



Cuyahoga County
Community Mental Health Board

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**CUYAHOGA COUNTY COMMUNITY MENTAL HEALTH BOARD
POLICY STATEMENT**

SUBJECT: Compliance with the Privacy Regulations of the Health Insurance Portability and Accountability Act of 1996 and other applicable federal and state statutes and regulations.

EFFECTIVE DATE: April 30, 2003

PURPOSE

The purpose of this policy is to describe the CCCMHB's procedures for protecting the privacy of protected health information (PHI) regarding individuals who request, are referred for, or participate in services funded, in part or in whole, by the Board in accordance with Ohio Laws and Administrative Rules, as well as the federal regulations of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C.1320d-1329d-8, and regulation promulgated thereunder, 45 CFR Parts 160 and 164).

POLICY:

Article One. DEFINITIONS

1.1. ***Covered Entity (CE)*** means a health plan, a health care clearinghouse, or a health care provider that transmits any health information in electronic form relating to any covered transaction.

1.1.1. ***Health plan*** means an individual plan or group plan that provides, or pays the cost of, medical care. [NOTE: includes but not limited to the Medicaid and Medicare programs]

1.1.2. ***Health care clearinghouse*** means an entity that processes health information received in a nonstandard format into a standard format, or processes health information received in a standard format into a nonstandard format for another entity.

1.1.3. ***Health care provider*** means a provider of medical or health services and any other person or organization that furnishes, bills, or is paid for health care in the normal course of business.

1.2 ***Individually identifiable health information*** is information that is a subset of health information, including demographic information collected from an individual, and:

- 1.2.1 Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- 1.2.2 Relates to the past, present, or future physical or mental 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
 - i) That identifies the individual; or
 - ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- 1.3 **Protected Health Information (PHI)** means 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 excludes individually identifiable health information in education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USC 1232g, records described at 20 USC 1232g(4)(B)(iv), and employment records held by a CE in its role as an employer.
- 1.4 **Personal Representative** means a person who has authority under applicable law to make decisions related to health care on behalf of an adult or an emancipated minor, or the parent, guardian, or other person acting in *loco parentis* who is authorized under law to make health care decisions on behalf of an unemancipated minor, except where the minor is authorized by law to consent, on his/her own or via court approval, to a health care service, or where the parent, guardian or other person acting in *loco parentis* has assented to an agreement of confidentiality between the provider and the minor.
- 1.5 **Treatment, Payment and Health Care Operations (TPO)** includes all of the following:
 - 1.5.1. **Treatment** means the provision, coordination or management of health care and related services, consultation between providers relating to an individual or referral of an individual to another provider for health care.
 - 1.5.2. **Payment** means activities undertaken to obtain or provide reimbursement for health care, including determinations of eligibility or coverage, billing, collections activities, medical necessity determinations and utilization review.

1.5.3 ***Health Care Operations*** means any of the following activities of CCCMHB to the extent that the activities are related to covered functions:

- 1.5.3.1 Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
- 1.5.3.2 Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;
- 1.5.3.3 Underwriting, premium rating, and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance), provided that the requirements of § 164.514(g) are met, if applicable;
- 1.5.3.4 Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
- 1.5.3.5 Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and
- 1.5.3.6 Business management and general administrative activities of the entity, including, but not limited to:
 - 1.5.3.6.1 Management activities relating to implementation of and compliance with the requirements of this subchapter;
 - 1.5.3.6.2 Customer service, including the provision of data analyses for policy holders, plan sponsors, or other

- customers, provided that protected health information is not disclosed to such policy holder, plan sponsor, or customer.
- 1.5.3.6.3 Resolution of internal grievances;
- 1.5.3.6.4 The sale, transfer, merger, or consolidation of all or part of the CE with another CE, or an entity that following such activity will become a CE and due diligence related to such activity; and
- 1.5.3.6.5 Consistent with the applicable requirements of § 164.514, creating de-identified health information, or a limited data set, and fundraising for the benefit of the covered entity.
- 1.6. ***Covered Functions*** means those functions of a CCCMHB, the performance of which make the entity a health plan, a health care clearinghouse or a health care provider.
- 1.7 ***Hybrid Entity*** means a single legal entity that is a CE whose business activities include both covered and non-covered functions.
- 1.8 ***Designated Record Set*** means a group of records maintained by or for CCCMHB that is: the medical and billing records relating to an individual maintained by or for a health care provider; the enrollment, payment, claims adjudication and case or medical management systems maintained by or for a health plan; or used, in whole or part, by or for a CCCMHB to make decisions about individuals.
- 1.9 ***Business Associate (BA)*** means a person or entity who, on behalf of the CCCMHB, and other than in the capacity of a workforce member: performs or assists in the performance of a function or activity that involves the use or disclosure of PHI; or provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services.
- 1.10 ***Workforce*** means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a CCCMHB, is under the direct control of such entity, whether or not they are paid by the entity.
- 1.11 ***Health Oversight Agency*** means a governmental agency or authority, or a person or entity acting under a grant of authority from or a contract with such public agency, including the employees or agents of the public agency, its contractors and those to whom it has granted authority, that is authorized by law to oversee the public or private health care system or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights for which health information is relevant.

