

<p>The Health Insurance Portability and Accountability Act of 1996 (HIPAA), including amendments in the Health Information Technology for Economic and Clinical Health (HITECH) Act</p> <ul style="list-style-type: none"> • Safeguards the privacy and confidentiality of electronically transmitted client information from health care providers, health plans, and health care clearing-houses; • Protects the health insurance coverage of workers and their families when there is a change in or disruption of employment; • Simplifies the administration of health insurance; and • Combats waste in health care delivery. 	<p>Federal Confidentiality Regulation of Alcohol and Drug Abuse Records (42 CFR Part 2)</p> <ul style="list-style-type: none"> • Protects information about any person who has been given a substance use diagnosis, has applied for substance use services, or been referred to or received substance use treatment from a program that receives federal assistance such as Medicare or Medicaid funds.
<p>HIPAA Consent Requirements</p> <ul style="list-style-type: none"> • Prohibits a healthcare organization from using or disclosing protected health information unless authorized by patients, except where this prohibition would result in unnecessary interference with access to quality health care or with certain other important public benefits. They may also release information without consent to other involved healthcare providers and obtain payments. Mental health therapy notes are excluded from this disclosure and still require written consent. Disclosure may only include the minimum amount of information necessary to fulfill the task. 	<p>42 CFR Part 2 Consent Requirements</p> <ul style="list-style-type: none"> • Specific consent is necessary for disclosure of information contained in a client record maintained in any federally assisted substance use program. This includes any program that provides substance use services and receives federal assistance such as Medicare or Medicaid funds. • No client consent is necessary for a medical emergency, reports of alleged abuse or crimes, and court orders. Consent is also not necessary for auditors, research, and communicating with business associates.

Sharing Information within an Agency

Information can be shared within an agency between staff members on a need to know basis. For instance, a counselor and case manager can share information about a client without a signed release of information to coordinate the client's discharge planning services. Similarly, information can be shared with the case manager's supervisor to review if all the appropriate referrals and resources are being provided for appropriate care coordination. However, this ability to share information does not extend to other personnel within the agency who are not involved in the client's direct care.



CONFIDENTIAL

many state and federal laws that outline how providers must protect medical, mental health, and substance use information. Laws also outline circumstances when this protected health information can be shared. Chapter 2 outlined the requirements under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191.

While mental health and substance use information have additional protections and guidelines beyond those afforded to physical health, some circumstances allow information regarding an individual's behavioral health to be shared without consent.

Confidentiality for substance use is considered so vital that a federal law outlines the provisions that must be followed. Chapter 42 C.F.R. §1, Part 2 was enacted in 1972 to specifically protect information regarding substance use. Often referred to as Part 2, it was updated in 2017 and 2018 with improved transparency and additional provisions for electronic health records.

The 42 CFR Part 2 regulations (Part 2) protects patient records created by federally assisted programs for the treatment of substance use disorders (SUD). Part 2 has been revised recently to further facilitate better coordination of care in response to the opioid epidemic while maintaining its confidentiality protections against unauthorized disclosure and use. This regulation states that, in general, substance use information in clinical records shall be confidential and may be disclosed only as authorized by law and regulations. Part 2 applies to clients in any treatment modality or treatment setting, regardless of how treatment is being funded. There are several summary and guidance documents published by the federal government that describes how this authority is to be exercised in practice.^{9, 10}

Protect Client Rights



Clients receiving case management and other brokered services have specific rights that must be respected. It is the case manager's responsibility to inform the client of these rights as well as to safeguard these rights throughout the course of care. Case managers may need to serve as an advocate for a client with various other service providers or systems to ensure that these rights are protected. In some settings, such as within the criminal justice system, some of these rights are abbreviated.

In Florida, these rights are determined in state statutes. The primary legislation for patient rights is *Florida Patient's Bill of Rights and Responsibilities* (Section 381.026, F.S.). The rights described below apply to clients in all health care settings.

Right to Individual Dignity – The premise of this right is that individuals are entitled to a certain measure of personal freedom and cannot be detained against their will (involuntarily) except for a crime or to protect the client or others from imminent risk of harm. In addition, an individual has a right to participate in the formulation and review of his/her treatment plan; and a right to receive services in the least restrictive and most appropriate setting based on his or her needs, best interests and optimum chance for recovery.

