



Policy/Procedure: CONFIDENTIALITY OF CLIENT INFORMATION	
COA Standard: CR 2	DCF Regulation: 17a-145-98
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PURPOSE: To ensure that the information and the communication of information concerning clients of Noank Community Support Services' (NCSS) programs are handled and conducted with strict regard for clients' rights and state and federal laws governing confidential information.

POLICY: It is the policy of Noank Community Support Services (NCSS) that workforce members shall respect the rights, dignity, confidentiality, privacy, and self-determination of the individuals' receiving services. Those entrusted with protected health information have both a legal and an ethical duty to safeguard the confidentiality of client information against improper disclosure, be it documented on paper, electronically or communicated verbally.

Information regarding any client is confidential and should not be disclosed without the client or an authorized representative's consent, unless permitted or required by federal or State of Connecticut laws: for treatment, payment, or other healthcare operations; to protect the health and welfare of the client or others who may be in imminent danger; or to safeguard the privacy rights of other (non-client) individuals.

Clients shall be made aware of their rights as permitted or required by law, including the right: to inspect and receive copies of their medical records; to request an accounting of disclosures of their information; to request restrictions on disclosure of information; to request that an amendment be made to their record to contest the accuracy, completeness or relevancy of their personal data; to be informed regarding how their information will be used; to receive confidential communications; and to file a grievance or appeal when they feel their rights have been violated.

DEFINITION: Authorization- A consent form signed by a client or his/her authorized representative that specifies to whom and for what specific use the communication or record of protected health information is to be released or transmitted, or a statement setting forth any other statutory authorization for transmittal and the limitations imposed thereon.

Authorized Representative- an individual legally empowered by a person to assert the confidentiality of communications which are privileged; or if a person is deceased, his personal representative or next of kin; if a person is incompetent to assert or waive his privileges, his personal representative or next of kin; a guardian or conservator who has been or is appointed to act for the person, or for the purpose of maintaining confidentiality until a guardian or conservator is appointed, the person's nearest relative.

Competent- ability to understand the nature of the request for consent and the ability to restate in the client' own words what he/she is consenting to. (Incompetence is only established by the court).

Confidential Information- all information obtained and records prepared while providing services to clients which is not considered to be "Privileged Communication".

Consent- means consent given in writing by the client or his authorized representative

Facility- Noank Community Support Services, Inc.

HIPAA- The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. It governs the protection and release of health care information by most hospitals and health care providers.

HITECH- The Health Information Technology for Economic and Clinical Health Act, part of the American Recovery and Reinvestment Act of 2009.

Informed Consent- the client or his/her legal guardian or conservator is informed about the request, understands the request, and voluntarily consents to the request.

Mental Health Facility- includes any hospital, clinic, ward, professional's office, or other facility, public or private, which provides inpatient or outpatient service, in whole or in part, relating to the diagnosis or treatment of a client's mental condition.

Next of Kin- the spouse, adult child, or the relative who is financially responsible for the client when there is no parental guardian or when an adult client is incapacitated and has no authorized representative.

Protected Health Information (PHI)-any information in the medical record or designated record set that can be used to identify an individual and that was created, used, or disclosed while providing a health care service such as diagnosis or treatment.

Public Health Officer- an employee of the Department of Health Services designated by the Commissioner or if authorized by the Commissioner, a local health director, or his designee.

Qualified Staff Person- person who may authorize sharing of client information between other providers and NCSS. This person is defined as primary clinicians, attending psychiatrist, supervisory personnel or staff involved with the treatment of the client and development of the treatment plan.

Releasing Information- the sending of written information to a requester as the result of a request accompanied by a duly executed authorization to release information.

Sharing Information- the exchange of verbal and/or written information with persons or agencies providing joint services on behalf of current clients only.

Confidential HIV Related Information- any information pertaining to the protected individual or obtained pursuant to a release of confidential Human Immunodeficiency Virus

(HIV) related information, concerning whether a person has been counseled regarding HIV infection, has been the subject of an HIV related test, or has HIV infection, HIV related illness or Acquired Immune Deficiency Syndrome (AIDS), or information which identifies or reasonably could identify a person as having one or more such conditions, including information pertaining to such individual's partners.

Protected Individual- a person who has been counseled regarding HIV infection, is the subject of an HIV related test or who has been diagnosed as having HIV infection, AIDS, or HIV related illness.

NCSS Workforce Members- NCSS employees, contractors, vendors, consultants, business associates, interns, and volunteers.

PROCEDURE:

I. CLIENT RIGHTS

Right to Access Records

Upon request, a health care provider is generally required to allow a client to review his medical record, and to provide a client with complete and current information concerning any diagnosis, treatment, and prognosis of the client that the provider possesses. In general people are entitled to receive copies of their medical records. [C.G.S. § 4-104, C.G.S. § 20-7c] A provider is also required to notify a client of any test result in the provider's possession that indicates a need for further treatment or diagnosis. NCSS clients may review their record in the presence of an assigned treatment professional.

A client or his attorney or authorized representative may submit a written request for a copy of his health record. NCSS must furnish the copy within 30 days of receipt of the request. [C.G.S. § 20-7c]

Denial of Access to Records

A client's rights regarding psychiatric records are not identical to those regarding other medical records. For example, a patient in a psychiatric hospital may be refused the opportunity to inspect his or her records. If the request is in connection with litigation related to the hospitalization, access should be given. [C.G.S. § 17a-548(b)] However, in other cases, the facility may refuse to disclose any portion of client records only when the facility determines that:

- 1) it would create a substantial risk that the client would inflict life threatening injury to self or others; or
- 2) the client would experience a severe deterioration in mental state; or
- 3) it would violate an assurance or confidentiality furnished to another person provided that such portion of the record is disclosed which would not constitute an invasion of privacy of another person or
- 4) violate an assurance or confidentiality furnished to another person. [Conn. Gen. Stat. § 20-7c(c)]

Right To Amend

A person has a statutory right to have any factual error corrected and any misrepresented or misleading entry amended or deleted, in accordance with stated procedures. [C.G.S. § 38a-984] Within 30 business days from the date of receipt of a written request, the insurance institution, agent, or support organization must either: (1) correct, amend or

delete the portion of recorded personal information in dispute; or (2) notify the individual of its refusal to make the correction, amendment or deletion, the reasons for the refusal, and the individual's right to file a statement of disagreement.

