

**LAKE COUNTYBOARD OF DD/DEEPWOOD**

**BOARD POLICY**

Reviewed and Adopted by the Board:

Date: May 22, 2017

Signature on File

Elfriede Roman, Superintendent

**I. SUBJECT: HIPAA COMPLIANCE**

**II. PURPOSE:**

To affirm the Board's intention to comply with all requirements of the Health Insurance Portability and Accountability Act.

**III. REFERENCES:**

45 CFR §160 and 164 Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information;

**IV. POLICY:**

The Board shall conform to all requirements for privacy and confidentiality set forth in HIPAA and other applicable law when acting as both a covered entity, and as a Business Associate for a covered entity." The Board shall not use or disclose Protected Health Information (PHI) except in accordance with applicable requirements.

This policy shall apply whether the Board is acting as a covered health care provider or a Health Plan under HIPAA. If the Board is acting in more than one capacity, the Board shall be subject to the requirements applicable to that function and shall use or disclose PHI only for purposes related to the function being performed.

The Board may use PHI for treatment, payment and health care operations without an individual's release or authorization to the extent that such activities occur within the Board program.

The Board shall obtain a release or authorization from the individual for any disclosure for treatment, payment or health care operations when such disclosure is to a person or entity, which is not otherwise entitled to receive such information under applicable requirements.

In general, use, disclosure or requests of records must be limited to the minimum which is reasonably necessary to accomplish the purpose of the use, disclosure or request. The following are exceptions to this general principle:

- A. The minimum necessary standard does not apply to disclosures to the individual.
- B. When an individual has authorized disclosure, the scope of disclosure shall be in accordance with the authorization.
- C. Disclosures required by law or for monitoring purposes shall be made in accordance with the authority seeking the information.

The Board may use or disclose PHI incident to a use or disclosure otherwise permitted or required by applicable requirements.

- A. An incidental use or disclosure is a secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a result of another use or disclosure that is permitted by the Rule.
- B. Permissible incidental uses and disclosures are those that occur as a by-product of another permissible or required use or disclosure, as long as the Board has applied reasonable safeguards and implemented the minimum necessary standard where applicable, with respect to the primary use or disclosure.
- C. An incidental use or disclosure is not permitted if it is a byproduct of an underlying use or disclosure which violates applicable requirements and Board procedures.

The Board shall designate an individual to be the Privacy Officer, responsible for the development and implementation of Board policies and procedures relating to the safeguarding of PHI.

An authorization which conforms to procedures adopted by the Board may be used for use or disclosure of PHI in any situation where an authorization or release of information is required.

An authorization is required for each individual or entity that is to receive PHI except as provided by federal and Ohio law. Exceptions for requirement for an authorization include the following, as further specified in federal and Ohio law:

- Those required by law;
- For public health activities;
- About victims of abuse, neglect or domestic violence;
- For health oversight activities;
- For judicial and administrative proceedings;
- For law enforcement purposes;
- Those about decedents;
- For cadaveric organ, eye or tissue donation purposes;
- For research purposes;
- To avert a serious threat to health or safety;

For specialized government functions; and  
For workers' compensation.

The Board shall give adequate notice of the uses and disclosures of PHI that may be made by the Board, and of the individual's rights and the Board's legal duties with respect to PHI.

An individual has a right to adequate notice of the uses and disclosures of the individual's PHI that may be made by or on behalf of the Board, and of the individual's rights and the Board's legal duties with respect to the individual's PHI. The Board must provide notice:

- A. At the time of enrollment, to individuals who are new enrollees;
- B. In an emergency treatment situation, as soon as reasonably practicable after the emergency treatment situation;
- C. Within 60 days of a material revision to the notice, to individuals enrolled in Board services.

The notice shall be available at all sites operated by the Board for individuals to request to take with them.

The Board shall post the notice in a clear and prominent location where it is reasonable to expect individuals seeking service from the Board to be able to read the notice.

The notice of privacy practices must be written in plain language and must contain the following elements:

The following statement in a header or otherwise prominently displayed: "THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY".

