

LAKE COUNTY BOARD OF DD/DEEPWOOD

BOARD POLICY

Reviewed and Adopted by the Board:
Date: October 24, 2016

Signature on File
Elfriede Roman, Superintendent

I. SUBJECT: PROGRAM RECORDS OF INDIVIDUALS SERVED BY THE BOARD

II. PURPOSE:

To ensure confidential and secure compilation, dissemination, access, storage and destruction of such records as are required to be maintained in each LCBDD/Deepwood program area.

III. REFERENCES:

42 CFR 483.410 Requirements for States and Long Term Care Facilities, Condition of Participation for Intermediate Care Facilities for the Mentally Retarded
45 CFR §160 and 164 Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information
Ohio Administrative Code, Dept. of Education, 3301-51-04 Confidentiality
Ohio Administrative Code, Department of DD, 5123:2-1 County Board of Developmental Disabilities and 5123:2-3 Licensed Residential Facilities
Ohio Administrative Code, Department of JFS, 5101:1-37-01.1 Medicaid: safeguarding and releasing information
Board Policy A-5 Confidentiality of Individuals Served Through Board Programs

IV. DEFINITIONS:

A. Records:

All written, verbal, electronic information including email, photographs and video recordings related to an individual served by the Board including Protected Health Information (PHI) which is individually identifiable information in electronic, paper or real form relating to the past, present or future physical or mental health or condition of an individual, provisions of health care to an individual or the past present or future payment for health care provided to an individual.

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B. Authorized Persons:

Persons expressly authorized, by statute or regulations, to access records of individuals served in any capacity by the Board as listed below.

1. The Lake County Board of DD/Deepwood, when acting through resolution.
2. Agency staff persons when legitimate educational and habilitative interest exists to provide treatment, payment or health care operations.
3. Adult or an emancipated minor, or the parent, guardian, or other person acting in *loco parentis*.
4. Consultants providing direct professional services to the individual served by the Board.
5. Personnel of school district of residence.
6. Personnel of another school system in which the student intends to enroll when:
 - a. Requested by a school district in which a student seeks to enroll, or
 - b. When the transfer of records is initiated by the parent or adult student.
7. Local, state or federal authorities to whom information is specifically required to be reported pursuant to state and/or federal statutes.
8. Local, state or federal authorities to whom requests for payment of services are made.
9. Local, state or federal authorities conducting reviews of Board programs or services.
10. Accrediting organizations in order to carry out accreditation surveys and related functions.
11. As required by law. Required by law is defined as:
 - a. A journalized order from a court of competent jurisdiction directing the disclosure of confidential individual information,
 - b. A statute, regulation or ordinance applicable to the LCBDD/Deepwood and requiring the disclosure of confidential individual information, or
 - c. A lawfully issued subpoena identifying with sufficient specificity the individual information sought and its relevance to the subject matter of the litigation.

C. Unauthorized Persons:

Included as unauthorized persons are any person not specifically authorized in the above section to access the records of individuals served by the Board. No information may be disclosed to an unauthorized person in any form without a required written consent for release of information.

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D. Consent for Release of Information/Disclosure:

The Board must obtain the individual's consent prior to using or disclosing any information in the record, including PHI in any form. The consent must be on the attached agency form or on a HIPAA compliant consent form from another agency. The consent must contain these elements:

1. State that the individual has a right to review the Privacy Notice prior to signing consent.
2. State that the individual has the right to request restrictions on the use/disclosure of PHI.
3. State the individual has the right to revoke consent at any time.

E. Personally Identifiable Information:

1. The name of the individual served by the Board, the individual, parent, or other family member.
2. The address of the individual served by the Board.
3. A personal identifier such as an individual's social security number, Medicaid/Medicare number, computer ID code, state ID code.
4. A list of personal characteristics or other information which would make it possible to identify the individual with reasonable certainty.
5. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and

F. Legitimate Educational/Habilitative Interest:

Legitimate Educational/Habilitative interest is determined by the nature of the relationship between the individual and the party requesting release of information. Legitimate Educational/Habilitative interest will be considered to exist if the parties are directly involved in the treatment, payment or health care operation to the individual served by the Board. If no apparent direct Educational/Habilitative interests exist, the party requesting the release of information must demonstrate to the Superintendent or his/her designee that his/her need to know is in the best interest of the individual.