A person whose rights are violated under this section has the right to file a civil action seeking equitable relief within two years of the violation. [C.G.S. § 38a-995] The court may award costs and reasonable attorney's fees to the prevailing party. The Insurance Commissioner may hold hearings and impose administrative remedies, including, in the case of intentional violations, monetary fines. [C.G.S. §§ 38a-990 through 38a-993] A cease and desist order and fine not to exceed \$2,000 per violation or \$20,000 for multiple negligent violations may be imposed. [C.G.S. § 38a-993]

Right to Receive a Copy of Notice of Privacy Practices

Clients or their authorized representative have the right to know how their private information is going to be used. NCSS provides this information to clients or their authorized representatives during the first contact with the client/guardian, and the client/guardian signs an acknowledgement. The information is detailed in NCSS Notice of Privacy Practices; the Notice is also posted on site.

Right to Receive Confidential Communications

NCSS clients or their authorized representatives have the right to request reasonable confidential communication (e.g., where to receive calls, mail, or email). The client or authorized representative's preference for routine and emergency contact information is collected at intake.

Right to Receive an Accounting of Disclosures

NCSS shall maintain a written accounting of certain non-routine disclosures of protected health information as required by Connecticut and Federal law. Individuals have the right to request an accounting of certain disclosures of their protected health information for the six (6) years preceding the request for an accounting. [see also HIPAA Policy #3 Patient's Rights - Accounting of Disclosures of Protected Health Information]

The NCSS's Record of Disclosures will include, for each Authorization to Release Protected Health Information, the date of the disclosure, the name and address of the recipient of the information, a description of the information to be disclosed, the name of the individual who is the subject of the information, and the purpose of the disclosure. An accounting of disclosures of a client's protected health information will be made available to the client or authorized representative within 30 days of a written request.

Right to Request Restrictions on Disclosure

Clients or their authorized representatives have the right to request restrictions on the use or disclosure of their protected health information, for as long as the protected health information is maintained by the NCSS. Individuals have the right to request that a covered entity restrict use or disclosure of protected health information for treatment, payment or health care operations, disclosure to persons involved in the individual's health care or payment for health care, or disclosure to notify family members or others about the individual's general condition, location, or death. The Director of Operations shall determine whether a request for restriction on use or disclosure should be accepted or denied for reasons acceptable under Connecticut and Federal law. For example, NCSS may agree with a request for a restriction on disclosure of a client's protected health information if the disclosure is to a health plan for the purposes of carrying out payment

or health care operations (and is not for treatment purposes), and if the protected health information pertains solely to a health care service that was paid in full by the client on the date of service. NCSS may deny the request, as is the case where the information is necessary to provide treatment. The client or authorized representative will be informed whether the request was granted or denied in whole or in part. If granted, NCSS shall comply with the restriction, and if this information is shared during emergency treatment, will inform those health care providers receiving this information of the restriction on use of the information.

Right To Appeal

NCSS may refuse to disclose medical, psychiatric, or psychological data to a person if it determines that disclosure would be detrimental to that person, or that nondisclosure is otherwise required or permitted by law. [C.G.S. § 4-194] NCSS must advise the person of his right to seek judicial relief in response to such a refusal. The person has the right to request that a medical doctor be permitted to review the personal data to determine whether it should be disclosed. NCSS must comply with the doctor's determination.

Right to File a Complaint or a Civil Action

A client or their authorized representative may choose to file a grievance or make a complaint if they feel their privacy rights have been violated. NCSS workforce members review and provide a copy of NCSS's Notice of Privacy Practices and NCSS Grievance Procedure at intake. Contact information for the NCSS's Director of Operations is included in these materials.

If private information was not properly protected, an aggrieved person may also file a complaint with the Office of Civil Rights. A person has the right to file a civil action for equitable relief, such as an injunction, and for damages against an agency that violates a client's rights. [C.G.S. § 4-197] The court may award court costs and reasonable attorney's fees to a person who prevails in such an action. When an agency specifically refuses to disclose personal information because of potential endangerment under Section 4-194, the person may petition the superior court within 30 days of the denial for an order requiring the agency to disclose the requested data. [C.G.S. §§ 17a-548(b); 4-105, 4-195]

Right to Decide if Information May be Used for Marketing Purposes

Clients or their authorized representatives have the right to decide whether their information will be used in any NCSS marketing materials. NCSS does not routinely use client information for marketing purposes, and protected health information will not be shared with other agencies or companies for the purpose of recruiting client business. If a client or their authorized representative chooses to participate in a marketing activity, a release of information specifically for the intended purpose must be obtained by the Executive Director. No identifying client information shall be part of such materials.

II. PROTECTED HEALTH INFORMATION

Protected Health information includes all individually identifiable health information held or transmitted by NCSS as a healthcare provider or by its business associates, in any form or media, whether electronic, paper, or oral, such as client contact information, information about the client's overall condition, including behavioral, mental health and medical status. The Privacy Rule excludes employment records that a covered entity maintains in its capacity as an employer and education and certain other records subject to, or defined in, the Family Educational Rights and Privacy Act.

As permitted by federal requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, enacted as part of the American Recovery and Reinvestment Act of 2009, and under Connecticut General Statute 17a-28 protections regarding confidentiality, The NCSS will create, obtain, handle, safeguard and destroy client protected health information as required by law.

Protected Health Information includes: Names; All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census: The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000; All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older; Telephone numbers; Fax numbers; Electronic mail addresses; Social security numbers; Medical record numbers; Health plan beneficiary numbers; Account numbers; Certificate/license numbers; Vehicle identifiers and serial numbers, including license plate numbers; Device identifiers and serial numbers; Web Universal Resource Locators (URLs); Internet Protocol (IP) address numbers; Biometric identifiers, including finger and voice prints; Full face photographic images and any comparable images; and Any other unique identifying number, characteristic, or code, except as permitted.

III. PRIVILEGED COMMUNICATION

Connecticut statute specifically says that its provisions for clients' access to their records [CGS § 20-7c(a)-(d)] do not apply to “any information relative to any psychiatric or psychological problems or conditions.” [CGS § 20-7c(e)] With few exceptions, the HIPAA Privacy Rule requires a covered entity to obtain an individual’s authorization prior to a disclosure of psychotherapy notes, even for a disclosure to a health care provider other than the originator of the notes, for treatment purposes. [45 C.F.R. § 164.508, 45 C.F.R. § 164.501]

Connecticut statutorily grants clients the right of access to their medical records maintained by health care providers, health care institutions, insurance entities and other specified entities. The state does not have a general, comprehensive statute prohibiting the disclosure of confidential medical information. Rather, these privacy protections are addressed in statutes governing specific entities or medical conditions. Information received because of treatment, examination, observation, or conversation is privileged or confidential.

Doctrine of Qualified Privilege

NCSS may determine that it would be in the community's best interest to release medical record information to law enforcement personnel. In such cases, NCSS may rely on the doctrine of qualified privilege. When there is no specific statutory provision, this doctrine permits communications made in good faith, without malice and with reasonable grounds for believing they are true by a person with a duty to make such communications for a legitimate interest in doing so to a person with a corresponding interest in receiving them.