- With the written informed consent of the client
- In case of medical emergency to medical personnel
- To service providers with a need to know
- To the state authority for substance abuse or the Federal Department of Health and Human Services, for research
- For audits or evaluations of the provider
- For "good cause" court orders
- For releasing information about crimes on the premises of the treatment program or against treatment provider personnel
- For reporting of child abuse and neglect
- By a minor for voluntary admissions and by a minor and guardian for involuntary admissions



2 **Right to Information** – There are several areas related to information. The client has the right to:

- Know who is providing medical services and is responsible for his or her care.
- Know what client support services are available, including if an interpreter is available if the client does not speak English.
- Know what rules and regulations apply to his or her conduct.
- Be given by the health care provider information such as diagnosis, planned course of treatment, alternatives, risks, and prognosis.
- Refuse any treatment, except as otherwise provided by law.
- Know the health care provider's or health care facility's procedures for expressing a grievance, and be able to express grievances regarding any violation of his or her rights, as stated in Florida law, through the grievance procedure of the health care provider or health care facility which served him or her and to the appropriate state licensing agency.

3 **Right to Financial Disclosure** - There are several areas related to financial information. The client has the right to:

- Be given, upon request, full information and necessary counseling on the availability of known financial resources for his or her care.
- Know, upon request and in advance of treatment, whether the health care provider or health care facility accepts the Medicare assignment rate (if the patient is eligible for Medicaid).
- Receive, upon request, prior to treatment, a reasonable estimate of charges for medical care.
- Receive a copy of a reasonably clear and understandable, itemized bill and, upon request, to have the charges explained.

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Right to Confidentiality – The client has a right to have information about their treatment protected as private. This information may be released only under certain circumstances that include the following:

- With the written informed consent of the client
- In case of medical emergency to medical personnel
- To service providers with a need to know
- To the state authority for substance abuse or the Federal Department of Health and Human Services, for research
- For audits or evaluations of the provider
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SUMMARY OF THE FLORIDA PATIENT'S BILL OF RIGHTS AND RESPONSIBILITIES

Florida law requires that your health care provider or health care facility recognize your rights while you are receiving medical care and that you respect the health care provider's or health care facility's right to expect certain behavior on the part of patients. You may request a copy of the full text of this law from your health care provider or health care facility. A summary of your rights and responsibilities follows:

A patient has the right to be treated with courtesy and respect, with appreciation of his or her individual dignity, and with protection of his or her need for privacy.

A patient has the right to a prompt and reasonable response to questions and requests.

A patient has the right to know who is providing medical services and who is responsible for his or her care.

A patient has the right to know what patient support services are available, including whether an interpreter is available if he or she does not speak English.

A patient has the right to know what rules and regulations apply to his or her conduct.

A patient has the right to be given by the health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis.

A patient has the right to refuse any treatment, except as otherwise provided by law.

A patient has the right to be given, upon request, full information and necessary counseling on the availability of known financial resources for his or her care.

A patient who is eligible for Medicare has the right to know, upon request and in advance of treatment, whether the health care provider or health care facility accepts the Medicare assignment rate.

A patient has the right to receive, upon request, prior to treatment, a reasonable estimate of charges for medical care.

A patient has the right to receive a copy of a reasonably clear and understandable, itemized bill and, upon request, to have the charges explained.

A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, physical handicap, or source of payment.

A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide treatment.

A patient has the right to know if medical treatment is for purposes of experimental research and to give his or her consent or refusal to participate in such experimental research.

A patient has the right to express grievances regarding any violation of his or her rights, as stated in Florida law, through the grievance procedure of the health care provider or health care facility which served him or her and to the appropriate state licensing agency.

A patient is responsible for providing to the health care provider, to the best of his or her knowledge, accurate and complete information about present complaints, past illnesses, hospitalizations, medications, and other matters relating to his or her health.

A patient is responsible for reporting unexpected changes in his or her condition to the health care provider.

A patient is responsible for reporting to the health care provider whether he or she comprehends a contemplated course of action and what is expected of him or her.

A patient is responsible for following the treatment plan recommended by the health care provider.

A patient is responsible for keeping appointments and, when he or she is unable to do so for any reason, for notifying the health care provider or health care facility.

A patient is responsible for his or her actions if he or she refuses treatment or does not follow the health care provider's instructions.

A patient is responsible for assuring that the financial obligations of his or her health care are fulfilled as promptly as possible.

A patient is responsible for following health care facility rules and regulations affecting patient care and conduct.

