

ADAMHS BOARD FOR MONTGOMERY COUNTY	BP # 500	
TITLE HIPAA: Assuring Privacy of Individual Protected Health Information, General Policy	SUBJECT HIPAA	
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PURPOSE: The Health Insurance Portability and Accountability Act of 1996 (HIPAA) granted individuals the right to receive adequate notice of the uses and disclosures of their protected health information (PHI) that may be made by a covered entity, and the individual's rights and the entity's legal duties with respect to PHI. This policy has been developed to assist the Board to comply with the law and to guide Board staff with the general implementation of HIPAA Guidelines.

POLICY:

1. All Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County officers, employees, and agents shall preserve the integrity and the confidentiality of individually identifiable health information (IIHI) pertaining to each client/member. This IIHI is protected health information (PHI) and shall be safeguarded to the degree possible in compliance with the requirements of the security rules and standards established under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
2. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall publish and distribute a Notice of Privacy Practices that informs the client/member in plain language about the uses and disclosures of PHI the organization will make; client/member rights in regard to uses and disclosures; and, limitations on the organization in that it could not use or disclose information in a manner not covered in the Notice.
3. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County and its officers, employees, and agents will not use or disclose an individual's protected health information for any purpose without the properly documented consent or authorization of the client/member or his/her authorized representative unless required to do so by federal and or state law or regulation; unless an emergency exists; unless permitted by this or other policies of the Board; or, unless the information has been sufficiently de-identified that the recipient would be unable to link the information to the client/member.

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4. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall take reasonable steps to limit the use and/or disclosure of, and requests for PHI to the minimum necessary to accomplish the intended purpose.
5. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall implement reasonable administrative, technical, and physical safeguards to protect PHI from any intentional or unintentional use or disclosure that is a violation of HIPAA regulations.
6. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall establish and maintain procedures to receive and address client/member complaints of unauthorized uses or disclosures of their PHI.
7. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County recognizes certain client's/member's rights regarding their own protected health information.
 - The client/member and/or his authorized representative shall be granted access to their records subject to reasonable limitations related to the business processes of the Board unless, in the opinion of an appropriate medical professional, such access would be detrimental to the client/member.
 - The client/member has the right to request restrictions on certain uses and disclosures of PHI.
 - The client/member has the right to request communication of confidential information by the Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County by some reasonable alternative means or alternative location.
 - The client/member shall also have the right to request amendment to the records to correct alleged inaccuracies. Such amendments shall be subject to law, professional ethics, and professional judgment and standards.
 - The client/member is entitled to an accounting of disclosures of PHI for uses other than treatment, payment and healthcare operations.
8. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall obtain contractual assurances from all business associates to

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which PHI is disclosed that the information will be used only for the purposes for which they were engaged, will safeguard the information from misuse, and will help the ADAMHS Board for Montgomery County comply with its duties to provide clients/members with access to health information about them and a history of certain disclosures.

9. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall provide adequate training and timely updates related to the policies and procedures for compliance with the HIPAA privacy standards for all current employees, new hires, agents and business associates. Training content and participation will be documented and retained by the Privacy Officer.
10. All officers, employees and agents of Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall comply with the standards set forth in this policy. Violation of this policy and unauthorized uses and/or disclosures of protected health information are very serious offenses. Not only is violation of this policy grounds for disciplinary action, up to and including termination of employment, but violations related to unauthorized use and disclosure of protected health information may be subject to civil and criminal penalties including significant monetary costs and incarceration.
11. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall make all reasonable efforts to lessen the harm caused by an improper use or disclosure of protected health information by its workforce or by any business associate.
12. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall maintain policies and procedures to implement HIPAA standards and regulations. Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall also maintain documentation in written or electronic form of any communication required by the regulation and documentation of any action, activity or designation that may be required. Such documentation shall be maintained by the organization for a period of six (6) years from the date of its creation or the date when it last was in effect, whichever is later.