Before releasing such information, the NCSS personnel releasing the information will determine that the officer requesting the information is performing official duties.

Privileged Communications between Psychologist and Patient [Sec. 52-146(a)]

"Communications" means all oral and written communications and records relating to the diagnosis and treatment of a person between such person and a psychologist or between a member of such person's family and a psychologist.

"Psychologist" means an individual licensed to practice psychology pursuant to chapter 383.

Consent of the person shall not be required for the disclosure of a person's communications:

- 1) If a judge finds that any person after having been informed that the communications would not be privileged, has made the communications to a psychologist during a psychological examination ordered by the court, provided the communications shall be admissible only on issues involving the person's psychological condition.
- 2) If, in a civil proceeding, a person introduces his psychological condition as an element of his claim or defense or, after a person's death, his condition is introduced by a party claiming or defending through or as a beneficiary of the person, and the judge finds that it is more important to the interests of justice that the communications be disclosed than that the relationship between the person and psychologist be protected.
- 3) If the psychologist believes in good faith that there is risk of imminent personal injury to the person or to other individuals or risk of imminent injury to the property of other individuals.
- 4) If child abuse, abuse of an elderly individual or abuse of an individual who is disabled or incompetent is known or in good faith suspected.
- 5) If a psychologist makes a claim for collection of fees for services rendered, the name and address of the person and the amount of the fees may be disclosed to individuals or agencies involved in such collection, provided notification that such disclosure will be made is sent, in writing, to the person not less than thirty days prior to such disclosure. In cases where a dispute arises over the fees or claims or where additional information is needed to substantiate the claim, the disclosure of further information shall be limited to the following: (a) That the person was in fact receiving psychological services, (b) the dates of such services, and (c) a general description of the types of services; or
- 6) If the communications are disclosed to a member of the immediate family or legal representative of the victim of a homicide committed by the person where such person has, on or after July 1, 1989, been found not guilty of such offense by reason of mental disease or defect pursuant to section 53a-13, provided such family member or legal representative requests the disclosure of such communications not later than six years after such finding, and provided further, such communications shall only be available during the pendency of, and for use in, a civil action relating to such person found not guilty pursuant to section 53a-13.

In all other cases, including civil and criminal actions, in juvenile, probate, commitment and arbitration proceedings, in proceedings preliminary to such actions or proceedings, and in legislative and administrative proceedings, all communications shall be privileged, and a psychologist shall not disclose any such communications unless the person or his authorized representative consents to waive the privilege and allow such disclosure. The person or his authorized representative may withdraw any consent given under the provisions of this section at any time in a writing addressed to the individual with whom or the office in which the original consent was filed. The withdrawal of consent shall not affect communications disclosed prior to notice of the withdrawal.

Privileged Communications between Psychiatrist and Patient [Sec. 52-146d]

"Communications and records" means all oral and written communications and records relating to diagnosis or treatment of a patient's mental condition between the patient and a psychiatrist, or between a member of the patient's family and a psychiatrist, or between any of such persons and a person participating under the supervision of a psychiatrist in the accomplishment of the objectives of diagnosis and treatment, wherever made, including communications and records which occur in or are prepared at a mental health facility.

"Identifiable" and "identify a patient" refer to communications and records which contain names or other descriptive data from which a person acquainted with the patient might reasonably recognize the patient as the person referred to, or codes or numbers which are in general use outside of the mental health facility which prepared the communications and records.

"Patient" means a person who communicates with or is treated by a psychiatrist in diagnosis or treatment.

"Psychiatrist" means a person licensed to practice medicine who devotes a substantial portion of his time to the practice of psychiatry, or a person reasonably believed by the patient to be so qualified.

Consent of the patient shall not be required for the disclosure or transmission of communications or records of the patient in the following situations as specifically limited [Sec. 52-146f]:

- 1) Communications or records may be disclosed to other persons engaged in the diagnosis or treatment of the patient or may be transmitted to another mental health facility to which the patient is admitted for diagnosis or treatment if the psychiatrist in possession of the communications or records determines that the disclosure or transmission is needed to accomplish the objectives of diagnosis or treatment. The patient shall be informed that the communications or records will be so disclosed or transmitted. For purposes of this subsection, persons in professional training are to be considered as engaged in the diagnosis or treatment of the patients.
- 2) Communications or records may be disclosed when the psychiatrist determines that there is substantial risk of imminent physical injury by the patient to himself or others or when a psychiatrist, in the course of diagnosis or treatment of the patient, finds it necessary to disclose the communications or records for the purpose of placing the patient in a mental health facility, by certification, commitment or

otherwise, provided the provisions of sections 52-146d to 52-146j, inclusive, shall continue in effect after the patient is in the facility.

- 3) Except as provided in section 17b-225, the name, address, and fees for psychiatric services to a patient may be disclosed to individuals or agencies involved in the collection of fees for such services. In cases where a dispute arises over the fees or claims or where additional information is needed to substantiate the fee or claim, the disclosure of further information shall be limited to the following: (A) That the person was in fact a patient; (B) the diagnosis; (C) the dates and duration of treatment; and (D) a general description of the treatment, which shall include evidence that a treatment plan exists and has been carried out and evidence to substantiate the necessity for admission and length of stay in a health care institution or facility. If further information is required, the party seeking the information shall proceed in the same manner provided for hospital patients in section 4-105.
- 4) Communications made to or records made by a psychiatrist in the course of a psychiatric examination ordered by a court or made in connection with the application for the appointment of a conservator by the Probate Court for good cause shown may be disclosed at judicial or administrative proceedings in which the patient is a party, or in which the question of his incompetence because of mental illness is an issue, or in appropriate pretrial proceedings, provided the court finds that the patient has been informed before making the communications that any communications will not be confidential and provided the communications shall be admissible only on issues involving the patient's mental condition.
- 5) Communications or records may be disclosed in a civil proceeding in which the patient introduces his mental condition as an element of his claim or defense, or, after the patient's death, when his condition is introduced by a party claiming or defending through or as a beneficiary of the patient and the court or judge finds that it is more important to the interests of justice that the communications be disclosed than that the relationship between patient and psychiatrist be protected.
- 6) Communications or records may be disclosed to (a) the Commissioner of Public Health in connection with any inspection, investigation, or examination of an institution, as defined in section 19a-490(a), authorized under section 19a-498, or (b) the Commissioner of Mental Health and Addiction Services in connection with any inspection, investigation or examination authorized under section 17a-451(f).
- 7) Communications or records may be disclosed to a member of the immediate family or legal representative of the victim of a homicide committed by the patient where such patient has, on or after July 1, 1989, been found not guilty of such offense by reason of mental disease or defect pursuant to section 53a-13, provided such family member or legal representative requests the disclosure of such communications or records not later than six years after such finding, and provided further, such communications shall only be available during the pendency of, and for use in, a civil action relating to such person found not guilty pursuant to section 53a-13.
- 8) If a provider of behavioral health services that contracts with the Department of Mental Health and Addiction Services requests payment, the name and address of the person, a general description of the types of services provided, and the amount requested shall be disclosed to the department, provided notification that such disclosure will be made is sent, in writing, to the person at the earliest opportunity prior to such disclosure. In cases where a dispute arises over the fees or claims, or where additional information is needed to substantiate the claim, the disclosure of further information shall be limited to additional information necessary

to clarify only the following: (A) That the person in fact received the behavioral health services in question, (B) the dates of such services, and (C) a general description of the types of services. Information the department receives pursuant to this subdivision shall be disclosed only to federal or state auditors and only as necessary for the purposes of auditing.

