

<b>Chapter:</b>	Rights Protection		
<b>Title:</b>	Confidentiality and Privacy		
<b>Policy:</b> <input checked="" type="checkbox"/>	<b>Review Cycle:</b> Triennially	<b>Adopted Date:</b> 08.2023	<b>Related Policies:</b> Mandatory Reporting Duty to Protect Rights & Responsibilities Record Retention
<b>Procedure:</b> <input type="checkbox"/>	<b>Author:</b> CEO/Designee	<b>Review Date:</b> 05.2023	

**Purpose:**

Hopeful Horizons (HH) is required to protect the confidentiality of service/treatment records and privacy of protected health information (PHI) for persons seeking/receiving service(s) and/or treatment. This policy clarifies the nature and scope of the privacy and confidentiality requirements including conditions under which client information may be released.

**Scope:**

This policy applies to

- All HH Staff
- Selected HH Staff, as specified:
- HH Board Members
- HH Volunteers
- Other: Consultants/Contractors, Visitors/Vendors, MDT Partners

**Policy:**

To ensure the safety and privacy of adult, youth, and child victims of domestic violence, child abuse, dating violence, sexual assault, or stalking and their families, it is the policy of HH to protect the confidentiality and privacy of those who seek services and to hold confidential all personally identifying or individual information, communications, observations, and information made by, between, or about service participants, including the identity of service participants. Confidentiality extends to all current and former service participants and those who sought, but were denied services.

The Board, all agents, employees, consultants, volunteers, grant partners are charged with maintaining the confidentiality of service participants as outlined in HH policies and in accordance with federal and state law including but not limited to:

- Violence Against Women Act (VAWA),
- Victims of Crime Act (VOCA),
- Family Violence Prevention & Service Act (FVPSA),
- Health Insurance Portability and Accountability Act of 1996 (HIPAA),
- South Carolina Code of Laws (19-11-95), Confidences of patients of mental illness or emotional conditions, and
- As stipulated by professional licensure.

It is also the policy of HH to keep the physical address of any undisclosed agency locations (including shelter(s)), as well as the employment, residence, personal phone numbers and family addresses of service participants, staff, volunteers/interns, consultants/contractors, and board members confidential.

**A. Notice of Right to Privacy and Confidentiality**

All persons seeking services shall be given written notice of their right and responsibilities in receiving services. Rights specified are inclusive of the client's right to the protection of confidential information consistent with the following principles: "You are the primary source of information. Within the organization, information about you will be shared only to those who have a need to know. Other organizations will be given information only with your written permission or as required by law."

Consistent with HIPAA, HH shall comply with the regulatory requirement to provide every new client receiving counseling/therapy with the organization's Notice of Privacy Practices. The Notice informs clients how their Protected Health Information (PHI) may be accessed, used and disclosed by the HH and how to exercise their rights with respect to their PHI. In accordance with the HIPAA rules for privacy notice, HH shall provide an accounting of PHI disclosures at the client's request.

**B. Written Agreement to Maintain Confidentiality**

All service participants, employees, volunteers/interns, consultants/contractors, board members and visitors to HH must sign a written agreement to maintain confidentiality. This agreement shall be placed in the personnel file of the employee and in the individual files of service participants, volunteers/interns, board members, consultants/contractors and vendors. Visitor confidentiality forms will be kept in a general visitor file by year or, in the case of grantors, in their respective grant folder.

HHs' Children's Advocacy Center (CAC) conducts its work in collaboration with a multidisciplinary team (MDT). The South Carolina Child Abuse Response Protocol Act of 2021 (A28, R41, S229) requires that in the investigation of a known or suspected crime against a child, the MDT must follow the South Carolina Child Abuse Response Protocol as developed by the South Carolina Children's Justice Act Task Force and the South Carolina Network of Children's Advocacy Centers (SCNCAC). The MDT operates under the Fourteenth Judicial Circuit MDT Child Abuse Response Protocol, which establishes confidentiality guidelines and is signed by member organization representatives.

- An Informed Consent and Confidentiality Waiver shall be signed by the child's legal guardian before services are rendered at HH. The consent form explains the Multidisciplinary Team (MDT) approach and informs the guardian of the communications to take place between the participating agencies.
  - ✓ All clients receiving mental health services from HH will be informed that as part of the MDT, relevant information regarding their treatment progress may be shared during the monthly MDT case staffing.
  - ✓ All clients receiving mental health services from HH will be informed that only MDT members who are working directly with their case (i.e. LE, DSS, GAL) can have access to progress reports and summaries of their treatment progress.
- All case review participants shall sign a confidentiality statement for each case that is staffed. Confidentiality documentation shall be maintained in the case file.

**C. Releases of Confidential Information**

HHs' employees may disclose personally identifying information or individual information if the service participant gives them explicit, informed, written, reasonably time-limited consent to do so. Service participants must be clearly advised of the possible consequences of any release of confidential information by HHs' employee. Information shall be released in accordance with HHs' approved procedure and documented on the organization's approved

form. Services will never be denied because a survivor chooses not to sign a release of information.

**D. Exceptions to Informed Consent to Release Information**

By statute a VAWA grantee or subgrantee may share personally identifying information under specific circumstances:

1. When a statute compels that information be released:
  - Child or vulnerable adult abuse, neglect, or exploitation: In these instances, designated HHs' employees are required to contact law enforcement, the South Carolina Department of Social Services or other agencies to comply with Mandatory Reporting requirements under state law (SC Code 63-7-310 and 43-35-25).
  - As part of a joint child abuse/neglect investigation, South Carolina Department of Social Services and law enforcement can request a forensic interview and/or medical evaluation from the CAC without consent from the parent/legal guardian (AC Code 63-7-920c-380).
2. Hopeful Horizons is compelled by Court Order to produce information.

