

<b>ADAMHS BOARD FOR MONTGOMERY COUNTY</b>	<b>BP # 508</b>	
<b>TITLE: Disclosure of Client PHI to Business Associates</b>	<b>SUBJECT: HIPAA</b>	
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**PURPOSE:** The Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) applies to health care providers, health plans and healthcare clearinghouses, and, since the healthcare activities and functions of these entities are often accomplished with the assistance of a variety of other contractors and businesses, the law requires covered entities to condition disclosures of PHI to non-covered “business associates” on contractual assurances that the business associate will use the information only for the purposes for which they were engaged by the covered the Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County.

**POLICY:**

1. The Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County and its officers, employees and agents shall not disclose client/member protected health information to any business associate in the absence of a written contract that assures that the business associate will use the information only for the purposes for which they were engaged by the Board; will safeguard the information from misuse; and, will help the Board comply with the board’s duties to provide client/members with access to health information about them and a history of certain disclosures.
2. The Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County shall disclose PHI to a business associate for the sole purpose of assisting the board in completing their healthcare functions, not for independent use by the business associate.
3. The contract between the Alcohol, Drug Addiction and Mental Health Services Board for Montgomery County and its business associate shall be a document separate from the service agreement between the parties.

**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

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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 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. The organization may disclose PHI to a business associate and may allow a business associate to create or receive PHI on its behalf if the organization obtains satisfactory contractual assurance that the business associate will appropriately safeguard the information.
- 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.).