A description, including at least one example, of the types of uses and disclosures that the Board is permitted to make for purposes of treatment, with sufficient detail to place an individual on notice of the uses and disclosures permitted or required. The description should clarify that any disclosure outside of the Board requires prior authorization;

A description, including at least one example, of the types of uses and disclosures that the Board is permitted to make for purposes of payment and health care operations, with sufficient detail to place an individual on notice of the uses and disclosures permitted or required;

A description of each of the other purposes for which the Board is permitted or required to use or disclose PHI without an individual's consent or authorization, with sufficient detail to place an individual on notice of the uses and disclosures permitted or required;

A statement that other uses or disclosures will be made only with the individual's written authorization, and that the authorization may be revoked in accordance with the policy on authorizations;

In general, an individual has a right of access to inspect and obtain a copy of protected health information about the individual in a designated record set, for as long as the protected health information is maintained in the designated record set, subject to any limitations imposed by applicable law.

Information supplied to an individual is not subject to the minimum necessary standard.

At the request of an eligible person or the person's guardian or, if the eligible individual is a minor, the individual's parent or guardian, a county board or entity under contract with a county board shall provide the person who made the request access to records and reports regarding the eligible individual.

The Board shall provide the individual with access to the PHI in the form or format requested by the individual, if it is readily producible in such form or format; or, if not, in a readable hard copy form or such other form or format as agreed to by the Board and the individual.

The Board may provide the individual with a summary of the protected health information requested, in lieu of providing access to the protected health information or may provide an explanation of the protected health information to which access has been provided, if both of the following apply:

- A. The individual agrees in advance to such a summary or explanation; and
- B. The individual agrees in advance to the fees imposed, if any, by the Board for such summary or explanation.

The Board shall respond to an individual's request for access not later than 30 days from the date of request.

An individual may request, subject to conditions set forth in Board procedures, that confidential information be conveyed by the Board to the individual through alternative means or at alternative locations. Any request for restriction shall be in writing. Such request shall be construed as an objection to disclosure when applicable law gives the individual the opportunity to object to disclosure.

The Board may voluntarily agree to restrict disclosure of information. The Board is not required to agree to such restrictions. If there is such an agreement, the Board shall abide by the terms of the agreement, unless and until the agreement is rescinded in accordance with Board procedures. The Board is not obligated to agree to any requests for restriction. If such an agreement is made, Board shall document the agreement and give notice of such restriction to all employees with access to the individual's PHI and to all business

associates or other persons or entities under contract with the Board who have access to the individual's PHI.

No restriction on use of information shall apply in any of the following circumstances:

- A. Emergencies where disclosure is necessary to prevent serious injury to the individual or others.
- B. When required for investigations by entities with authority to investigate compliance with applicable requirements.
- C. When applicable requirements do not require an authorization or an opportunity to object.

Subject to the rules set forth in applicable requirements and Board procedures, an individual has the right to have the Board amend PHI or a record about the individual in a designated record set for as long as the PHI is maintained in the designated record set.

An individual may request amendment of PHI about the individual held by the Board or a person or entity with which the Board has a business association relationship.

Such request shall be in writing and shall be subject to the requirements set forth in these procedures.

The Board must act on a request for amendment no later than 60 days after the date of the request. The Board may extend the time by not more than 30 days if the Board gives the individual written notice of the extension and the reason for the extension.

If the Board accepts the requested amendment, in whole or in part, the Board must make the appropriate amendment, and inform the individual and other persons or entities who have had access to the information.

Any individual currently receiving service from the Board who alleges that the Board, or any of its employees, have violated his/her rights under HIPAA or this policy may file a complaint pursuant to Board Policy C-1.

**V. DISTRIBUTION:**

Board Members  
All Management Staff  
All Staff (via Department Managers)  
LEADD President

**VI. REVIEWED:**

5/17, 5/15, 5/13, 3/11, 4/09, 4/07, 4/05, 4/03

**APRC REVIEWED:**

5/16, 5/14