**E. External Request for Client/Survivor Information**

1. Subpoenas and Court Orders: All subpoenas and/or court orders issued to HH shall be referred to the CEO/designee.

HH cannot accept subpoenas or court orders on behalf of clients (the exception to this policy is if the client is being represented by HHs' staff attorney and it has been arranged between the client and the staff attorney that the attorney will accept service on behalf of the client) and must maintain client confidentiality. However, HHs' staff should notify the client of the attempted service and help the client arrange for safe service.

If HH receives a subpoena and the client does not wish to release their information, HH shall pursue legal remedies to quash the subpoena.

2. Confidentiality and Warrants: If Law Enforcement comes to the shelter to arrest a victim, they must have *both an arrest and search warrant* (because shelter is community living, they would have to obtain a search warrant so as not to violate the other residents' rights to privacy). Any search warrant must contain the correct physical address of the shelter and must be specific as to what or whom they are searching for.

The director of residential services and CEO must be notified immediately so that they can review the warrant for validity before Law Enforcement is admitted to the premises.

If the warrant is for a shelter resident, they should be notified and should be encouraged to come into the main office area to turn themselves in so that Law Enforcement doesn't have to disrupt the shelter.

If they just have an arrest warrant, staff cannot withhold information about the individual in question. Staff should contact the client immediately and let them know that there is a warrant for their arrest and talk with them about what is the safest way to handle this.

3. Other Outside Requests for Records (subpoenas/court orders): Any response to outside requests for client/victim information will be made by the CEO/designee, in conjunction

with an attorney as needed. Notice to the client/survivor shall be provided in advance consistent with this policy and related procedure(s).

### **Communication and Training:**

HHs' board members, employees, volunteers/interns, consultants/contractors, visitors/vendors and MDT partners receive initial orientation inclusive of the organization's policy and procedures regarding privacy and confidentiality. As policies and procedures are reviewed and updated employees, volunteers/interns and board members shall receive information about related changes. Employees and volunteers/interns working in direct service shall receive routine annual training on policies and procedures related to confidentiality and privacy of client information.

### **Definitions:**

1. **Confidentiality:** Is defined as the assurance that the access to information regarding a client's HHs' services shall be strictly controlled and that any violation is not only a breach of faith but has the potential to threaten the safety and life of the client and their children. Breach of confidentiality in the context of HHs' services is a potential violation of federal law and may compromise the organization's funding.
2. **Confidential Information:** Includes any written or spoken information shared in confidence between a service participant and a HH service provider in the course of that relationship, which includes any information that might identify the location or identity of someone who has sought services. Confidential communication includes all information received by the service participant and any advice, report, or working paper given or made by the service provider. Any and all knowledge, advice, records, logs, client and organizational records, or working papers (including electronically maintained records relating to a service participant) are confidential and are not to be shared with a third party. Communications are confidential even if the service participant shares the information with third parties, who are working to further the interest of the service participant, in the presence of the counselor/advocate. Confidential documents received from other agencies (for which a service participant had to execute a written release) are confidential and part of the scope of confidential communications.
3. **Informed Consent:** Means providing all relevant information about the nature and consequences of signing a release of information. This includes advising the client to consider how the information may be used once released from HHs and the possibility of the abuser obtaining the information.
4. **Personally Identifying Information:** Information about an individual that may directly or indirectly identify that individual. In the case of a victim of domestic violence, dating violence, sexual assault, or stalking, it also means information that would disclose the location of that individual. Personally identifying information includes information such as an individual's name, address, other contact information, and social security number, but it also can include information such as an individual's race, birth date, or number of children if, in the particular circumstances, that information would identify the individual. Personally identifying information also may include information that is encoded, encrypted, hashed, or otherwise protected.
5. **Protected Health Information:** Individually identifiable health information is information, including demographic data, that relates to:
  - ✓ the individual's past, present or future physical or mental health or condition,

- ✓ the provision of health care to the individual, or
- ✓ the past, present, or future payment for the provision of health care to the individual, and
- ✓ that identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual. Individually identifiable health information includes many common identifiers (e.g., name, address, birth date, Social Security Number).

6. Service Participant: Is any person, including any adult, youth, child, or family who contacts HH or receives any services from HH, whether those services are received by telephone, fax, electronically, or in person and whether those services are sought for themselves or for someone else.

**Other Related Materials:**

- Release of Confidential Information – Procedure
- Client Rights and Responsibilities – Adult Version
- Client Rights and Responsibilities – Child Version
- Consent to Release Confidential Information – Adult Version
- Consent to Release Confidential Information – Child Version
- Notice of Privacy Practices
- Facsimile Transmittal Sheet
- Written Confidentiality Agreement
- Board, Staff Volunteer Confidentiality Agreement

**References/Legal Authority:**

- [The Violence Against Women Act Reauthorization Act of 2022, Federal Register, January 2023](#)
- [Family Prevention and Services Program](#)
- [Health Insurance Portability and Accountability Act of 1996](#)
- [Victims of Crime Act](#)
- [Confidence of Patients of mental illness or emotional conditions, Section 19-11-95. SC Code of Laws](#)
- [South Carolina Child Abuse Response Protocol, 2021](#)
- [HIPAA Model Notice and Privacy Practices, HHS.gov](#)

**Change Log:**

Date of Change	Description of Change	Responsible Party
4.2023	Updates to the policy template. Clarifies policy content from procedure and training material, Adds communication and training, definitions and references.	N. Miller, Prog. Eval. Consultant