

## CONFIDENTIALITY POLICY AND PROCEDURE

All staff members of Essex County Mental Health Services have a professional and ethical responsibility to maintain confidentiality of any information pertaining to a client. Information including photographs may be released only with the written, informed consent of the client. Exceptions to this are united to the explicit circumstances outlined below.

### A. Informed Consent

Informed consent requires that the following conditions be met:

1. The consent form for release of information is completely filled in before the client signs and includes the following:
  - a. Agency/person receiving the information.
  - b. Agency/person providing the information.
  - c. Specific information is requested.
  - d. Purpose for which information is to be used. Statement that the information will not be used for any other purpose or passed to any other person.
  - e. Client's signature, signature of witness and date appear on the form.
2. Consent for release of information is not a requirement for service/treatment.
3. The client understands the request and believes it to be in his/her interest.

### B. Client records

1. Documentation in the client record is to be directly related to service provision/treatment process. It is to be factual and non-judgmental.
2. Client records are to be kept in a locked file room.
3. Access to information in client records is permitted to professional staff for the purpose of service/treatment planning, supervision and record keeping. Access is permitted to professional members of the utilization review committees for the purpose of record audit and utilization review. Clerical and statistical support staff are permitted access to records within the areas of their assignments for record keeping and statistical work. Student interns may access the records of assigned clients. Access to records by volunteers or others to client records requires permission of the Assistant Director.
4. No part of a client record may be used or produced for teaching purposes without the informed written consent of the client and the elimination of all identifying information.
5. Records may not be taken from the agency without permission of the Assistant Director.

### C. Release of Information from Essex County Mental Health Services to others:

1. Only information originated from Essex County Mental Health Services may be released to another professional or agency. Other information must be released by the original source.
2. When a request for information is received, it must be accompanied by a release signed by the client. If the client no longer receives services from the agency, the professional or agency requesting information must provide a signed release for specific information.
3. Information may be shared over the telephone by a professional staff person if a written release has been received by that individual. Staff should verify the identity of the caller. Usually this may be done by returning the call to verify the number. When doubt exists as to an individual's right to receive information about a client, staff is obligated to review to release information orally.
4. A release must be obtained from the client for information to be shared with non-agency staff who participate in client conferences within or outside the agency.
5. Staff will exercise prudence in discussing information about clients in hallways or other public areas where it may be overheard by others.

### D. Release of Information from other records to Essex County Mental Health Services:

1. A client must give informed written consent for the agency to obtain information about past or concurrent service/treatment and must be aware of the purpose for which this information will be used.
2. Such information request is to be special and should never be routine without regard to the relevance of the material to present assessment or service/treatment planning.
3. Information obtained from another professional or agency about a client is not considered a part of the agency record in instances when a client request to see his/her record. In unusual circumstances a request may be made to the originating agency to allow supervised access to the material by the client when it may be useful and therapeutic.

E. Client access to records:

1. Client records belong to the clinic and it has the responsibility to determine the limits of access by clients.
2. When a client requests to see his/her records, the request should be in writing and placed in the case records. Except in cases where there is a well-founded reason to believe such access would be detrimental to the client, they shall have free access to their treatment records. Denial of such access by the treating therapist shall be done only after consultation with the Assistant Director. Such denial shall be documented in the record. Clients may appeal such denial to the Director of Community Services. In addition, clients have the right to appeal to the Records Access Committee through OMH regional office.
3. Access to records of terminated clients shall be provided by the treating therapist or the Assistant Director in their absence.

F. Exceptions to release of information policy:

1. Clinic records are subject to release by court order (subpoena). When a subpoena is presented, the Assistant Director is to be notified immediately to arrange disposition. Staff may not release subpoenaed material directly.
2. When a physician or emergency room request information in order to institute emergency measures, a clinic physician or therapist may provide direct or telephone information regarding a client's medication type and dosage, allergies or other information which in the staff's professional judgment is necessary for emergency treatment.
3. The Commissioner of the Department of Mental Hygiene or his authorized representative and/or representatives of the Commission on Quality of Care have the right to conduct investigations, inspections and record audits. Information obtained will be regarded as confidential as defined in state law. All such inspections shall be known to the Assistant Director.

G. Mental Hygiene Law:

1. No sections of this policy shall take precedence over sections of Mental Hygiene Law covering confidentiality or case records.
2. No sections of this policy shall be interpreted in any way to endanger the safety or life of active clients of the agency.
3. In all cases of dispute, the Director of Community Services shall have the final authority for resolution.