- **Coordination:** The case manager assists the client in accessing and navigating services and resources. The case manager may link the client to services and facilitate communication between providers. The client may also receive information and resources to help access services such as transportation or financial aid.
- **Monitoring:** The case manager will continually monitor the client's engagement with and progress in services as well as identify emerging needs. This may be accomplished through continued client contact, periodic reassessment, and collateral contact with members of the client's personal and professional support group.
- **Evaluation:** The case manager evaluates the appropriateness of current services and determines if adjustments need to be made based on the client's current needs and goals. Once the situation is evaluated, the client's circumstances may need to be reassessed to determine if any additional case management activities need to occur. The case manager may also make recommendations for when the client is appropriate to be discharged from services or transition to a more relevant level of care. The case manager may make referrals to new providers and assist with initiating services.

Using a Recovery Orientation

People with lived experience with either mental health or substance use conditions and behavioral health advocates have long worked to increase person-centered care and allow for greater self-determination for those with behavioral health conditions. Their successful efforts culminated in the push for better research and development of service delivery systems that are respectful and include the persons served as decision makers, ultimately leading to what is known today as today's *recovery movement*.⁸ Thus, many federal initiatives spearheaded by the Substance Abuse and Mental Health Services Administration (SAMHSA) have fostered a better understanding of recovery, recovery oriented practices, and the roles of the various professions in promoting recovery.

The current perspective on recovery centers on making long-term recovery the expected outcome for persons with behavioral health conditions. This new philosophy is not a replacement for formal episodes of treatment for these conditions. It incorporates treatment but builds on a well-established body of work to improve the way in which these disorders are managed, focusing on the long-term well-being of the individual and providing strong recovery support.

Recovery is a complex and dynamic process in which race, ethnicity, gender, sexual orientation, family history, life-cycle stage, environment, culture, and other factors combine with an individual's experiences, strengths, values, perspectives, needs, and desires. Distinctions have been made within the definition of recovery to differentiate between

- *clinical recovery* (symptom remission or abstinence)
- *functional recovery* (getting a job and coping with daily life demands)
- *personal recovery* (improvements in wellbeing and life satisfaction, regaining a positive sense of identity)
- *social recovery* (developing strong and supportive social networks)

This yields a recovery process unique to each person. For many people with behavioral health conditions, the concept of recovery is about staying in control of their life. Such an approach emphasizes resilience and control over problems and life. Recovery does not mean a cure. It's not about ceasing to need support – it's about “recovering a life,” the right to participate in all facets of civic and economic life as an equal citizen.

Know
Principles
of Recovery

The foundation of professional ethics encompasses four dimensions that, when brought together, represent the positive ethical ideals and values of the health care and helping professions:³

Principle	Description	Simply Stated
Principle of Respect for Autonomy	Autonomy refers to the right of the client to retain control over his or her care. A case manager can suggest or advise, but any actions that attempt to persuade or coerce the client into making a choice are violations of this principle. In the end, the client must be allowed to make his or her own decisions independently and according to his or her personal values and beliefs - whether or not the case manager believes these choices are in that client's best interests.	Have a duty to not interfere with the decisions of competent adults and a duty to empower others who need assistance in making decisions about their care.
Principle of Nonmaleficence	Non-maleficence is probably the best known of the four principles. In short, it means, "to do no harm." This principle is intended to be the basis for all of a case manager's decisions, and means that consideration must be given to whether other people or society could be harmed by a decision made, even if it is made for the benefit of an individual client.	Must take positive steps to prevent harm.
Principle of Beneficence	This principle means that case managers must do all they can to benefit the client in each situation. All services recommended must be with the intention to do the most good for the client and must consider the client's individual circumstances; what is good for one client will not necessary benefit another.	Must develop and maintain a high level of knowledge and skills to ensure that clients receive the most effective services and supports.
Principle of Justice	The principle of justice states that case managers will uphold applicable laws and legislation when making choices and that there should be an element of fairness in all health care decisions. This also relates to fairness in decisions that relate to equal distribution of scarce resources.	Have an obligation to uphold the law and to work for the benefit of those who may be unfairly treated.

Applicable Laws and Regulations

At the core of the case manager's work is the interplay of ethical codes with standards of practice and laws, rules, and regulations governing professional practice. It is often said that *legal* involves the "black and white" of practice requirements, whereas *ethics* is about the "gray" - if not all the shades in between. In the scope of professional case management practice, these two concepts each contribute to a powerful combined competency that sets and then reinforces the foundation of professional case management practice.⁴

Many states regulate the case management profession with laws that establish defined duties and minimum standards of practice. There may also be additional laws or regulations such as those that are based on an organization's contracts or accreditations. Providers that receive federal Medicare or state Medicaid funding for services, for example, are also governed by the conditions of participation by the Centers for Medicare and Medicaid. Negligence in following

