



SALISH BHO

HIPAA, 42 CFR PART 2, AND MEDICAID COMPLIANCE STANDARDS POLICIES AND PROCEDURES

Policy Name: PRIVACY ADMINISTRATIVE REQUIREMENTS FOR IMPLEMENTATION AND MAINTENANCE OF HIPAA AND 42 CFR Part 2

Policy Number: 5.03

Reference: 45 CFR Parts 160, 162, 164, and 42 CFR Part 2

Effective Date: 4/2016

Revision Date(s): 5/2018

Reviewed Date: 5/2016; 6/2017; 5/2018

Approved by: SBHO Executive Board

PURPOSE

To outline the obligations relating to the implementation and maintenance of the Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH), and regulations promulgated there under, including 45 CFR Parts 160, 162, 164, and 42 CFR Part 2.

This policy applies to members of the Salish Behavioral Health (SBHO) workforce as defined by the HIPAA of 1996/2003, HITECH of 2009, and current 42 CFR Part 2.

PROCEDURE

1. **Personnel Designations:** SBHO has documented designations of the following:

Privacy Officer: SBHO has a designated individual to be the Privacy Officer, responsible for the development, implementation, and maintenance of SBHO wide policies and procedures relating to the safeguarding of PHI.

Contact Person or Office: SBHO has a designated individual, position title, or office responsible for receiving complaints relating to PHI and for providing information about SBHO's privacy practices.

2. **Training Requirements:** SBHO must document the following training actions:

On or before the effective date of the HIPAA privacy regulations [4/14/03], HITECH regulations [2009], and 42 CFR Part 2, and every year thereafter, all SBHO employees and other workforce members must receive training on applicable policies and procedures relating to PHI as necessary and appropriate for such persons to

carry out their functions within SBHO.

Each new workforce member shall receive the training as described above within a reasonable time after joining the workforce, and every year thereafter. Each workforce member, whose functions are impacted by a material change in the policies and procedures relating to PHI, or by a change in position or job description, must receive the training as described above within a reasonable time after the change becomes effective.

3. **Safeguards:** SBHO has in place appropriate administrative, technical, and physical safeguards to reasonably safeguard PHI from intentional or unintentional unauthorized use or disclosure.
4. **Complaint Process:** SBHO has in place a process for individuals to make complaints about the SBHO's HIPAA, HITECH, and 42 CFR Part 2 policies and procedures and/or the entity's compliance with those policies and procedures and must document all complaints received and the disposition of each complaint.
5. **Disciplinary Action:** SBHO will initiate disciplinary action against workforce members who fail to comply with HIPAA, HITECH, and 42 CFR Part 2 policies and procedures. [Note - there are exceptions for disclosures made by workforce members who qualify as whistleblowers or certain crime victims.]
6. **Mitigation Efforts Required:** SBHO will mitigate, to the extent practical, any harmful effects of unauthorized uses or disclosures of PHI by SBHO or any of its business associates.
7. **Intimidating or Retaliatory Acts and Waiver of Rights Prohibited:**

Prohibition on Intimidating or Retaliatory Acts: No employee of SBHO shall intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for the exercise of their rights or participation in any process relating to HIPAA and 42 CFR Part 2 compliance, or against any person for filing a complaint with the Secretary of the U.S. Department of Health and Human Services, participating in a HIPAA or 42 CFR Part 2 related investigation, compliance review, proceeding or hearing, or engaging in reasonable opposition to any act or practice that the person in good faith believes to be unlawful under HIPAA or 42 CFR Part 2 regulations as long as the action does not involve disclosure of PHI in violation of the regulations.

Prohibition on Waiver of Rights: No employee of SBHO shall require individuals to waive any of their rights under HIPAA or 42 CFR Part 2 as a condition of treatment, payment, enrollment in a health plan or eligibility for benefits.

8. **Policies and Procedures:** SBHO will document the following actions relating to its policies and procedures:

Required Policies and Procedures: SBHO has in place policies and procedures to assure appropriate safeguarding of PHI in its operations.

Changes to Policies and Procedures: SBHO changes its policies and procedures as necessary and appropriate to conform to changes in law or regulation. SBHO also may make changes to policies and procedures at other times as long as the policies and procedures are still in compliance with applicable law. Where necessary, SBHO will make correlative changes in its Privacy Notice. SBHO will not implement a change in policy or procedure prior to the effective date of the revised Privacy Notice.

9. **Documentation Requirements:** SBHO maintains the required policies and procedures in written or electronic form and will maintain written or electronic copies of all communications, actions, activities or designations as are required to be documented hereunder, or otherwise under the HIPAA or 42 CFR Part 2 regulations, for a period of ten years from the later of the date of creation or the last effective date.
10. **Distribution of Privacy Notice:** SBHO makes available Privacy Notices to all contracted providers of SBHO for distribution to consumers new to service. SBHO will promptly revise and distribute its notice whenever there is a material change to the uses and disclosures, the individual's rights, SBHO's legal duties, or other privacy practices stated in the notice.

MONITORING

This policy is mandated by contract or statute.

1. This policy will be monitored through use of SBHO:
 - Annual SBHO Provider and Subcontractor Administrative Review
2. If a provider performs below expected standards during the review listed above, a Corrective Action will be required for SBHO approval. Reference SBHO Corrective Action Plan Policy.