

Privacy Practices Policy and Procedure

Reviewed and Revised 04.21.15

The privacy and confidentiality of health information is protected by two landmark federal laws. Every employee and client is informed, both orally and in writing, about the existence and importance of these two laws. It is important you know about your legally protected rights, the legal protections provided to Private Health Information (PHI), how PHI is legally handled, and the consequences of violating privacy laws.

The violation of 42 CFR part 2 and/or HIPAA may personally subject a violator to civil and/or to criminal liability. For each violation, a person may receive a penalty of up to \$1.5 million and imprisonment of up to 10 years.

42 CFR part 2

Federal law specifically safeguards the identity, diagnosis, prognosis, and/or treatment of any person which is maintained in connection with the performance of any alcohol and/or drug abuse prevention or treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States. This protection continues after a person has finished treatment.

Information regarding the identity, diagnosis, prognosis, and/or treatment of a person receiving treatment for alcohol and/or drug problems may be disclosed, without the person's prior written authorization, only under the certain circumstances:

- (a) To medical personnel to the extent it is necessary to meet a bona fide medical emergency.
- (b) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual person in any report of such research, audit, or evaluation, or otherwise disclose a person's identity in any manner.
- (c) If ordered by an appropriate mandate of a [federal] court (of competent jurisdiction) after an application that show good cause. In determining good cause, a court must weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such an order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

Except as authorized by a [federal] court order, no information may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

NOTE: The law clearly states: "no State law may either authorize or compel any disclosure prohibited by these regulations."

HIPAA

HIPAA stands for the Health Insurance Portability and Accountability Act. It protects the PHI of every person in the United States and covers all information that:

- 1) is created, received, stored, used, and/or disclosed;
- 2) relates to past, present and/or future physical and/or mental health;
- 3) describes a disease, diagnosis, procedure, prognosis, condition, payment, etc.;

DISCLOSURE OF THIS MATERIAL IS PROHIBITED BY FEDERAL LAW: This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse/dependency patient/client.

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- 4) exists in any medium— print files, digital files, voicemails, emails, faxes, verbal communications, etc.; and
- 5) includes at least **one** personal identifier of the individual (e.g., name, home or email addresses, fax or phone numbers, SSN, medical record number or other medical identifiers, vehicle identifiers, dates of birth, etc.

All employees, assessors, agents, volunteers, interns, and clients are required to read and sign this notice prior to entering into a relationship with Ark Counseling, LLC. This certifies the signatory understands and agrees with how PHI is handled and used at Ark Counseling.

- 1. I understand federal law recognizes that each person is the **sole** owner of his or her PHI and has a legal right to inspect and/or to receive a copy of this information or to any information released about him or her. This means a client has **total** legal control over who views or receives his or her PHI— and his or her legal right to privacy cannot be infringed upon.
- 2. I understand federal law prohibits the disclosure and/or release of PHI, unless otherwise provided for in federal regulations, **to anyone** without his or her prior and express written consent.
- 3. I understand all team members are knowledgeable about 42 CFR part 2 and HIPAA and take precautions that are designed to safeguard each client’s PHI and to make information unavailable to people who do not have a compelling need to view or possess it.
- 4. I understand all team members are advocates for each client and that internal and external communication about PHI is on a limited and need to know basis, and that when disclosure or release is required it is kept to the minimum amount necessary.
- 5. I understand that a pre-condition and irrevocable condition of employment, training, and treatment at/with Ark Counseling is my agreement to comply promptly and cheerfully with the letter and spirit of 42 CFR part 2 and HIPAA.

I have read and understand how all PHI will be used and I agree, without mental reservation, to these policies and procedures.

If a Client:

Client Name: _____

Client Signature: _____ Chart Number: _____ DOB: _____

Witness Signature: _____ Date: _____

If a Team Member:

Team Member Signature: _____ Date: _____

Witness Signature: _____ Date: _____

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