

**Polk County Wisconsin  
CLIENT'S/INDIVIDUAL'S RIGHT TO REQUEST CONFIDENTIAL  
COMMUNICATIONS**

**Policy 601.E**

**Effective Date: April 15, 2003**

**Current Revision Date:**

**Policy**

Clients/individuals have the right to request restrictions on how and where their protected health information (PHI) is communicated. To comply with HIPAA Privacy Rule sections 164.502 and 164.522(b) regarding confidential communications, Polk County must permit Clients/individuals to request to receive communications of PHI by alternative means or at alternative locations.

**Procedures**

1. Polk County may require that Client/individual requests to receive communications of PHI by alternative means or at alternative locations be made in writing. Writing requirements are detailed in the Notice of Privacy Practices.
2. Clients/Individuals may request to receive communications of PHI by alternative means or at alternative locations at the time of admission, visit, or at any time during the course of their care.
3. Client/Individual requests may be made to designated Polk County employees.
4. When Clients/individuals make a request, either formally or informally, the employee receiving the request should document it in writing.
5. Polk County must accommodate Client/individual requests that are reasonable.
6. Polk County determines whether a request is "reasonable" based solely on the administrative difficulty of accommodating the request. Polk County will establish policies and procedures to determine whether a request is "reasonable."
7. Polk County may not require that Clients/individuals provide a reason for their request.
8. Polk County may not deny requests based on its perception of whether Clients/individuals have a good reason for making the request. A Client's/individual's reason for making a request cannot be used to determine whether the request is reasonable.

9. Polk County may deny Client/individual requests if:
  - a. The Client/individual does not specify an alternative address or other method of contact.
  - b. The Client/individual does not provide information as to how payment, if applicable, will be handled.
10. If Polk County grants a Client's/individual's request, the decision must be documented by maintaining a written or electronic record of the action taken.
11. If Polk County grants a Client's/individual's request, it provides appropriate employees with the communication requirements and requires employees to adhere to them.
12. Client/Individual requests must be accommodated by Polk County that are reasonable, if the Client/individual states that the disclosure of PHI could endanger him or her.
13. Polk County may require that requests contain a statement that disclosure of PHI could endanger the Client/individual. (The statement could be oral or written. An employee could ask Clients/individuals if disclosure of PHI could put them in danger, or Clients/individuals could fill out a request form that contains a checkbox question about possible endangerment due to PHI disclosure.)

**Preemption Issues** Section 49.498(3)(a) of Wisconsin Statutes requires a Skilled Nursing Facility (SNF) participating in the Medicaid program to protect and promote the rights of each SNF resident, including the right to privacy regarding written and telephonic communication. Section 132.21(1)(a) of the Wisconsin Administrative Code regulates SNFs and provides that SNF residents have the right to private and unrestricted communications. Also, sections 51.61(cm)(1) and 51.61(p) of Wisconsin Statutes give mental health and substance Clients the unrestricted right to receive sealed mail from private physicians and the right to have reasonable access to a telephone to receive calls.

#### **References**

- WEDI – SNIP Security and Privacy Work Group, Privacy Policies and Procedures, 2001
- HIPAA Privacy Staff Trainer, May 2002
- WHA Health Law Manual

#### **Disclaimer**

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