

**USE AND DISCLOSURE OF PROTECTED HEALTH
INFORMATION IN AN EMERGENCY POLICY**

RESPONSIBILITY: Privacy Official or Designee(s), Various other officials (see referenced policies)

BACKGROUND:

A number of Behavioral Health and Health Facilities (BHHF) policies include provisions for uses and disclosures of protected health information in emergencies. This policy gathers excerpts from these other policies, to provide a single quick reference for use in emergencies.

POLICY:

The following provisions, excerpted from various BHHF policies regarding the use and disclosure of protected health information (PHI), apply to the use and disclosure of PHI in emergencies. In each case, the provision is to be interpreted in the context of the full policy from which it is excerpted.

Full Policy	Emergency Provision
FACILITY DIRECTORIES	If an emergency or a patient’s incapacity makes it impossible to inform a patient about the facility directory in advance, the patient may be included in a facility directory if a physician or senior manager at the facility approves it as being in the patient’s best interest. However, if there is any knowledge of a preference on the patient’s part that would limit or prevent including information in the directory, this preference must be honored. The patient’s agreement to continued inclusion of some or all information in a facility directory must be obtained once it becomes possible to do so.
PROVIDING MEDICAL INFORMATION TO FAMILY, FRIENDS, OR OTHERS DIRECTLY INVOLVED IN THE PATIENT’S CARE.	If the patient is not present, or otherwise available, a worker may disclose PHI in accordance with this policy when it is in the patient’s best interest to do so. This determination may be made by the worker, based on his or her professional judgment and experience with BHHF’s common practices in like situations. The same rule applies when the patient is not capable of agreeing to or objecting to a disclosure of PHI permitted by this policy [for instance, in an emergency].
DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR LAW ENFORCEMENT	Crime victim. BHHF may disclose protected health information in response to a law enforcement official’s request for such information about an individual who is, or is suspected to be, a victim of a crime, but

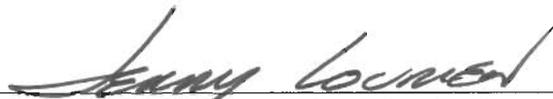
Full Policy	Emergency Provision
PURPOSES	<p>only in the following circumstances:</p> <ol style="list-style-type: none"> 1. The disclosure is required by law (including laws regarding reporting abuse, or actual abuse, neglect, or domestic violence directed at children or adults), or 2. The individual has agreed that the information may be disclosed to the law enforcement official, or 3. When the individual cannot agree to the disclosure because of incapacity or emergency circumstances, if: <ol style="list-style-type: none"> 3.1. The law enforcement official represents that the requested information is needed to determine whether a violation of law has occurred by a person other than the victim, and such information is not intended to be used against the victim, and 3.2. The law enforcement official represents that immediate law enforcement activity depends upon the disclosure and would be materially and adversely affected by waiting until the individual is able to agree to the disclosure, and 3.3. The disclosure is in the best interests of the individual as determined by an BHHF worker in the exercise of professional judgment.
DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR LAW ENFORCEMENT PURPOSES	<p>Evidence of a crime.</p> <ol style="list-style-type: none"> 1. On premises. A member of the BHHF workforce (worker) may disclose protected health information to a law enforcement official if he or she believes, in good faith, that the PHI constitutes evidence of criminal conduct that occurred on BHHF premises. 2. Off premises. In addition to disclosing PHI that appears to be evidence of a crime on BHHF premises, a worker providing emergency health care in response to a medical emergency off the premises may disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to: <ol style="list-style-type: none"> 2.1. The commission and nature of a crime, 2.2. The location of such crime, 2.3. The victim(s) of the crime, or 2.4. The identity, description, and location of the perpetrator of a crime.

Full Policy	Emergency Provision
<p>DISCLOSURE OF PROTECTED HEALTH INFORMATION IN DISASTER SITUATIONS</p>	<p>BHHF workers should attempt to comply with the following, to the extent that, in their professional judgment, doing so does not interfere with emergency response or disaster relief activities:</p> <ul style="list-style-type: none"> • If the individual to whom the PHI pertains is present, or otherwise available, the disclosures of PHI permitted by this policy should only be made in accordance with that individual's desires. The worker may ask the individual if she or he agrees to the disclosure and may give the individual the opportunity to object. The worker may also disclose PHI in accordance with this policy when, based on his or her professional judgment, it can be reasonably inferred from the circumstances that the individual does not object to the disclosure. • If the individual to whom the PHI pertains is not present, or otherwise available, or is not capable of giving agreement or making an objection to a disclosure of PHI, a worker may disclose PHI in accordance with this policy when he or she determines that it is in the individual's best interests to do so. A worker may make this determination based on his or her professional judgment. <p>Only the minimum PHI necessary to accomplish the intended purpose of the disclosure may be disclosed.</p>
<p>DISCLOSURE OF PROTECTED HEALTH INFORMATION WITHOUT AUTHORIZATION, TO AVERT A SERIOUS THREAT TO HEALTH OR SAFETY</p>	<p>Health professionals, and other members of the BHHF workforce, may disclose protected health information (PHI), without the written authorization of the person to whom it pertains, when, in good faith, they believe that a patient poses a serious and imminent threat to the health or safety of another person or to the general public. [In some situations, this policy may be applicable in an emergency.]</p>
<p>PATIENT REQUESTS TO RESTRICT THE USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION</p>	<p>Restricted information will not be used or disclosed in violation of the restriction unless such a use or disclosure is necessary for treatment of the patient in an emergency.</p>

Full Policy	Emergency Provision
NOTICE OF PRIVACY PRACTICES	<p>BHHF will make its NOTICE OF PRIVACY PRACTICES available as follows:</p> <ol style="list-style-type: none"> 1. The initial NOTICE OF PRIVACY PRACTICES prepared under this policy will be given to each patient on the first date on which the patient receives a service from BHHF on or after April 14, 2003. In an emergency treatment situation, the notice will be given to the patient as soon as reasonably practicable. 2. Except in an emergency treatment situation, BHHF workers will make a good faith effort to obtain a written acknowledgment of receipt of the notice. If acknowledgment of receipt is not obtained, the worker will document the good faith efforts to obtain such acknowledgment and the reason why the acknowledgment was not obtained.
PHYSICAL ACCESS CONTROLS	Emergency mode operation: the same standard of physical access controls will be observed and maintained during emergency mode operations as apply during normal operations.

Effective Date: 4/14/03

Revised Dates:



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