- 1.12 **Public Health Authority** means a governmental agency or authority, or a person or entity acting under a grant of authority from or a contract with such public agency, including the employees or agents of the public agency, its contractors and those to whom it has granted authority, that is responsible for public health matters as part of its official mandate.
- 1.13 **Indirect Treatment Relationship** means a relationship between an individual and a health care provider in which the health care provider delivers health care to the individual based on the orders of another health care provider and the health care provider typically provides services or products, or reports the diagnosis or results associated with the health care, directly to another health care provider, who provides the services or products or reports to the individual.
- 1.14 **Research** means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.
- 1.15 **Law Enforcement Official** means a public employee from any branch of government who is empowered by law to investigate a potential violation of the law or to prosecute, or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.
- 1.16 **Marketing** means:
- 1.16.1 To make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless the communication is made: (1) to describe a health related product or service (or payment therefore) that is provided by, or included in a plan of benefits of, the CE making the communication; (ii) for treatment of the individual; or (iii) for case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual.
- 1.16.2 An arrangement between the CCCMHB and other entity whereby the CCCMHB discloses PHI to the other entity in exchange for direct or indirect remuneration, for the other entity or its affiliate to make a communication about its own product or service that encourages recipients of the communication to purchase or use that product or service.

Article 2. USES AND DISCLOSURES:

- 2.1. Permitted Uses and Disclosures:** CCCMHB is permitted to use/disclose PHI:
- 2.1.1. To the individual;
- 2.1.2. For TPO ¶2;

- 2.1.3. Incident to a use or disclosure otherwise permitted or required, provided the CCCMHB has complied with applicable requirements of ¶¶2.4, 7.3.3;
- 2.1.4. Pursuant to an authorization ¶4 (45 CFR 164.508);
- 2.1.5. Pursuant to an agreement, or as otherwise permitted pursuant to ¶2.10 (45 CFR 164.510);
- 2.1.6. As otherwise permitted pursuant to ¶¶2 (45 CFR Parts 164.502, 164.512, 164.514(e)(f)(g)).

2.2. Required Disclosures: CCCMHB is required to disclose PHI:

- 2.2.1. To the individual pursuant to ¶¶ 5.1, 7.2 (45 CFR Parts 164.524, 164.528);
- 2.2.2. When required by the Secretary of HHS to investigate or determine compliance with HIPAA regulations ¶8.3;
- 3.2.3. When required by law pursuant to ¶¶2.11.3 through ¶¶2.11.6.

2.3. Uses and Disclosures for Fundraising:

2.3.1. CCCMHB may use or disclose to a BA or to an institutionally related foundation the following PHI for the purpose of raising funds for its own benefit without authorization pursuant to the provisions of ¶4;

- 2.3.1.1. Demographic information relating to individual; and
- 2.3.1.2. Dates of health care provided to individual.

2.3.2. Requirements for use/disclosure for fundraising:

- 2.3.2.1. CCCMHB may not use/disclose PHI for fundraising purposes unless CCCMHB's Privacy Notice includes a statement required by 164.520(b)(iii)(B).
- 2.3.2.2. CCCMHB must include in any fundraising materials sent a description of how to opt out of receiving further communications.
- 2.3.2.3. CCCMHB will make reasonable efforts to ensure that individuals who opt out of receiving communications are not sent such communications.

2.4. Minimum Necessary: When using or disclosing PHI or when requesting PHI from another CE, the CCCMHB will make reasonable efforts to limit PHI to the minimum necessary PHI to accomplish the intended purpose of the use, disclosure, or request.

