

**TITLE: HEALTH INSURANCE PORTABILITY AND
ACCOUNTABILITY ACT COMPLIANCE**

PURPOSE: To establish a Health Insurance Portability and Accountability Act (HIPAA) compliance policy by which the Center will comply with all applicable laws, rules and regulations, for the purpose of adhering to new national standard administrative activities while safeguarding individual rights to privacy and securing critical personal identifiable health information. This policy supersedes Board Policy 3.11 dated March 20, 2003.

[Keywords: Code Set, Covered Entity, Health Insurance Portability and Accountability Act of 1996 (HIPAA), Privacy, Protected Health Information (PHI), Security, Standard Transaction, Transactions,]

POLICY STATEMENT:

As a covered entity, the Center shall comply with all applicable laws, rules and regulations relating to privacy, security, standard codes and transactions as outlined in the Center's HIPAA Procedures. The Board of Trustees has also determined that protecting PHI (protected health information) of the Center's consumers is consistent with excellent clinical and business practices, and such protections are a primary goal of the Center.

POLICY ELABORATION:

I. DEFINITIONS

- A. "Code Set" - any set of codes used to encode Data Elements, such as tables of terms, medical concepts, medical diagnostic

codes, or medical procedure codes. A Code Set includes the codes and the descriptors of the codes.

- B. “Covered Entity” - one of the following:
 - 1. A Health Plan.
 - 2. A Health Care Clearinghouse.
 - 3. A Health Care Provider who transmits any Health Information in electronic form in connection with a Transaction.

- C. “HIPAA” - Health Insurance Portability and Accountability Act of 1996.

- D. “Privacy” - seclusion or isolation from unauthorized access.

- E. “Protected Health Information” - Individually Identifiable Health Information:
 - 1. Except as provided in item 2 below of this definition, has three key characteristics:
 - a. Is individually identifiable;
 - b. Is health related; and
 - c. Is maintained in any form or medium.
 - 2. Protected Health Information excludes Individually Identifiable Health Information in:
 - a. Education records covered by the Family Educational Right and Privacy Act, as amended, 20 U.S.C. 1232g; and

b. Records described at 20 U.S.C. 1232g(a)(4)(B)(iv).

- F. "Security" - freedom from risk or danger.
- G. "Standard Transaction" - a transaction that complies with the applicable Standard adopted. Under HIPAA Standard transactions, relates to the American National Standards Institute (ANSI) X12 standard adapted by the Secretary of Health and Human Services
- H. "Transactions" - the exchange of information between two parties to carry out financial or administrative activities related to Health Care. It includes the following types of information transmissions:
1. Health care claims or equivalent encounter information.
 2. Health care payment and remittance advice.
 3. Coordination of benefits.
 4. Health care claim status.
 5. Enrollment and disenrollment in a Health Plan.
 6. Eligibility for a Health Plan.
 7. Health plan premium payments.
 8. Referral certification and authorization.
 9. First report of injury.
 10. Health claims attachments.
 11. Other transactions that the Secretary may prescribe by regulation.

II. GUIDING PRINCIPLES

In an effort to ensure regulatory compliance, staff shall develop and implement HIPAA policy and procedures in accordance with mandated timelines.

III. OVERVIEW

A. Implementation of HIPAA Rules:

1. Consumers shall be entitled to notification of their rights related to their protected health information (PHI) and of the Center's uses and disclosures of their PHI.
2. Consumers shall be informed of the Center's duties with respect to PHI and the procedures related to consent and disclosure.
3. The Center shall implement procedures to ensure that the consumers' PHI, including the designated record set, is protected from unauthorized disclosure or access.
4. The Center shall implement procedures to comply with the HIPAA Security Rule.
5. The Center shall implement procedures to comply with the provisions of the standard code and transactions rule to the extent that the Center's payers are able to be in compliance with same regulations.
6. The Center shall implement a formal risk management program around HIPAA rules to ensure that risk issues and exposures are continuously reviewed and acted upon.

