

**USE AND DISCLOSURE OF HEALTH INFORMATION ACQUIRED
PRIOR TO COMPLIANCE DATE FOR FEDERAL PRIVACY
REGULATIONS: APRIL 14, 2003 POLICY**

RESPONSIBILITY: Privacy Official or Designee(s)

POLICY:

Federal privacy regulations regarding protected health information take effect April 14, 2003.

All protected health information created or received by Behavioral Health and Health Facilities (BHHF) prior to April 14, 2003, may continue to be used or disclosed in accordance with whatever legal permission permitted the use or disclosure to that information prior to April 14, 2003.

Any restrictions to which BHHF has agreed with respect to such information, and any limitations inherent in the permission, will continue to be in effect.

Research.

1. BHHF may use or disclose, for research, protected health information that it created or received either before or after April 14, 2003, provided that there is no agreed-to restriction in accordance with the PATIENT REQUESTS TO RESTRICT THE USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION policy.
2. In order to use or disclose the PHI, BHHF must have obtained, prior to April 14, 2003, either:
 - 2.1. An authorization or other express legal permission from an individual to use or disclose protected health information for the research;
 - 2.2. The informed consent of the individual to participate in the research; or
 - 2.3. A waiver, by an IRB, of informed consent for the research, in accordance with 7 CFR 1c.116(d), 10 CFR 745.116(d), 14 CFR 1230.116(d), 15 CFR 27.116(d), 16 CFR 1028.116(d), 21 CFR 50.24, 22 CFR 225.116(d), 24 CFR 60.116(d), 28 CFR 46.116(d), 32 CFR 219.116(d), 34 CFR 97.116(d), 38 CFR 16.116(d), 40 CFR 26.116(d), 45 CFR 46.116(d), 45 CFR 690.116(d), or 49 CFR 11.116(d),
 - 2.3.1. Provided that BHHF must obtain authorization in accordance with § 164.508 if, after the compliance date, informed consent is sought from an individual participating in the research.
3. The uses and disclosures may be made to the extent allowed by the applicable form of permission.

REFERENCE: 45 CFR § 164.532

Effective Date: 4/14/03

Revised Dates:



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