2.4.1. Minimum necessary standard does **not apply** to:

- 2.4.1.1. Disclosures to or requests by a health care provider for treatment; 2.4.1.2. Uses or disclosures made to the individual, or pursuant to an authorization;
- 2.4.1.3. Disclosures made to the Secretary of HHS regarding compliance and enforcement;
- 2.4.1.4. Uses/disclosures required by law, and;

2.4.1.5. Uses/disclosures required for compliance with applicable parts of the privacy regulations.

2.4.2. Implementing standard for **minimum necessary uses** of PHI:

2.4.2.1. CCCMHB will identify those persons or classes of persons, as appropriate, in its workforce who need access to PHI to carry out their duties; and

2.4.2.2. For each such person or class of persons, the category or categories of PHI to which access is needed and any conditions appropriate to such access.

2.4.2.3. CCCMHB will make reasonable efforts to limit the access of such persons or classes identified above to PHI consistent with the categories described above.

2.4.3. Implementing standard for **minimum necessary disclosures** of PHI:

2.4.3.1. For any type of disclosure that it makes on a routine and recurring basis, CCCMHB will implement procedures that limit the PHI disclosed to the amount reasonably necessary to achieve the purpose of the disclosure. For all other disclosures, CCCMHB will: (a) develop criteria designed to limit the PHI disclosed to the information reasonably necessary to accomplish the purpose for which disclosure is sought, and; (b) review requests for disclosure on an individual basis in accordance with such criteria.

2.4.3.2. CCCMHB may rely on a requested disclosure as the minimum necessary for the stated purpose when:

2.4.3.2.1. Making disclosures to public officials that are permitted under this Policy, if the public official provides a written statement that the information requested is the minimum necessary for the stated purpose(s);

2.4.3.2.2. The information is requested by another CE;

2.4.3.2.3. The information is requested by a professional who is a member of its workforce or is a business associate of the CCCMHB for the purpose of providing professional services to the CCCMHB, if the professional represents that the information requested is the minimum necessary for the stated purpose(s); or

2.4.3.2.4. Documentation or representations that comply with the applicable requirements of this Policy have been provided by a person requesting the information for research purposes.

2.4.4 Implementing standard for **minimum necessary requests** for PHI:

- 2.4.4.1. CCMHB will limit any request for PHI to that which is reasonably necessary to accomplish the purpose for which the request is made, when requesting such information from other CEs;
- 2.4.4.2. For a request that is made on a routine and recurring basis, CCMHB will implement procedures that limit the PHI requested to the amount reasonably necessary to accomplish the purpose for which the request is made;
- 2.4.4.3. For all other requests, CCMHB will review the request on an individual basis to determine that the PHI sought is limited to the information reasonably necessary to accomplish the purpose for which the request is made.
- 2.4.5. Requests for the **entire record**: For all uses, disclosures, or requests to which the requirements of ¶2.4 apply, CCMHB will not use, disclose or request an entire medical record, except when the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.

2.5 Limited Data Set:

- 2.5.1 CCMHB may use or disclose a limited data set (“LDS”) as long as CCMHB enters into a proper data use agreement ¶2.5.5 for the use or disclosure of the LDS with the recipient and meets the following requirements:
 - 2.5.1.1 CCMHB may use or disclose LDS only for the purposes of research, public health, or health care operations;
 - 2.5.1.2 CCMHB may use PHI to create a LDS, or disclose PHI to a BA to create a LDS, whether or not used by the CE; and
 - 2.5.1.3 A LDS is PHI that excludes the following listed direct identifiers of the individual, relatives, employer, or household members:
 - 2.5.1.3.1 Names
 - 2.5.1.3.2 Postal addresses
 - 2.5.1.3.3 Telephones numbers
 - 2.5.1.3.4 Fax numbers
 - 2.5.1.3.5 Electronic mail addresses
 - 2.5.1.3.6 Social security numbers
 - 2.5.1.3.7 Medical records numbers
 - 2.5.1.3.8 Health plan beneficiary numbers
 - 2.5.1.3.9 Account numbers
 - 2.5.1.3.10 Certificate or license numbers
 - 2.5.1.3.11 Vehicle identification numbers, including license plate numbers
 - 2.5.1.3.12 Device and serial numbers
 - 2.5.1.3.13 Web Universal Resource Locators (URLs)
 - 2.5.1.3.14 Internet Protocol (IP) address numbers
 - 2.5.1.3.15 Biometric identifiers full face or likeness images;
- 2.5.2 CCMHB may use or disclose a LDS only if the CE obtains satisfactorily assurance in the form of a data use agreement that the recipient will only use or disclose the PHI for limited purposes. The data use agreement between the CCMHB and LDS Recipient must:

- 2.5.2.1 Establish the permitted uses or disclosures of the LDS that are consistent with the limitation it be used only for research, public health, or health care operations;
- 2.5.2.2 The data use agreement cannot authorize the Recipient to use or disclose the LDS in a manner that the CE could not pursuant to this subpart;
- 2.5.2.3 Establish who is permitted to use or disclose the LDS; and
- 2.5.2.4 Require the Recipient:
 - 2.5.2.4.1 Not to use or disclose the information other than as permitted by the Agreement or as required by law.
 - 2.5.2.4.2 Use appropriate safeguards to prevent the use or disclosure of the LDS other than provided for by the Agreement.
 - 2.5.2.4.3 Report any breach of the agreement to CCCMHB.
 - 2.5.2.4.4 To hold its agents and subcontractor to the same obligations the Recipient has pursuant to the Agreement.
 - 2.5.2.4.5 Not identify or re-identify the information in the LDS or contact the individuals whose information is in the LDS.

2.5.3 CCCMHB must take steps to address violations of the Recipient.

2.5.3.1 CCCMHB is not in compliance if it is aware the Recipient has a pattern of activity or practice that is a material breach of the data use agreement, unless:

- 2.5.3.1.1 CCCMHB took reasonable steps to cure or end the violation; and
- 2.5.3.1.2 If such steps were unsuccessful discontinued the disclosure of PHI to the Recipient and reported the problem to the Secretary of HHS.

2.5.4. A Recipient who breaches a data use agreement and is a CE, is also non-compliant with the standards, implementation specifications, and requirements of 164.514(e).

2.5.5. Form of Data Use Agreement:

2.5.5.1. Agreement required: CCCMHB may use or disclose a limited data set only if the recipient executes a Data Use Agreement and submits it to CCCMHB.

2.6. PHI of Deceased Individuals: The CCCMHB shall protect the PHI of deceased individuals in the same manner as if the individual were still living.

2.7 Personal Representatives: Except as provided in ¶¶ 2.7.2 and 2.7.4, CCCMHB will treat a personal representative as the individual.

2.7.1. **Adults and emancipated minors:** If under applicable law, a person has authority to act on behalf of an adult or emancipated minor in making health care decisions, CCCMHB will treat the person as a personal representative with respect to PHI relevant to such representation.

2.7.2. **Unemancipated minors:** If under applicable law, a parent, guardian, or other person acting in *loco parentis* , has authority to act on behalf of an

unemancipated minor in making health care decisions, CCCMHB will treat the person as a personal representative with respect to PHI relevant to such representation, except that person may not be a personal representative and the minor may act as an individual with respect to PHI pertaining to health care if:

2.7.2.1. Generally:

2.7.2.1.1. Minor consents to such health care services (*e.g.* O.R.C. 5122.04), and no other consent is required by law [regardless of whether another person's consent has been obtained], and the minor has not requested that another person to be treated as the personal representative;

2.7.2.1.2. Minor may lawfully obtain health care service without consent of parent, guardian, or other person acting *in loco parentis* and consent has been obtained;

2.7.2.1.3. Parent, guardian, or other person acting *in loco parentis* assents to an agreement of confidentiality between health care provider and the minor.

2.7.2.1.4 Notwithstanding the provisions contained in ¶ 2.7.2.1: (1) if and to the extent, permitted or required by an applicable provision of State or other law, including applicable case law, a CE may disclose, or provide access in accordance with ¶ 45 CFR 164.524 to, PHI about an unemancipated minor to a parent, guardian, or other person acting *in loco parentis*; (2) if, and to the extent, prohibited by an applicable provision of State or other law, including applicable case law, a CE may not disclose, or provide access about an unemancipated minor to a parent, guardian or other person acting *in loco parentis*; and; (3) where the parent, guardian, or other person acting *in loco parentis* is not the personal representative under ¶2.7.2.1.1 to 2.7.2.1.3 and where there is no applicable access provision under state or other law, including case law, a CE may provide or deny access under ¶45 CFR 164.524 to a parent, guardian, or other person acting *in loco parentis*, if such action is consistent with State or other applicable law, provided that such decision must be made by a licensed health care professional, in exercise of professional judgment.

2.7.3. **Deceased individuals:** If under applicable law, an executor, administrator, or other person has authority to act on behalf of a deceased individual or his/her estate, CCCMHB will treat the person as a personal representative with respect to PHI upon presentation of written documentation of said status.

