

Wood County Board of Developmental Disabilities

POLICY

Policy #: 01-ALL-ALL-0139
Effective Date: 04-01-04
Person Responsible: Human Resources Coordinator

Subject: HIPAA Privacy
Last Revision: 06-10-16

Approvals/Date:

[Signature] 12/11/17
Superintendent, WCBDD

Date

[Signature] 12/11/17
Board President

Date

The following definitions will apply:

Applicable Requirements - Applicable requirements mean applicable federal and Ohio law and the contracts between the WCBDD and other persons or entities which conform to federal and Ohio law.

Breach - The acquisition, access, use, or disclosure of protected health information in a manner not permitted by the HIPAA Privacy rules which compromises the security or privacy of the protected health information.

Breach excludes:

- A. Any unintentional acquisition, access, or use of protected health information by a workforce member or person acting under the authority of a covered entity or a business associate, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted by the HIPAA privacy rules.
B. Any inadvertent disclosure by a person who is authorized to access protected health information at a covered entity or business associate to another person authorized to access protected health information at the same covered entity or business associate, or organized health care arrangement in which the covered entity participates, and the information received as a result of the disclosure is not further used or disclosed in a manner not permitted by the HIPAA Privacy rules.

Except for the two exclusions above, any unintentional acquisition, access, use or disclosure of PHI that is a violation of the Privacy Rule is PRESUMED TO BE A BREACH, unless a risk assessment demonstrates that there is a low probability that the PHI has been compromised. The risk assessment must include at least the following factors:

- A. The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
B. The unauthorized person who used the PHI or to whom the disclosure was made;
C. Whether the PHI was actually acquired or viewed; and
D. The extent to which the risk to the PHI has been mitigated.

Business Associate (BA) - A person or entity which creates, uses, receives or discloses PHI held by a covered entity to perform functions or activities on behalf of the covered entity.

FERPA - The Family Educational Rights and Privacy Act, which are federal regulations that govern the privacy of records maintained by schools, as well as the rights of parents and students to access those records. These regulations are codified in CFR Title 34 Part 99.

Guardian of the Person - An individual appointed by the Probate Court to provide consent for and make decisions for the ward.

HIPAA - The Health Insurance Portability and Accountability Act of 1996, codified in 42 USC §§ 1320-1320d-9 and at 42 CFR Parts 160, 162 and 164. In common terms, this includes the HIPAA Enforcement Rule, Transactions Rule, Privacy Rule, Breach Notification Rule and Security Rule.

Individual, or Individual receiving services - A person who received services from WCBDD. In the event that the individual is a minor, the term "individual" in this policy may also include the parent or guardian of the individual. In addition, in regard to any privacy rights, individual may also mean an individual's "personal representative" as it is defined under HIPAA regulations.

Parent - Parent means either parent. If the parents are separated or divorced, "parent" means the parent with legal custody of the child. "Parent" also includes a child's guardian, custodian, or parent surrogate. At age eighteen, the participant must act in his or her own behalf, unless he/she has a court-appointed guardian.

Protected Health Information (PHI) - Individually identifiable information relating to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual. PHI shall also include "Education Records" which are records created by WCBDD or a Business Associate that are directly related to a student who is served by WCBDD.

Security or Security Measures - Encompass all of the administrative, physical, and technical safeguards in an information system.

NOTICE OF PRIVACY PRACTICES

WCBDD will provide a written Notice of Privacy Practices (Attachment), as required by law, to each individual. FERPA requires an annual notice. Acknowledgement will be received by signing off on Form 03-ALL-ALL-0480. HIPAA requires a one-time notice, with re-distribution upon change.

Creation and Update of Notice

- A. The HIPAA Privacy Officer shall create the Notice of Privacy Practices to conform with requirements of HIPAA and FERPA.
B. Upon material change of the notice, which is required upon any material change of privacy policies, an updated copy will be provided to all individuals receiving services and/or parents.

1. Distribution of Notice

- A. All individuals and/or their parents will receive a copy of the Notice of Privacy Practices upon intake with the board.
 - B. As part of that intake process, the individual and/or parent, guardian or personal representative, shall sign an acknowledgement of their receipt of this Notice as part of the intake paperwork. This acknowledgement will be retained as part of the permanent record.
 - C. For children in the school, an updated copy of the notice will be sent to parents every year with the Back-to-School information.
2. **Other Postings and Requirement.**
- A. The Notice of Privacy Practices will be posted in reception areas of all board facilities.
 - B. The Notice of Privacy Practices will be posted on the website.
 - C. Copies of the notice will be maintained for 6 years, as detailed in Policy 01-ALL-ALL-0110 Records Retention, Storage and Destruction.

HIPAA ASSIGNMENTS AND DOCUMENTATION

WCBDD will maintain written policies and procedures, including a 6-year audit trail. In addition, all documentation required by HIPAA regulations will be maintained for 6 years. The HIPAA Privacy Officer shall be responsible for insuring the proper maintenance of all required documentation. See Procedure 02-ALL-ALL-0656 (AD) Maintenance of HIPAA Required Documentation for specific details.

PRIVACY COMPLAINTS

Any individual or employee who may complain about the WCBDD's Confidentiality and Privacy policies and procedures and/or the WCBDD's compliance with those policies and procedures. The WCBDD shall take action and document all such complaints. See Procedure 02-ALL-ALL-0656 (AD) Maintenance of HIPAA Required Documentation.

BREACH REPORTING

The board will notify individuals receiving services, the Secretary of HHS and, when appropriate, the news media regarding breaches of protected health information. See Procedure 02-ALL-ALL-0656 (AD).

Attachment: Notice of Privacy Practices

References: 34 CFR 99.7
 45 CFR Part 164, Subpart D; 164.400; 164.402; 164.406; 164.408; 164.410; 164.412; 164.414; 164.520; 164.530(d)
 42 USC §§ 1320-1320d-8
 OAC § 5123:2-1-02(I); 5123:2-1-12
 ORC § 1347.08(A)(3); 5123.64(A)
 01-ALL-ALL-0027; 01-ALL-ALL-0110; 01-ALL-ALL-0172
 02-ALL-ALL-0656 (AD)
 03-ALL-ALL-0480

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