- 9) Access to communications and records by persons engaged in research.
 - a) A person engaged in research may have access to psychiatric communications and records which identify patients where needed for such research if such person's research plan is first submitted to and approved by the director of the mental health facility or his designee. [Sec. 52-146g]
 - b) (b) The communications and records shall not be removed from the mental health facility which prepared them. Coded data or data which does not identify a patient may be removed from a mental health facility, provided the key to the code shall remain on the premises of the facility.
 - c) The mental health facility and the person doing the research shall be responsible for the preservation of the anonymity of the patients and shall not disseminate data which identifies a patient except as provided by sections 52-146d to 52-146j, inclusive.

The purpose of the statutory privilege is to protect a therapeutic relationship. In all other cases, all communications and records shall be confidential, and no person may disclose or transmit any communications and records or the substance or any part or any resume thereof which identify a patient to any person, corporation, or governmental agency without the consent of the patient or his authorized representative. [Sec. 52-146e]

Transfer of Information to Commissioner of Mental Health and Addiction Services

Any facility or individual under contract with the Department of Mental Health and Addiction Services to provide behavioral health services shall transmit information and records, if requested, to the Commissioner of Mental Health and Addiction Services pursuant to his obligation under section 17a-451 to maintain the overall responsibility for the care and treatment of persons with psychiatric disorders or substance use disorders. The Commissioner of Mental Health and Addiction Services may collect and use the information and records for administration, planning or research, subject to the provisions of section 52-146g. The Commissioner of Mental Health and Addiction Services may enter into contracts within the state and into interstate compacts for the efficient storage and retrieval of the information and records. Identifiable data shall be removed from all information and records before issuance from the individual or facility which prepared them, and a code, the key to which shall remain in possession of the issuing facility and be otherwise available only to the Commissioner of Mental Health and Addiction Services for purposes of planning, administration, or research, shall be the exclusive means of identifying patients. The key to the code shall not be available to any data banks in which the information is stored or to any other persons, corporations, or agencies, private or governmental. [Sec. 52-146h]

Disclosure of Privileged Communication by Interpreter or Operator of Special Telecommunications Equipment Prohibited

Any confidential communication which is deemed to be privileged under any provision of the general statutes or under the common law made by a person with the assistance of an interpreter shall not be disclosed by such interpreter in any civil or criminal case or proceeding or in any legislative or administrative proceeding, unless the person making the confidential communication waives such privilege. [Sec. 52-146i]

Any communication made by or to a deaf or hearing-impaired person with the assistance of a person operating special telecommunications equipment capable of serving the needs of deaf or hearing-impaired persons shall be deemed to be confidential and privileged and shall not be disclosed by such operator in any civil or criminal case or proceeding or in any legislative or administrative proceeding, unless the person making the confidential communication waives such privilege. [Sec. 52-146m]

Disclosure of Patient Communication or Information by Physician, Surgeon, or Health Care Provider [Sec. 52-146o]

Consent of the patient or his authorized representative shall not be required for the disclosure of such communication or information (1) pursuant to any statute or regulation of any state agency or the rules of court, (2) by a physician, surgeon or other licensed health care provider against whom a claim has been made, or there is a reasonable belief will be made, in such action or proceeding, to his attorney or professional liability insurer or such insurer's agent for use in the defense of such action or proceeding, (3) to the Commissioner of Public Health for records of a patient of a physician, surgeon or health care provider in connection with an investigation of a complaint, if such records are related to the complaint, or (4) if child abuse, abuse of an elderly individual, abuse of an individual who is physically disabled or incompetent or abuse of an individual with mental retardation is known or in good faith suspected. [Sec. 52-146o]

In all other cases, in any civil action or any proceeding preliminary thereto or in any probate, legislative or administrative proceeding, a physician or surgeon shall not disclose (1) any communication made to him by, or any information obtained by him from, a patient or the conservator or guardian of a patient with respect to any actual or supposed physical or mental disease or disorder or (2) any information obtained by personal examination of a patient, unless the patient or his authorized representative explicitly consents to such disclosure.

Disclosure of Privileged Communication between Marital and Family Therapist and Person Consulting such Therapist [Sec. 52-146p]

"Marital and family therapist" means an individual certified as a marital and family therapist pursuant to chapter 383a.

"Communications" means all oral and written communications and records relating to the diagnosis and treatment of a person between such person and a marital and family therapist or between a member of such person's family and a marital and family therapist.

Consent of the person shall not be required for the disclosure of such person's communications:

- 1) Where mandated by any other provision of the general statutes.
- 2) Where a marital and family therapist believes in good faith that the failure to disclose such communications presents a clear and present danger to the health or safety of any individual.
- 3) Where a marital and family therapist makes a claim for collection of fees for services rendered, the name and address of the person and the amount of the fees may be disclosed to individuals or agencies involved in such collection, provided notification that such disclosure will be made is sent, in writing, to the person not less than thirty days prior to such disclosure. In cases where a dispute arises over the fees or

claims or where additional information is needed to substantiate the claim, the disclosure shall be limited to the following: (a) That the person was receiving services from a marital and family therapist, (b) the dates of such services, and (c) a general description of the types of services.

In all other cases, all communications shall be privileged, and a marital and family therapist shall not disclose any such communications unless the person or his authorized representative consents to waive the privilege and allow such disclosure. In circumstances where more than one person in a family is receiving therapy, each such family member shall consent to the waiver. In the absence of such a waiver from each such family member, a marital and family therapist shall not disclose communications with any family member. The person or his authorized representative may withdraw any consent given under the provisions of this section at any time in a writing addressed to the individual with whom or the office in which the original consent was filed. The withdrawal of consent shall not affect communications disclosed prior to notice of the withdrawal.

Disclosure of Confidential Communication between Social Worker and Person Consulting such Social Worker [Sec. 52-146g]

"Social worker" means an individual licensed as a clinical social worker pursuant to chapter 383b or an individual reasonably believed by the person to be so licensed.