G. Directory Information for Broadmoor School:

Includes a student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and heights of members of athletic teams, dates of attendance, date of graduation, and awards received.

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H. Disclosure:

Disclosure means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

I. Chosen Representative:

A Chosen Representative means a person who has authority under applicable law to make decisions related to health care on behalf of an adult or an emancipated minor, or the parent, guardian, or other person acting in *loco parentis* who is authorized under law to make health care decisions on behalf of an unemancipated minor, except where the minor is authorized by law to consent, on his/her own or via court approval, to a health care service, or where the parent, guardian or person acting in *loco parentis* has assented to an agreement of confidentiality between the DD Board and the minor.

J. Minimum Necessary Disclosure:

For any type of disclosure made on a routine and recurring basis, the information is limited to that reasonably necessary to accomplish the purpose for which disclosure is sought. The Board is required to review requests for disclosure on an individual basis in accordance with such criteria.

V. POLICY:

A. Confidentiality of Records:

1. The Lake County Board of DD/Deepwood requires that each program area maintain certain records as defined above, in compliance with the regulatory agencies governing that program area and to carry out treatment, payment or health care operations.
2. All records of any individual served by the Board and information contained in these records are considered privileged and confidential and shall be maintained in such a manner as to ensure their confidentiality and protection from unauthorized disclosure of personally identifiable information (see definition); subject to Board Policy A-5.
3. Management information systems, indexes and computer data bases containing confidential program information about individuals served by the Board are considered records and subject to the same confidentiality restrictions.

B. Authorization and Consent:

1. Access to records by Authorized Persons is subject to Legitimate Educational and Habilitative Interest and minimum necessary disclosure needed to carry out their responsibility in connection to the record.
2. Access to any other individual or entity requires a Consent for Release of Information. Determining capacity and procedure for giving consent will be accomplished through the use of Board Policy A-18 (Informed Consent). Copies of consent for release of information shall be maintained in the applicable program record.
3. Each authorization for the use or disclosure of an individual's PHI shall be written in plain language and shall include at least the following information:
 - a. A specific and meaningful description of the information to be used or disclosed;
 - b. The name or identification of the person or class of person(s) authorized to make the use or disclosure;
 - c. The name or identification of the person or class of person(s) to whom the requested use or disclosure may be made;
 - d. Purpose of the disclosure or statement that disclosure is at request of the individual;
 - e. An expiration date or expiration event that relates to the individual or the purpose of the use or disclosure; The statement "end of the research study," "none," or similar language is sufficient if the authorization is for a use or disclosure of protected health information for research, including for the creation and maintenance of a research database or research repository.
 - f. A statement of the individual's right to revoke the authorization in writing, and exceptions to the right to revoke, together with a description of how the individual may revoke the authorization or make reference to conditions for revocation in the notice. A statement regarding permissible condition of treatment, payment, enrollment or eligibility for benefits on the authorization.
 - g. A statement that the potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient if the recipient is not subject to federal or state confidentiality restrictions. The information may no longer be protected by this subpart.
 - h. If the authorization is for marketing purposes and the entity seeking the authorization will receive either direct or indirect

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compensation, the authorization must state that the entity will receive remuneration.

- i. The dated signature of the individual, and; if the authorization is signed by a personal representative of the individual, a description of the representative's authority to act on behalf of the individual.
- k. The Board must retain the written or electronic copy of the authorization for a period of six (6) years from the later of the date of execution or the last effective date.

- 4. Release of personally identifying information to unauthorized persons over the telephone is not permitted.