Collaboration

Case managers play an integral role in facilitating communication between providers to integrate services and improve overall outcomes. The World Health Organization has identified four factors that improve continuity of care.²⁴



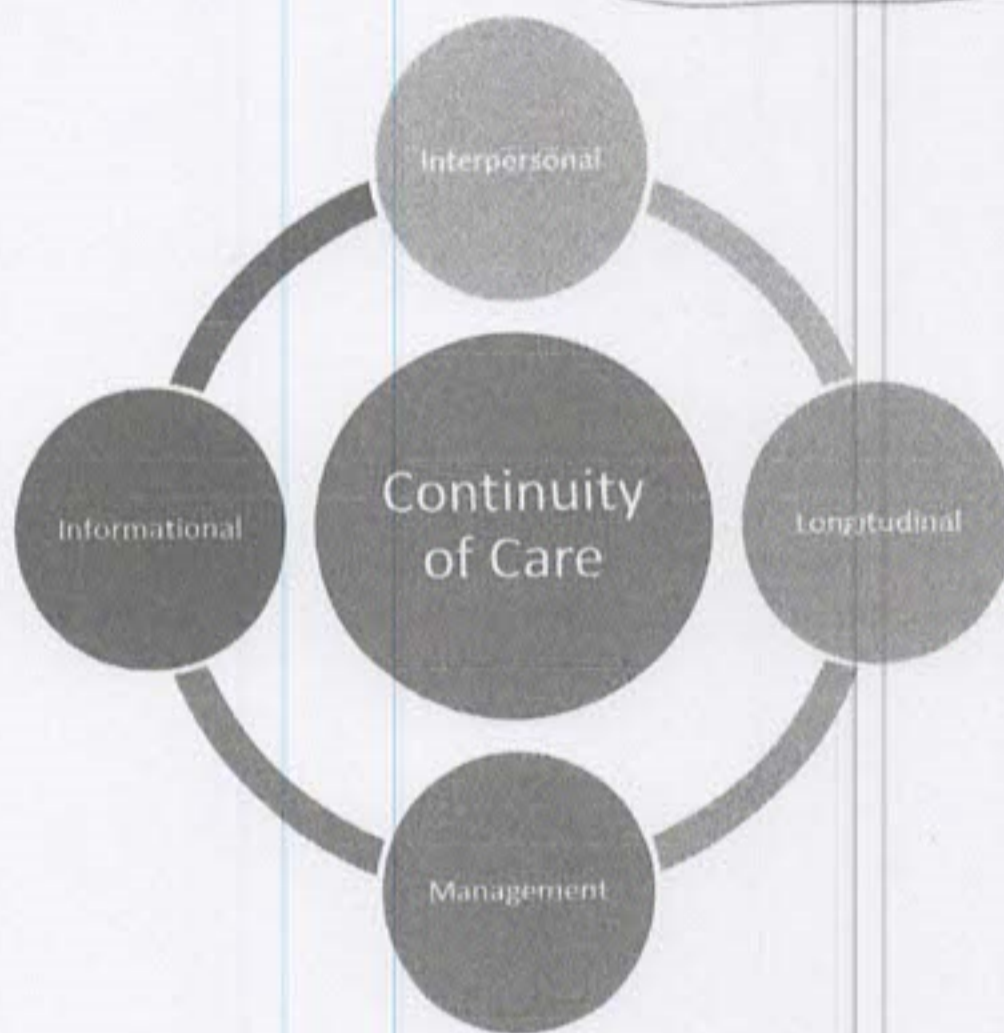
- Interpersonal continuity is identified by consistency in relationships and personalization of services based on the client's needs and preferences.
- Longitudinal continuity involves linkage to services and follow-up.
- Management continuity allows a multidisciplinary team of professionals to provide long-term monitoring of conditions to high-risk clients.
- Interpersonal continuity is the communication between the client and provider as well as the sharing of information between mutual providers.

A transition of care process is used by providers to safely and systematically transition a client from one provider to another. The transition between providers should be seamless and address client preferences, service goals, logistics and follow-up information, educational material, medication reconciliation, and service coordination.^{25, 26}

Delivering services in a seamless manner across different settings and providers enhances the client experience. Successful care coordination is dependent both on an effective plan and effective implementation of that plan. Barriers to effective care coordination are common. It is important to be aware of these barriers in order to minimize or avoid them including barriers to accessing services, communication barriers, and incomplete referrals. For example, there may be an issue with the client being able to access services due to transportation, work schedules, and childcare concerns. There may also be a breakdown in communication when the referral occurs such as staff turnover, breakdowns with technology, or incomplete documentation.

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