"Communications and records" mean all oral and written communications and records relating to the evaluation or treatment of a person between such person and a social worker, or between a member of such person's family and a social worker, or between such person or a member of such person's family and an individual participating under the supervision of a social worker in the accomplishment of the objectives of evaluation or treatment, wherever made.

Consent of the person shall not be required for the disclosure or transmission of such person's communications and records in the following situations as specifically limited:

- 1) Communications and records may be disclosed to other individuals engaged in the diagnosis or treatment of the person or may be transmitted to a mental health facility to which the person is admitted for diagnosis or treatment if the social worker in possession of the communications and records determines that the disclosure or transmission is needed to accomplish the objectives of diagnosis or treatment, or when a social worker, in the course of evaluation or treatment of the person, finds it necessary to disclose the communications and records for the purpose of referring the person to a mental health facility. The person shall be informed that the communications and records have been so disclosed or transmitted. For purposes of this subdivision, individuals in professional training are to be considered as engaged in the diagnosis or treatment of the person.
- 2) Communications and records may be disclosed when a social worker determines that there is a substantial risk of imminent physical injury by the person to himself or others, or when disclosure is otherwise mandated by any provision of the general statutes.
- 3) Communications and records made during an evaluation ordered by a court may be disclosed at judicial proceedings in which the person is a party provided the court finds that the person has been informed before making the communications that any communications and records may be so disclosed and provided further that

communications and records shall be admissible only on issues involving the person's mental condition.

- 4) Communications and records may be disclosed in a civil proceeding in which the person introduces his mental condition as an element of his claim or defense or, after the person's death, when his condition is introduced by a party claiming or defending through or as a beneficiary of the person. For any disclosure under this subdivision, the court shall find that it is more important to the interests of justice that the communications and records be disclosed than that the relationship between the person and the social worker be protected.
- 5) If a social worker makes a claim for collection of fees for services rendered, the name and address of the person and the amount of the fees may be disclosed to individuals or agencies involved in such collection, provided written notification that such disclosure will be made is sent to the person not less than thirty days prior to such disclosure. In cases where a dispute arises over the fees or claims or where additional information is needed to substantiate the fees or claims, the disclosure of further information shall be limited to the following: (a) That the person did in fact receive the services of the social worker, (b) the dates and duration of such services, and (c) a general description of the types of services.

In all other cases, all communications and records shall be confidential, and a social worker shall not disclose any such communications and records unless the person or his authorized representative consents to such disclosure. Any consent given shall specify the individual or agency to which the communications and records are to be disclosed, the scope of the communications and records to be disclosed, the purpose of the disclosure and the expiration date of the consent. A copy of the consent form shall accompany any communications and records disclosed. The person or his authorized representative may withdraw any consent given under the provisions of this section at any time by written notice to the individual with whom or the office in which the original consent was filed. The withdrawal of consent shall not affect communications and records disclosed prior to notice of the withdrawal, except that such communications and records may not be re-disclosed after the date of the notice of withdrawal.

Disclosure of Confidential Information between Professional Counselor and Person Consulting such Professional Counselor [Sec. 52-146s]

"Professional counselor" means an individual licensed as a professional counselor pursuant to chapter 383c.

"Communications" means all oral and written communications and records thereof relating to the diagnosis and treatment of a person between such person and a professional counselor or between a member of such person's family and a professional counselor.

Consent of the person shall not be required for the disclosure of such person's communications:

- 1) If a judge finds that a person, after having been informed that the communications would not be privileged, has made the communications to a professional counselor during a mental health assessment ordered by the court, provided the communications shall be admissible only on issues involving the person's mental health condition.
- 2) If, in a civil proceeding, a person introduces such person's mental health condition as an element of the claim or defense of such person or, after a person's death, the condition of such person is introduced by a party claiming or defending through or

- as a beneficiary of the person, and the judge finds that it is more important to the interests of justice that the communications be disclosed than that the relationship between the person and professional counselor be protected;
- 3) Where mandated by any other provision of the general statutes.
 - 4) Where the professional counselor believes in good faith that the failure to disclose such communication presents a clear and present danger to the health or safety of any individual.
 - 5) If the professional counselor believes in good faith that there is risk of imminent personal injury to the person or to other individuals or risk of imminent injury to the property of other individuals.
 - 6) If child abuse, abuse of an elderly individual or abuse of an individual who is disabled or incompetent is known or in good faith suspected; or
 - 7) Where a professional counselor makes a claim for collection of fees for services rendered, the name and address of the person and the amount of the fees may be disclosed to individuals or agencies involved in such collection, provided notification that such disclosure will be made is sent, in writing, to the person not less than thirty days prior to such disclosure. In cases where a dispute arises over the fees or claims or where additional information is needed to substantiate the claim, the disclosure of further information shall be limited to the following: (a) That the person was in fact receiving professional counseling, (b) the dates of such services, and (c) a general description of the types of services.

In all other cases, a professional counselor shall not disclose any such communications unless the person or the authorized representative of such person consents to waive the privilege and allow such disclosure. The person or the authorized representative of such person may withdraw any consent given under the provisions of this section at any time in writing addressed to the individual with whom or the office in which the original consent was filed. The withdrawal of consent shall not affect communications disclosed prior to notice of the withdrawal.

IV. AUTHORIZATION TO RELEASE PROTECTED HEALTH INFORMATION

Protected health information that is created, provided by, or obtained by NCSS will not be further used or disclosed other than as permitted or required by law. Generally, information is disclosed with a client or authorized representative's written authorization. If an authorization is revoked, NCSS will no longer use or disclose the client's health information for the purposes covered by that authorization, except where NCSS has already relied on the authorization.

NCSS may disclose protected health information to:

- 1) An adult or an emancipated client.
- 2) The client's personal representative. A personal representative is a person legally authorized to make health care decisions on the client's behalf or to act for a deceased individual or the estate. A personal representative designated by the client, after verification of his/her authority, may act on the client's behalf and request disclosure of client information.
- 3) To others that identified as involved in the client's care. The client may decide to involve family, relatives, friends or others in his care or treatment. The client's records will not be released to these individuals unless the individual is also an authorized representative.

- 4) Guardian of Minors. In most cases, parents are the personal representatives for their minor children and can exercise individual rights, such as access to the medical record, on behalf of their minor children. In certain exceptional cases, the parent is not considered the personal representative. In such cases, NCSS licensed professionals will comply with CT law regarding guardianship and exercise professional judgment in making decisions to provide or deny a parent access to the minor's health information.
- 5) The Department of Children and Families as Guardian. For clients whose legal guardianship has been awarded to the Connecticut Department of Children and Families, DCF Social workers or case managers may review the record of clients they are assigned to without the authorization. When guardianship has not been granted, DCF case managers must obtain the authorization of the parent, legal guardian, or conservator of any other client to review their record.
- 6) The executor for a deceased client. The executor or administrator, after verification of his authority, may act for the deceased individual and request disclosure of the decedent's protected health information.

