

## **GENERAL POLICY -- USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION**

**RESPONSIBILITY:** Privacy Official or Designee(s)

### **BACKGROUND:**

Federal Privacy regulations do not require providers of health care services to obtain an individual's written consent or authorization prior to using or disclosing protected health information (PHI) for purposes of treatment, payment or health care operations. However, state law still requires authorization or consent to disclose certain types of PHI for these purposes. These include mental health, HIV, Agent Orange, certain pharmaceutical and counseling information.

In addition, PHI may be disclosed for a number of other purposes without the patient's authorization. For instance, medical organizations are required by law to report certain communicable diseases to public health authorities. Organizations also are required to disclose protected health information when ordered to do so by a court of law. Behavioral Health and Health Facilities (BHFF) has established policies and procedures to govern each of these, and many other, types of disclosure.

For other types of use or disclosure, a specific authorization is required. An example of a disclosure that requires a specific authorization is the disclosure of health information to a life insurance company to support a patient's application for a life insurance policy. See the AUTHORIZATION TO USE OR DISCLOSE PROTECTED HEALTH INFORMATION policy.

This policy is a general statement of permitted uses and disclosures of PHI. It provides the workforce with information to help distinguish when an authorization is required to permit the use or disclosure of PHI.

It is essential to understand the definition of the following terms to properly apply this policy: treatment, payment, health care operations, use, disclosure, protected health information. See DEFINITIONS.

### **POLICY:**

BHFF is committed to protect the privacy of patients' health information, and to comply with applicable federal and state laws that protect the privacy and security of patient's health information. This policy establishes the basic requirements for the use or disclosure of patients' protected health information, consistent with this commitment.

Subject to

- the MINIMUM NECESSARY RULE,
- the BHFF NOTICE OF PRIVACY PRACTICES,

- any restrictions on the use or disclosure of PHI to which BHHF has agreed (see PATIENT REQUESTS TO RESTRICT THE USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION policy),
- STATE LAWS

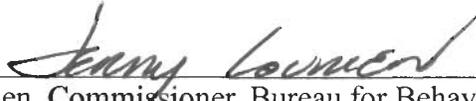
workers may use and disclose protected health information, without the written consent or authorization of the person to whom the information pertains, as follows:

1. Workers may use PHI:
  - 1.1. To provide treatment.
  - 1.2. To obtain payment.
  - 1.3. For BHHF's health care operations.
2. Workers may disclose PHI to other providers of health care for treatment of the individual to whom the PHI pertains. The MINIMUM NECESSARY RULE does not apply to such disclosures.
3. Workers may disclose PHI:
  - 3.1. For treatment (the MINIMUM NECESSARY RULE applies if the disclosure is not to a health care provider).
  - 3.2. To obtain payment.
  - 3.3. To business associates, under the terms of a business associate contract (see DISCLOSURE OF PROTECTED HEALTH INFORMATION TO BUSINESS ASSOCIATES AND OTHER CONTRACTORS policy), for any purpose for which BHHF itself may use the information.
  - 3.4. To other covered entities with which BHHF participates in an organized health care arrangement (see ORGANIZED HEALTH CARE ARRANGEMENT policy), to the extent those entities need the PHI for purposes of their own payment and health care operations. A "covered entity" is an entity which is required to comply with federal HIPAA privacy regulations.
  - 3.5. To other covered entities that do not participate with BHHF in an organized health care arrangement, for purposes of:
    - 3.5.1. Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities ("obtaining generalizable knowledge" means conducting research);
    - 3.5.2. Conducting population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, and related functions that do not include treatment.