C. Disclosure:

- 1. A record of disclosures of personally identifiable information in any form will be maintained on a disclosure log kept in each record.
- 2. Removal of materials from records is never permitted. All photocopying of materials is to be performed by the personnel designated specifically for this purpose. A record of all photocopies must be recorded on the disclosure log.
- 3. Information can be shared between Board operated programs as long as the minimum necessary standard is maintained. Information shared between Board programs must be noted in the disclosure log.
- 4. Any request to exchange confidential information between the Lake County Board of DD/Deepwood and third parties requires completion and execution of an Authorization to Obtain and/or Release Information form (Attachment #A) by the individual, parent or guardian. A copy of the general agency form for those purposes is attached. A record of all these disclosures must be recorded on the disclosure log.
- 5. Positive student achievements at Broadmoor School are recognized through the use of student directory information (see definition) in approved school media outlets such as: 1) School Newsletter, 2) Weekly Classroom Newsletter, 3) Weekly Staff Bulletins. Parents/guardians of students shall be sent a Consent to Obtain and/or Release Information Form prior to the opening of school. This consent must be completed for inclusion of student information in directory information and is valid for one school year. A master list of all directory information authorizations will be maintained in the Broadmoor office. A record of all inclusions listed above must be recorded on the disclosure log.

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D. Right of Access:

Individuals served by the Board, parent, or legal guardian can inspect their PHI without any cost. Copies of all their PHI will be made available at a reasonable fee, upon request of the person served by the Board, parent, or legal guardian. Exceptions to this right of access include Psychotherapy notes and information compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding.

E. Security of Records:

1. Each program area will develop administrative procedures, in accordance with this policy, to address and ensure the confidential and secure storage of, dissemination of, access to, maintenance of, and destruction of any and all records required in that program. A master roster of all program records and their location as supplied by the program areas shall be maintained in the Superintendent's office or designee.
2. Indexes and computer data bases containing confidential individual and program information shall be protected by limited access through the use of passwords and security codes known only to authorized users. There shall be developed procedures for this security and regular backup.
3. Confidential program information about individuals served by the Board shall be maintained in a secure room, locked file cabinet or other similar container when not in use and accessible only to authorized users.
4. On no less than an annual basis, each department will self-test to ensure that their records are secure.

VI. DISTRIBUTION:

Board Members
All Management Staff
All Staff (Via Department Managers)
LEADD President

VII. REVIEWED:

10/16, 10/14, 8/13, 8/11, 8/09, 8/07, 4/05, 4/03, 4/01, 4/99, 8/94, 4/92, 9/90

APRCREVIEWED

10/15

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8121 Deepwood Blvd.
Mentor, Ohio 44060

PH (440) 350-5100 FAX (440) 350-5290

AUTHORIZATION TO REQUEST AND/OR RELEASE INFORMATION

(Name of Source/ Recipient)

Re:

Name: _____

Address) _____

DOB _____

SS#

(ONLY IF

REQUIRED)
(Phone number)

The above named individual is enrolled in or has been referred to this agency for service. Below, please find a signed authorization to release/request confidential information to/from you and LCBDD/DEEPWOOD, _____ (specify department/employee).

Medical Information
Release

Request

	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Medical Information/Reports	_____	_____	_____	_____
Physical Examination	_____	_____	_____	_____
Laboratory Reports	_____	_____	_____	_____
Diagnostic Reports	_____	_____	_____	_____
Evaluations by OT/PT	_____	_____	_____	_____
Evaluations by Speech	_____	_____	_____	_____
Other (specify) _____	_____	_____	_____	_____

Program Information

Request

Release

	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Psychological Evaluations	_____	_____	_____	_____
Social History	_____	_____	_____	_____
IFSP/IEP/IHP/ISP	_____	_____	_____	_____
Other (specify) _____	_____	_____	_____	_____

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I,
(name) _____, (relationship) _____ authorize
the above noted agencies/individuals to release/obtain the noted information for the purpose of:
 () Determination of eligibility for service/funding
 () Development or implementation of program/service plan
 () Compliance with Federal, State, and Local regulations
 () Other (specify) _____

This consent is valid for six months from the date signed unless otherwise here noted.

Expiration: _____. I understand that I may revoke this consent at any time
except to the extent that prior action has been taken based on this authorization and that the
above mentioned individual has the right to inspect and maintain a copy of the information to be
disclosed for his/her use.

Signature (Individual/ Parent/Legal Guardian)

(Witness)

Date: _____

Date: _____