In accordance with Connecticut General Statutes regarding client rights, the Personal Data Act and Federal regulations (HIPAA), a written Authorization to Release Information form must be completed, signed, and dated by the client or authorized representative before any verbal or written client information is shared with another agency or individual, including other NCSS workforce members who are not specifically authorized to access information.

An Authorization to Release Information to waive client confidentiality shall specify to what person or agency the information is to be disclosed and the purpose of the disclosure. All written requests to NCSS for client information are referred to the Director of Operations for processing to ensure that the releases are compliant with law and NCSS policies.

Minimum Necessary

Other than for treatment, the use and disclosure of client's protected health information will be limited to the minimum necessary to reasonably achieve the intended purpose of the use, disclosure, or request. Access and uses to client information is restricted based on the specific roles of the members of the NCSS workforce. Additionally, the law provides for extraordinary protection of confidentiality in certain categories of medical information such as drug and alcohol abuse, HIV/AIDS-related information, and privileged mental health information.

Mental Health Information

NCSS may release information without an authorization from a client who is incapacitated in the opinion of a qualified psychiatrist, and for whom a legal guardian has not been appointed and there is no known next of kin. The release of information must be in the best interest of the client.

Such verbal or written information (in hard copy or electronic format) may be disclosed only:

- 1) Among qualified NCSS workforce members in the provision of services or in making appropriate referrals. Persons in professional training are to be considered as engaged in the diagnosis or treatment of clients.
- 2) To other persons engaged in the diagnosis or treatment of the client or to another mental health facility to which the client is admitted for diagnosis or treatment if the psychiatrist in possession of the communications or records determines that the

disclosure or transmission is needed to accomplish the objectives of diagnosis or treatment. The client or his/her legal guardian or authorized representative shall be informed that the communications or records will be so disclosed or transmitted.

- 3) To the extent necessary to make claims on behalf of a client for aid, insurance, or medical assistance to which he/she may be entitled.
- 4) In the event of a medical emergency, when the psychiatrist determines that there is substantial risk of imminent physical injury by the client to himself or others or when a psychiatrist, during diagnosis or treatment of the client, finds it necessary to disclose the communications or records for the purpose of placing the client in a mental health facility, by certification, commitment or otherwise.

NCSS clients or their authorized representatives must be informed that information related to the client's treatment prior to it being sought from and/or shared with family members. If a client or his authorized representative requests that family members not be informed of their treatment at NCSS and it is essential that family members be informed or information be sought from them, the client or his authorized representative must be informed in depth regarding the essential nature of the need and his/her cooperation solicited. If the client or his authorized representative absolutely refuses, his/her wish must be honored, unless disclosure of information is otherwise required by law.

Drug and Alcohol Abuse Information

Access to drug and alcohol abuse treatment records is strictly limited. [Federal law 42 USC 290-dd-2 and state statute CGS #17a-688(c)] These laws protect the confidentiality of information relating to a client's identity, diagnosis, prognosis, or treatment maintained in connection with any federally assisted alcohol or drug abuse program. This is the case whether the substance abuse diagnosis is primary or secondary and applies to any program which provides substance abuse diagnosis or treatment or refers clients for such treatment, and which receives, directly or indirectly, federal funds. NCSS will not disclose that the client receives substance abuse treatment or provide any information identifying the client as an alcohol or drug abuser to individuals outside of the program unless:

- 1) The client or his authorized representative consents.
- 2) Per Court order.
- 3) To medical personnel in a medical emergency; or
- 4) To qualified personnel for research, audit, or program evaluation.

Exceptions to Confidentiality of Substance Abuse Records:

The following are exceptions to the federal statutes:

- 1) The Veteran's administration and Veteran's hospitals.
- 2) Within a program or the program and its governance.
- 3) Communication between a program and a Qualified Service Organization (QSO). A QSO is defined as an organization or provider which provides non-treatment services such as data processing, laboratory services, billing, etc., and which has entered a relationship with the provider which acknowledges the organization's responsibilities to be bound by state and federal privacy, security and confidentiality regulations.
- 4) Criminal acts on NCSS premises - disclosures between NCSS staff and law enforcement officers relating to a client committing or threatening to commit a crime are permitted but are limited to the alleged criminal act, the client's name, address, and last known whereabouts.

- 5) Mandated reporting of suspected child abuse or neglect - these regulations do not apply in situations where state law requires NCSS workforce members to report suspected abuse or neglect. They do, however, apply to the original medical record.

HIV/AIDS Information

In accordance with Connecticut General Statutes a written authorization must be specifically state that HIV related information is requested and must be signed and dated by the client or authorized representative, before any verbal or written client HIV-related information is disclosed to another agency or individual, including other NCSS workforce members who are not specifically authorized to access information.

NCSS may disclose HIV related information without authorization for treatment purposes, certain health oversight activities [C.G.S. Chapter 368] for the prevention and control of disease, or to a public authority authorized to reduce exposure as in the case of exposures to HIV by personnel of NCSS, another person, or a known partner, or pursuant to a court order.

Authorization to Release Protected Health Information Form

All authorizations to Release Protected Health Information shall be processed by NCSS Director of Operations. A photocopy of a valid authorization is acceptable if it meets all of the above requirements, and the original is not available. The authorization for release shall be filed in the client record.

A valid authorization must meet the following criteria:

- 1) Be in writing.
- 2) Include the name and address of the individual or the institution that is to release the information.
- 3) Include the name and address of the individual or institution that is to receive the information.
- 4) State the purpose for which the information is needed.
- 5) Be dated after services have been initiated, and within the timeframe defined as valid by the institution releasing the information.
- 6) Be signed by the client or his authorized representative (under no duress).
- 7) State specifically the information to be released.
- 8) Be compliant with laws pertaining to the disclosure of mental health, drug and alcohol abuse and HIV/AIDS information.

A valid Authorization to Release Protected Health Information must be signed by one of the following individuals:

- 1) Any competent client 18 years or over may give NCSS the authority to seek, release or share information. (Incompetence is only established by the court.) NCSS must seek reasonable assurance that the client understands what information will be released prior to obtaining a signed consent (informed consent). Clients may give or refuse to give an authorization.
- 2) The duly appointed legal guardian or authorized representative of an incapacitated client or child under the age of 18 may authorize NCSS to seek, release or share information. Letters testamentary must accompany any such authorization.
- 3) The duly appointed Executor or Administrator of an estate of a deceased client may authorize NCSS to seek or to release information. Letters testamentary must accompany any such authorization.