- 3.5.3. Contacting of health care providers and patients with information about treatment alternatives (see USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR MARKETING PURPOSES policy);
  - 3.5.4. Reviewing the competence or qualifications of health care professionals;
  - 3.5.5. Evaluating practitioner, provider and health plan performance;
  - 3.5.6. Conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers,
  - 3.5.7. Training of non-health care professionals;
  - 3.5.8. Accreditation, certification, licensing, or credentialing activities;
  - 3.5.9. Health care fraud and abuse detection or compliance;
4. Workers may disclose PHI in accordance with each of the following BHHF policies:
- 4.1. VERIFICATION OF THE IDENTITY AND AUTHORITY OF A PERSON REQUESTING DISCLOSURE OF PROTECTED HEALTH INFORMATION
  - 4.2. FACILITY DIRECTORIES
  - 4.3. PROVIDING MEDICAL INFORMATION TO FAMILY, FRIENDS, OR OTHERS DIRECTLY INVOLVED IN THE PATIENT’S CARE.
  - 4.4. DISCLOSURES OF PROTECTED HEALTH INFORMATION THAT ARE REQUIRED BY LAW – GENERAL POLICY
  - 4.5. DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR PUBLIC HEALTH PURPOSES
  - 4.6. DISCLOSURE OF PROTECTED HEALTH INFORMATION TO REPORT CHILD ABUSE, OR OTHER ABUSE, NEGLECT, OR DOMESTIC VIOLENCE
  - 4.7. REPORTING PROTECTED HEALTH INFORMATION TO EMPLOYERS UNDER OSHA AND SIMILAR LAWS
  - 4.8. DISCLOSURE OF PROTECTED HEALTH INFORMATION TO “REGULATORS”
  - 4.9. SUBPOENAS, COURT ORDERS, DISCOVERY REQUESTS, OR OTHER LEGAL PROCESSES, AND THE DISCLOSURE OF PROTECTED HEALTH INFORMATION
  - 4.10. DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR LAW ENFORCEMENT PURPOSES
  - 4.11. DISCLOSURE OF PROTECTED HEALTH INFORMATION IN DISASTER SITUATIONS
  - 4.12. DISCLOSURE OF PROTECTED HEALTH INFORMATION WITHOUT AUTHORIZATION, TO AVERT A SERIOUS THREAT TO HEALTH OR SAFETY

- 4.13. DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR CERTAIN GOVERNMENT FUNCTIONS
- 4.14. DISCLOSURE OF PROTECTED HEALTH INFORMATION PERTAINING TO INMATES
- 4.15. DISCLOSURE OF PROTECTED HEALTH INFORMATION TO WORKERS' COMPENSATION PROGRAMS
- 4.16. DISCLOSURE OF PROTECTED HEALTH INFORMATION TO PERSONAL REPRESENTATIVES
- 4.17. RIGHT OF ACCESS TO PROTECTED HEALTH INFORMATION
- 5. Workers may use and disclose PHI in accordance with each of the following BHHF policies:
  - 5.1. EXTENSION OF PRIVACY PROTECTION TO DECEASED INDIVIDUALS
  - 5.2. AUTHORIZATION TO USE OR DISCLOSE PROTECTED HEALTH INFORMATION
  - 5.3. DE-IDENTIFIED INFORMATION (relating to the use and disclosure of PHI for the purpose of de-identifying it)
  - 5.4. LIMITED DATA SET
  - 5.5. USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR PURPOSES OF RESEARCH
  - 5.6. SEPARATION OF FUNCTIONS: HEALTH PLAN, HEALTH CARE PROVIDER, AND HEALTH CARE CLEARINGHOUSE
  - 5.7. EMPLOYEE HEALTH BENEFIT PLAN: USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION
  - 5.8. USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR MARKETING PURPOSES
  - 5.9. USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR FUNDRAISING
  - 5.10. USE AND DISCLOSURE OF HEALTH INFORMATION ACQUIRED PRIOR TO COMPLIANCE DATE FOR FEDERAL PRIVACY REGULATIONS: APRIL 14, 2003
- 6. Protected health information does not include (and this policy does not apply to):
  - 6.1. Records covered by the Family Educational Right and Privacy Act
  - 6.2. Employment records held by BHHF in its role as employer.
- 7. The following state regulation regarding authorization, use and disclosures must be adhered to unless it is in direct conflict with this policy: Clinical Policies Series 8000, especially 8000 and 8130.

Effective Date: 4/14/03  
Dates Revised:



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Jerome E. Lovrien, Commissioner, Bureau for Behavioral Health and Health Facilities