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DEFINITIONS

- 1.1 Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA is comprehensive law enacted by the United States government. The law has several subparts providing such benefits as guaranteed portability and renewal of insurance benefits between employers, tax provisions for medical savings accounts and administrative simplification to improve the efficiency and effectiveness of the health care system. During the latter part of the 1990's, the Secretary of the Department of Health and Human Services drafted regulations for standardizing the electronic interchange of administrative and financial data and protecting the security and privacy of personal health information. HIPAA requires health care providers, health plans and health care clearinghouses to transition to the use of standard code sets and "electronic data interchange (EDI) and to maintain reasonable and appropriate administrative, technical, and physical safeguards to insure the integrity and confidentiality of healthcare information; to protect against reasonably foreseeable threats and hazards to the security or integrity of the information; and, to protect against unauthorized uses or disclosure of the information. Compliance with the first of the HIPAA rules is scheduled for early 2003. HIPAA also provides criminal penalties for failure to comply with the regulations.
- 1.2 Individually Identifiable Health Information (IIHI). A subset of health information, including demographic information collected from an individual and that is created or received by a health care provider and relates to the past, present, or future physical or behavioral health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual, and which identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.
- 1.3 Protected Health Information (PHI). The final rule defines PHI as individually identifiable health information that is transmitted by electronic media; maintained in any electronic medium such as magnetic tape, disc, optical file; or transmitted or maintained in any other form or medium (i.e. paper, voice, Internet, fax etc.).

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- 1.4 Treatment, Payment, Health Care Operations (TPO). A healthcare provider, health plan or healthcare clearinghouse may use and disclose PHI (with certain limitations) within and outside the organization for client/member treatment, to facilitate the payment of the client's bills, and for business and clinical operations of the organization. The following definitions apply:

Treatment: provision, coordination or management of health care (care, services or supplies related to the health of an individual) and related services by or among providers, providers and third parties, and referrals from one provider to another provider.

Payment: activities undertaken by a health plan to obtain premiums or determine responsibility for coverage, or activities of a health care provider or health plan to obtain reimbursement for the provision of health care. Payment activities include billing, claims management, collection activities, eligibility determination and utilization review.

Health Care Operations: activities of a covered entity to the extent such activities are related to covered functions including quality assessment and improvement activities; credentialing health care professionals; insurance rating and other insurance activities related to the creation or renewal of a contract for insurance; conducting or arranging for medical review, legal services and auditing functions (including compliance programs); business planning such as conducting cost-management and planning analyses for managing and operating the entity including formulary development and administration, development or improvement of methods of payment or coverage policies; business management and general administrative activities; due diligence in connection with the sale or transfer of assets to a potential successor in interest, if the potential successor is a covered entity or will become a covered entity; consistent with privacy requirements, creating de-identified health information, fundraising for the benefits of the covered entity, and marketing for which an individual authorization is not required.

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- 1.5 De-identified PHI. A covered entity may use PHI to create de-identified information, whether or not the de-identified information is to be used by the entity. In order to be exempt from the privacy rule the information must not include any of the following identifiers for clients/members, relatives, household members, employers: names; all elements of dates except the year, for all under 89, and all elements of dates for those over 89; telephone or fax numbers, e-mail or IP addresses and URLs; social security number; medical record number; health plan beneficiary (UCI) number; account numbers; certificate or license numbers; vehicle identifiers; device identifiers; biometric identifiers (finger, retinal, voice prints); full face photographic images and the like; any other unique characteristic or code or with statistical expertise and documentation it is determined that the risk is very small that information could be used alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual.
- 1.6 Minimum Necessary Standard. The organization shall make all reasonable efforts not to use or disclose more than the minimum amount of protected health information necessary to accomplish the intended purpose of the use or disclosure.
- 1.7 Business Associate. A business associate is a person or entity that provides certain functions, activities, or services for, or to a covered entity (healthcare provider, health plan, healthcare clearinghouse), involving the use and/or disclosure of PHI. A covered entity may be a business associate of another covered entity.