B. Accountability

1. Privacy Officer - The Executive Director of the Center, as a Covered Entity, shall appoint a Privacy Officer who shall ensure that the Center's consumers' protected health information (PHI) is safeguarded by limiting internal use and external disclosures to permissible purposes principally Treatment, Payment, and Health Care Operations ("TPO"). In addition, the Privacy Officer shall do the following:
 - a. Inventory - The Privacy Officer shall document where the Center's PHI is stored, the sources of the PHI, and the internal users, external users, and requesters of the PHI and why each user accesses the PHI.
 - b. Policies and Procedures - The Privacy Officer shall develop, refine and implement the Center's HIPAA-related Policies and Procedures.
2. Security Officer - The Executive Director of the Center shall appoint a Security Officer who shall ensure that safeguards are in place, are reasonable for their circumstances, and are appropriate to safeguard PHI as outlined in the specific HIPAA Security Rules.
3. Risk Management - The Center shall establish a risk management program intended to improve compliance with the HIPAA Privacy and Security Rules.
4. Training – The Center shall establish privacy and security awareness training programs required for all Center staff, volunteers, students, and contractors using PHI in the course of their duties.

REFERENCES/BIBLIOGRAPHY:

Texas Health and Safety Code, Chapter 554, Subchapter A: Defines a Community MHMR Center.

Texas Administrative Code, Chapter 414, Subchapter A: Protected Health Information.

45 CFR Parts 160 and 164. The U.S. Department of Health and Human Services regulations governing the use and disclosure of Protected Health Information, which are the federal standards for Privacy of Individually Identifiable Health Information.

45 CFR Part 162. The U.S. Department of Health and Human Services regulations governing standard codes and transactions in healthcare.

45 CFR Part 164. The U.S. Department of Health and Human Services regulations governing data security.

42 CFR Part 2. The U.S. Department of Health and Human Services regulations governing the disclosure of PHI that relates to chemical dependency services.

42 CFR Part 51 Subpart D and 45 CFR section 1386.22. The U.S. Department of Health and Human Services regulations governing access of PHI by advocates for individuals with mental illness and mental retardation.

34 CFR Part 99. The U.S. Department of Education regulations governing disclosure of educational records of school-age children.

42 USC section 1320d et seq. The Health Insurance Portability and Accountability Act (HIPAA). Provides the statutory authority for the U.S. Department of Health and Human Services to promulgate the Federal Standards for Privacy of Individual Identifiable Health Information.

42 USC section 10806, Protection and Advocacy for Mentally Ill Individuals, and 42 USC section 15043, Protection and Advocacy of Individual Rights, provide the authority for access of PHI by Advocacy, Inc.

42 USC section 290dd-2 provides the statutory authority for the U.S. Department of Health and Human Services to promulgate the federal regulations on confidentiality of alcohol and drug abuse patient records

Texas Family Code, Chapter 32. Governs consent to treatment of a child by a nonparent of the child

Texas Government Code, Chapter 552, the Texas Open Records Act. Provides that all information collected, assembled, or maintained in any form by governmental bodies, and agencies operating in part or whole with state funds, in connections with the transaction of official business is public information; however, the act does set out certain exceptions. One such exception is information deemed confidential by law, such as PHI.

Texas Government Code, Chapter 559. Provides that persons have a right to be informed about information that a state governmental body collects about them, and to have incorrect information that is possessed about them by a state governmental body corrected.

Texas Health and Safety Code, Chapter 181. Governs uses and disclosures of PHI in the State of Texas, and applies 45 CFR Parts 160 and 164 to most entities and persons not covered by HIPAA

Texas Health and Safety Code, 576.005, and Chapters 595 and 61 1. Governs the confidentiality of PHI that relates to mental health and mental retardation services.

Texas Health and Safety Code, 533.009 and 533.035(a). Governs the exchange of PHI between facilities, local authorities, community centers, and their respective contract providers.

Texas Health and Safety Code, 614.017. Governs the exchange of information relating to special needs offenders between agencies.

Texas Health and Safety Code, Chapter 81, Subchapter F. Governs the confidentiality of information related to HIV/AIDS tests results.

Texas Health and Safety Code, Chapter 241, Subchapter G. Governs the disclosure of health care information in hospitals.

Texas Health and Safety Code, 595.005(c). Governs the disclosure of educational records of individuals receiving mental retardation services, and should be interpreted together with provisions of 576.005 and Chapters 595 and 611 of the Texas Health and Safety Code in reaching a

determination regarding the use or disclosure of PHI that relates to mental retardation services.

Texas Human Resources Code, Chapter 48. Establishes authority for the Texas Department of Family and Protective Services (DFPS) to have access to PHI necessary to conduct investigations into allegations of abuse, neglect, and exploitation of individuals.

Texas Medical Practice Act, Texas Occupations Code, Chapter 159. Governs physician-patient communications.

OFFICE OF PRIMARY RESPONSIBILITY:

Director of Information Services