- 4) The Authorization to Release Protected Health Information form may be determined to be invalid when:
 - a) Reasonable doubt exists as to the identity of the person presenting the authorization.
 - b) There is evidence that the party requesting the information is not identical to the party named in the authorization.
 - c) Evidence indicates that the client is not of legal age.
 - d) There is a question concerning the client's mental capacity or ability to provide informed consent. NOTE: If an individual in need of mental health treatment has not been declared incompetent by a court, the individual will be considered competent to sign the necessary authorizations to obtain treatment.
 - e) No verification is present that the person signing for a minor or incompetent person is legally qualified to do so.
 - f) The authenticity of the signature is suspect.
 - g) Disclosure would be detrimental to the physical or mental wellbeing of the client or may cause the client to harm herself/himself or someone else.

Method of Release

All Authorizations to Release Protected Health Information forms or the cover letter attached to the form should be stamped with the following statement regarding re-disclosure without client authorization: "Information received by a health care provider of facility may not be further released to a third healthcare provider or facility without client authorization."

Faxing

- 1) Only information needed for immediate client care be released via fax machine.
- 2) The information should be released and received by a specific individual.
- 3) The release of client information via fax should be initiated from NCSS Administration offices.
- 4) A Record of Disclosures should be retained as well as the confirmation fax from the receiving party.
- 5) The cover memo sent with the faxed information should contain a statement that the information is confidential and to be read by the addressee only and should not be re-disclosed.
- 6) The location of receiving fax machines should be verified to ensure security.

Requests for Information by Telephone

When a caller wishes to talk with a NCSS workforce member engaged in the diagnosis and treatment of a client and the caller cannot be readily identified as a client's authorized representative, the workforce member answering the call shall not confirm or deny that the subject individual is a client. The release of a client's identity in a psychiatric or substance abuse treatment center is an automatic invasion of privacy, as well as a violation of the confidentiality statutes. The caller shall be informed that information regarding NCSS clients may only be shared with NCSS clients or their authorized representatives. If the caller asserts that they are the client's authorized representative, but this cannot be readily verified, the caller will be informed that someone will return their call if their assertion can be verified. A message will be relayed to the assigned treatment provider to determine the validity of the request and to respond to the caller, as appropriate and applicable.

Labeling of Confidential Records

All written communications or records disclosed to another person or agency shall bear the following statement:

"The confidentiality of this record is required under chapter 899 of the Connecticut general statutes. This material shall not be transmitted to anyone without written consent or other authorization as provided in the aforementioned statutes."

A copy of the consent form specifying to whom and for what specific use the communication or record is transmitted or a statement setting forth any other statutory authorization for transmittal and the limitations imposed thereon shall accompany such communication or record. In cases where the disclosure is made orally, the person disclosing the information shall inform the recipient that such information is a permitted disclosure [sections 52-146d to 52-146j].

Fees for Copies of Records

Although a facility may charge for copies, no one should be denied copies because of an inability to pay. [C.G.S. § 19a-490b(d)]

NCSS does not charge fees to clients for copies of their records.

V. REVOCAION OF CONSENT

The person or his authorized representative may withdraw any consent given under the provisions of this section at any time in writing addressed to NCSS, Director of Operations, 306 Thames St., Groton, CT 06340. Each client shall be informed that his refusal to grant consent will not jeopardize his right to obtain present or future treatment except where disclosure of the communications and records is necessary for the treatment. The withdrawal of consent shall not affect communications disclosed prior to notice of the withdrawal. [sections 52-146f to 52-146i]

VI. DISCLOSURES WITHOUT CLIENT CONSENT

Generally, information may be disclosed without client or representative authorization for treatment, payment, or other health care operations by authorized workforce members in the performance of their duties. Information for payment will not be released if the client pays in full on the date of service. Attorneys appointed to represent respondents in conservatorship and commitment proceedings may see the medical records of their clients [C.G.S. § 45a-649a(g)];

NCSS may disclose client information under certain special circumstances, as required or permitted by law. Uses and disclosures for which client authorization (opportunity to agree or object) is not required include:

- 1) Emergencies. If the individual is incapacitated (as in an emergency) then NCSS workforce members may use professional judgment to allow a limited disclosure of protected health information that may be necessary to assist emergency personnel.
- 2) Public health activities. These activities may include, for example, reporting to a public health authority for preventing or controlling disease, injury, or disability, or reporting births and deaths.

- 3) Victims of abuse, neglect, or domestic violence. If NCSS workforce members believe that a client may have been a victim of abuse, neglect, or domestic violence, they may use and disclose their health information to notify a government authority.
- 4) Judicial and administrative proceedings. NCSS workforce members may disclose client health information if NCSS is involved in a lawsuit or dispute in response to a subpoena or court or administrative order.
- 5) Law enforcement purposes. NCSS workforce members will disclose client health information to comply with a court order, warrant, or similar legal process; or to answer certain requests for information concerning crimes or mandatory reporting when someone may be in danger. If a client is under the custody of a law enforcement official or a correctional institution, NCSS workforce members may disclose client health information to the institution or official for certain purposes including the health and safety of the client and others.
- 6) Military and National Security. Client information may be disclosed to federal officials as required by military command authorities or for the conduct of lawful intelligence and other national security activities.
- 7) Research. After review by the Internal Review Board, client information may be used for research purposes if the client or representative has given consent, or if client information has been de-identified to remove all personal identifiers.
- 8) To avert a serious threat to client health or safety, or to the health or safety of the public.
- 9) Workers' compensation. As authorized by worker compensation laws or related programs.
- 10) Disaster Relief. As authorized by law.
- 11) Other uses and disclosures as required by law.

Attorneys/Litigants Requiring Client Information

Client information may be released to attorneys only with client authorization, a subpoena or court order. In some cases (psychiatric, drug and alcohol abuse, HIV/AIDS), subpoena is not sufficient and must be accompanied by client authorization or court order.

Attorneys/Litigation Against NCSS

No information shall be released in the event of potential or actual litigation against NCSS or any employee of NCSS except in Habeas Corpus or certification proceeding under the Mental Health Statute. All requests for such information are referred to NCSS Director of Operations and the Executive Director, who, in turn, will notify legal counsel for the agency, the insurance carrier, and the involved professional(s).

Business Associates

NCSS, as a "Covered Entity" under federal requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health ("HITECH") Act, enacted as part of the American Recovery and Reinvestment Act of 2009, and under Connecticut General Statute 17a-28 protections regarding confidentiality, is required to enter into agreements with Business Associates to obtain written assurances that business associates will create, obtain, handle, safeguard and destroy PHI as required by law.

Emergency Disclosure

In case of an emergency requiring release of information without client authorization to a healthcare provider for client care or treatment, it is recommended that the identification of

the requesting health care provider be validated, and that the information be released by a NCSS workforce member involved in the care of the client.

