needs.

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4. Sample Policy Template Structure

A. Policy Statement

- Commitment to protecting patient confidentiality under HIPAA, 42 CFR Part 2, and Colorado law.

B. Definitions

- PHI, SUD records, consent, breach, redisclosure, etc.

C. Procedures

- Notice of privacy practices
- Consent and disclosure process
- Security safeguards
- Breach notification steps
- Record retention and access
- Staff training and accountability

D. Compliance Monitoring

- Regular audits, staff reviews, and quality improvement actions.

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5. Resources & References

- HHS HIPAA & SUD Confidentiality Guidance [hhs.gov]
- Colorado Behavioral Health Compliance Toolbox [bha.colorado.gov]
- AHIMA Privacy & Security Templates [bok.ahima.org]
- 42 CFR Part 2 & HIPAA Alignment Guide [thebh.us]

HIPAA & Confidentiality for SUD Treatment Facility (Offender Population)

1. Policy Statement

Our facility is committed to protecting the confidentiality of all patient information in compliance with the Health Insurance Portability and Accountability Act (HIPAA), 42 CFR Part 2, and Colorado Behavioral Health Administration (BHA) regulations. This policy applies to all staff, interns, volunteers, and contractors.

2. Definitions

- **PHI**: Protected Health Information
- **SUD Records**: Records related to substance use disorder diagnosis, treatment, or referral

- **Consent**: Written authorization from the patient for disclosure
- **Breach**: Unauthorized acquisition, access, use, or disclosure of PHI
- **Redisclosure**: Further sharing of information by a recipient

3. Notice of Privacy Practices

- All patients receive a clear, accessible notice outlining uses/disclosures of PHI, patient rights, and facility legal duties.
- Notices are updated to reflect the latest federal and state requirements, including the 2024 HIPAA/Part 2 alignment.

4. Consent & Disclosure Procedures

- Obtain written patient consent for SUD record disclosures, except for limited exceptions (treatment, payment, operations) as permitted under Part 2.
- Use a single consent form for multiple disclosures, with clear revocation procedures and plain language.
- Inform all recipients that further disclosure is prohibited without patient consent. **5. Security &**

5. Breach Notification

- Implement administrative, physical, and technical safeguards to protect PHI and SUD records.
- Notify affected patients and SAMHSA within 60 days of any breach affecting 500+ patients.
- Conduct regular risk assessments and staff training on privacy/security protocols.

6. Record Retention & Access

- Maintain records per Colorado BHA and federal standards.
- Allow patients to access their records, request amendments, and obtain an accounting of disclosures.
- Review open and closed records for compliance every 6 months, as part of quality assurance.

7. Staff Training & Accountability

- All personnel, including interns and volunteers, are trained on HIPAA, Part 2, and Colorado confidentiality requirements.
- Supervisors conduct regular reviews of staff performance and compliance.

8. Facility-Specific Procedures

- Adapt services to individual progress, cultural, and comprehensive needs.
- Conduct early intervention and court-ordered services in compliance with BHA rules.
- Limit group sizes and schedule sessions to ensure privacy and therapeutic effectiveness.
- Integrate quality assurance surveys and monthly staff meetings to address compliance and improvement needs.

9. Compliance Monitoring

- Conduct regular audits, staff reviews, and quality improvement actions.

10. Resources & References

- HHS HIPAA & SUD Confidentiality Guidance
- Colorado Behavioral Health Compliance Toolbox
- AHIMA Privacy & Security Templates
- 42 CFR Part 2 & HIPAA Alignment Guide [ACSC Letter Head | Word]

Implementation Checklist

Policy & Documentation

- Policy statement reviewed and approved by leadership
- Definitions section included and updated
- Notice of Privacy Practices distributed and posted
- Consent forms updated for HIPAA/Part 2 alignment

Security & Safeguards

- Administrative, physical, and technical safeguards in place
- Regular risk assessments conducted
- Breach notification procedures established

Record Management

- Record retention schedule compliant with BHA and federal rules
- Patient access and amendment procedures in place
- Biannual compliance reviews of records

Staff Training & Oversight

- All staff, interns, and volunteers trained on confidentiality policies
- Supervisory reviews and performance checks scheduled

Facility-Specific Practices

- Group sizes and session schedules reviewed for privacy
- Quality assurance surveys and staff meetings held monthly

Compliance Monitoring

- Regular audits and quality improvement actions documented