

COOPERATION WITH FEDERAL COMPLAINT INVESTIGATIONS AND COMPLIANCE REVIEWS PROCEDURE

A. Request for access to facilities or records.

1. Any employee who receives a communication from the DHHS, that requests access to any facility, or any record, document or other information, will immediately notify the Privacy Official or Designee(s) for BHHF. This applies to requests received in writing, by telephone, or in person.
2. The Privacy Official or Designee(s) for BHHF will notify the Chief Executive Officer that a DHHS investigation or compliance review has been initiated.
3. The Designated Attorney for BHHF will determine whether the request complies with the applicable regulations, specifically 45 CFR §§ 160.306, 160.308, and 160.310.
4. If the Designated Attorney for BHHF determines that the request for access DOES NOT comply with the regulations, access will not be granted. The Designated Attorney for BHHF will communicate directly with the representative from DHHS, explaining the reason for not granting access, and will pursue such legal action as is necessary to protect BHHF's PHI from unwarranted disclosure in violation of federal regulations.
5. If the Designated Attorney for BHHF determines that the request DOES comply with the regulations, authorized representatives of DHHS will be granted access to BHHF's facilities and records, as necessary, to conduct the investigation or review.
6. The Privacy Official or Designee(s) for BHHF will designate an official to respond to DHHS requests for access. This must include designation of an official who will respond in the event of a request for immediate and unannounced access. The Designated Attorney for BHHF will also designate an alternate so that an official is always available to respond promptly to a DHHS request for access.
7. The official appointed by the Designated Attorney for BHHF will require DHHS representatives to present identification, and satisfactory evidence of their authority to receive access, prior to granting them access to any protected health information.
8. DHHS representatives who are conducting an investigation or review will be accommodated in a designated document room.
9. An individual assigned by the Privacy Official or Designee(s) for BHHF shall be located in the vicinity of the designated document room at all times when the

DHHS representatives are present, to assist the representatives with document requests, to log all documents delivered to the document room, to log all copies made for the DHHS representatives, and to log the DHHS representatives' arrival and departure times.

10. The DHHS representatives will be required to request records and other documents in writing.
11. Requests for copies of documents to be removed from BHHF premises must be in writing, and an individual designated by the Privacy Official or Designee(s) for BHHF will record all such copies in a log.
12. DHHS representatives will be escorted by an official designated by the Privacy Official or Designee(s) for BHHF at any time they require access to another part of BHHF facilities, other than the designated document room.
13. The Privacy Official or Designee(s) for BHHF will assure that the CEO is kept apprised of the status of the investigation, or of the status of the DHHS request in the event access has been denied.

B. Request to keep records or submit reports

1. In the event that any BHHF employee receives a request from DHHS to maintain records or submit reports to enable DHHS to determine whether BHHF is complying with federal regulations regarding the privacy of protected health information, the request will be referred immediately to the Privacy Official or Designee(s).
2. The Privacy Official or Designee(s) will review the request to determine whether it complies with applicable regulations, and whether it is feasible to comply. They will also estimate the cost of compliance.
3. Based on this review, the Designated Attorney for BHHF will either agree to maintain the requested records or submit the requested reports, or will appeal the request to DHHS on the grounds that the request is either (a) not in compliance with applicable regulations, (b) not feasible, or (c) unreasonably costly.
4. The Director of Information Systems will assign responsibility for maintaining the records or preparing the reports, including responsibility for assuring that reporting time requirements are met.

C. Response to a finding of non-compliance

If DHHS issues a finding of non-compliance either verbally or in writing, following an investigation or compliance review, the Privacy Official or Designee(s) will review the finding and decide how to reply. In accordance with regulations, the Privacy Official or Designee(s) will contact DHHS representatives to attempt to resolve the matter by informal means. Any proposed resolution will be presented to the CEO for final approval.

In the event that the matter cannot be resolved informally, the Designated Attorney for BHHF will prepare to defend BHHF's position.

D. Record keeping

The Privacy Official will keep detailed records in connection with a DHHS investigation or review. This includes records of all communications with DHHS representatives, all internal communications regarding the matter, all logs, analyses, and other documents prepared, and all findings presented by DHHS. Such records will be maintained for at least six years or longer if required by state law or regulation after the investigation has been closed.

REFERENCE: 45 CFR §§ 160.306, 160.308, 160.310, and 160.312

Effective Date: 4/14/03

Dates Revised:



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