Health Care Providers, Including Physicians, Dentists and Pharmacists

The Health Care Records Act applies to health care providers, including physicians, dentists, pharmacists, chiropractors, and certain other licensed health care providers. [C.G.S. § § 20-7c; 20-7b defining “provider” as “any person or organization that furnishes health care services and is licensed or certified to furnish such services pursuant to chaps. 370 to 373 (inclusive) 375 to 384a (inclusive), 388, 389, 399 or is licensed or certified under 368d”]

The records encompassed by the Act include bills, x-rays, copies of lab reports, contact lens specifications, records of prescriptions and other technical information used in assessing the client’s health condition. [C.G.S. § 20-7c] These provisions do not apply to health care information related to a psychiatric or psychological condition. [C.G.S. § 20-7c(d)]

Insurance Entities Including HMOs

The Connecticut Insurance Information and Privacy Protection Act applies to insurance entities including fee for service insurers, HMOs, insurance agents and insurance support organizations. [C.G.S. §§ 38a-175 (defining “health care center” as including HMOs); 38a-977 (detailing entities and persons covered); 38a-976 (defining “insurance institutions” as including health care centers).] The Act covers “personal information,” including “medical record information,” which is gathered in connection with an insurance transaction. [C.G.S. § 38a-976 (defining “personal information”).] “Medical record information” is personal information that (1) relates to the physical, mental, or behavioral health condition, medical history or medical treatment of an individual or his family member, and (2) is obtained from a medical professional, medical care institution, pharmacy, pharmacist or an individual, the individual’s spouse, parent or legal guardian, or from the provision of or payment for health care to or on behalf of the individual or his family. [C.G.S. § 38a-976 (defining “medical record information”)] The Act does not apply to medical information that has had all personal identifiers removed. [C.G.S. §38a-976(r)]

With respect to health insurance, the rights granted by the Act extend to Connecticut residents who are the subject of the information collected, received, or maintained in connection with insurance transactions and applicants, individuals or policyholders who engage in or seek to engage in insurance transactions. [C.G.S. §38a-977]

An insurance company, HMO, or other insurance entity must permit the individual to inspect and copy his personal information in person or to obtain a copy of it by mail, whichever the individual prefers, within 30 business days of receiving a written request and proper identification from an individual. [C.G.S. §§ 38a-983; 38a-976] If the personal information is in coded form, an accurate translation in plain language must be provided in writing. [C.G.S. § 38a-983(a)]

In addition to giving the individual a copy of his personal information, the insurance entity must also give the individual a list of the persons to whom it has disclosed such personal information within two years prior to the request for access if that information is recorded. If such an accounting of disclosures is not recorded, the entity must inform the individual of the names of those persons to whom it normally discloses personal information. [C.G.S. § 38a-983(a)] Medical record information provided to the insurance entity by a medical

professional or medical care institution that is requested may be supplied either directly to the requesting individual or to a medical professional designated by the individual, at the option of the insurance entity. [C.G.S. § 38a-983(c)]

Law Enforcement

Client information may not be released to law enforcement agencies or agents without client authorization, subpoena, court order or a statute requiring such release. Specific cases which require reporting of information to police agencies without client authorization require a search warrant. If such a request is received, the receiving Manager should notify the Director of Operations and Executive Director and the Attorney General's office. When a search warrant is issued to review or obtain client records, it is recommended that the appropriate NCSS representative be present and note everything that is reviewed. If original documents are requested, a "certified true copy" will be provided. A listing of all information copied for the law enforcement agencies will be documented in the client record and in NCSS Record of Disclosures.

Research

A person engaged in research may have access to psychiatric communications and records which identify clients where needed for such research if such person's research plan is first submitted to and approved by DCF's Internal Review Board (IRB). The communications and records shall not be removed from the mental health facility which prepared them. Coded data or data which does not identify a client may be removed from a mental health facility, provided the key to the code shall remain on the premises of the facility. The mental health facility and the person doing the research shall be responsible for the preservation of the anonymity of the clients and shall not disseminate data which identifies a client except as required if a client or others may be at imminent risk.

State Collection Services and The Department of Income Maintenance

The client's name, address, and fees for service may be disclosed to the State Collection Services as well as limited treatment information (e.g., diagnoses, dates and duration of treatment, discharge summary). [CGS Section 17C] This statute also covers matters concerning financial assistance to clients by the State Department of Income Maintenance.

Subpoenas

Immediately upon receipt of a subpoena, NCSS workforce members must notify their immediate supervisor and the NCSS Director of Operations who will review the subpoena with the Executive Director.

When the subpoena is not accompanied by a release with signed consent by the client or his authorized representative, or by an authorized DCF representative when DCF is the acting guardian, an Attorney's Satisfactory Assurance form will be requested. NCSS must disclose the information requested by the subpoena if the subpoena is signed by a judge or if NCSS receives a certification regarding the subpoena showing:

- 1) the attorney has made a good faith attempt to provide notice to the individual covered by the subpoena.
- 2) Notice included information about the litigation; and
- 3) Time for objection elapsed and (a) no objection was filed or (b) any objection was resolved in favor of the requested disclosure; or
- 4) A protective order is being sought.

The subpoena will specify if the presence of a NCSS workforce member is required to produce documents (Duces Tecum) and/or to offer testimony. The subpoena should specify what documents are required; if the request is vague or indicates "all records," the Director of Operations will contact the court to review the information available and determine what documents constitute the minimum necessary information that is required by the court. The attorney then forwards a specific release of information, accompanied by the certification regarding subpoena letter, and the records are released to the attorney (by mail or confirmed fax) with a copy of the subpoena and release, or to the NCSS workforce member to produce as required by the subpoena. A copy of certification forms shall be attached to the subpoenas and filed in the case record. The NCSS Record of Disclosures will also be updated.

VII. PROVISION OF OUTPATIENT MENTAL HEALTH TREATMENT TO MINORS WITHOUT PARENT/ GUARDIAN CONSENT

NCSS does not provide services to minors without parent/guardian consent.

VIII. LOSS OF CONFIDENTIAL INFORMATION

Employees must make every effort to safeguard confidential data. If a NCSS workforce member becomes aware that any confidential information has been lost or stolen, whether in paper or electronic form, the loss or theft must be immediately reported to the workforce member's immediate supervisor. The supervisor shall then notify the Director of Operations and the Executive Director. They shall determine the potential for harm to the client and develop a plan for corrective action. If it is determined that a breach of client information has occurred that may potentially cause harm to a client(s), notifications to the client/guardian(s) and others shall be made within 60 days, as required by law. Workforce members that violate the Confidentiality Policy or that fail to report a potential breach of confidentiality may be subject to disciplinary action, up to and including termination from employment.