2.7.4. **Abuse, neglect, and endangerment** situations: Notwithstanding a state law or any requirement of ¶3.2.11.4 to the contrary, CCCMHB may elect not to treat a person as a personal representative of an individual if:

2.7.4.1. CCCMHB has reasonable belief that individual has been or may be subjected to domestic violence, abuse or neglect by such person, or treating such person as the personal representative could endanger the individual, and

2.7.4.2. CCCMHB decides it is not in the best interest of the individual to treat the person as the personal representative.

2.8. De-identification of PHI:

- 2.8.1. Health information that does not identify an individual and with respect to which there is no reasonable basis to believe that such information can be used to identify an individual is not individually identifiable health information.
- 2.8.2. Requirements for de-identification of PHI: CCCMHB may determine that health information is not individually identifiable health information only if:
 - 2.8.2.1. The following identifiers of the individual or of relatives, employers, or household members of the individual, are removed, and the CCCMHB does not have actual knowledge that the information could be used alone, or in combination with other information to identify an individual who is the subject of the information:
 - 2.8.2.1.1. Names;
 - 2.8.2.1.2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census: (i) the geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and (ii) the initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000;
 - 2.8.2.1.3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;
 - 2.8.2.1.4. Telephone numbers;
 - 2.8.2.1.5. Fax numbers;
 - 2.8.2.1.6. Electronic mail addresses;
 - 2.8.2.1.7. Social security numbers;
 - 2.8.2.1.8. Medical record numbers;
 - 2.8.2.1.2.11. Health plan beneficiary numbers;
 - 2.8.2.1.10. Account numbers;
 - 2.8.2.1.11. Certificate/license numbers;
 - 2.8.2.1.12. Vehicle identifiers and serial numbers, including license plate numbers;
 - 2.8.2.1.13. Device identifiers and serial numbers;
 - 2.8.2.1.14. Web Universal Resource Locators (URLs);
 - 2.8.2.1.15. Internet Protocol (IP) address numbers;
 - 2.8.2.1.16. Biometric identifiers, including finger and voiceprints;
 - 2.8.2.1.17. Full face photographic images and any comparable images; and
 - 2.8.2.1.18. Any other unique identifying number, characteristic, or code except as permitted by the re-identification provisions; AND

2.8.2.2 CCCMHB does not have actual knowledge that the information could be used alone or in combination with other information to identify an individual who is a subject of the information.

2.8.3. **Re-identification of PHI:** CCCMHB may assign a code or other means of record identification to allow information de-identified under this section to be re-identified by the CCCMHB, provided that:

2.8.3.1. The code or other means of record identification is not derived from or related to information about the individual and is not otherwise capable of being translated so as to identify the individual; and

2.8.3.2. CCCMHB will not use or disclose the code or other means of record identification for any other purpose, and does not disclose the mechanism for re-identification.

2.9 USES AND DISCLOSURES TO CARRY OUT TPO

2.9.1 **Permitted Uses and Disclosures:** Except with respect to uses or disclosures for psychotherapy notes or marketing requiring an authorization, the CCCMHB may use or disclose PHI for TPO as set forth in ¶5.3 below, provided that such use or disclosure is consistent with other applicable provisions of these regulations.

2.9.2 **Implementing Specifications for TPO uses or disclosures:**

2.9.2.1. CCCMHB may use or disclose PHI to carry out its own TPO.

2.9.2.2. CCCMHB may disclose PHI for treatment activities of a health care provider.

2.9.2.3. CCCMHB may disclose PHI to another CE or health care provider for the payment activities of the entity that receives the information.

2.9.2.4. CCCMHB may disclose PHI to another CE for health care operations activities of the entity that receives the information if each entity has or had a relationship with the individual who is the subject of the PHI being requested, the PHI pertains to such relationship, and the disclosure is:

2.9.2.4.1. For the purposes of health care operations; or

2.9.2.4.2. For the purposes of health care fraud and abuse detection or compliance.

2.9.2.5. If CCCMHB participates in an organized health care arrangement, CCCMHB may disclose PHI about an individual to another CE that participates in the organized health care arrangement for any health care operations activities of the organized health care arrangement.

2.10. USES/DISCLOSURES REQUIRING OPPORTUNITY TO AGREE

OR TO OBJECT: CCCMHB may use/disclose PHI without authorization in the following situations provided the individual is informed in advance and has the opportunity to agree to or to prohibit or restrict the disclosure in accordance with the requirements of ¶2.10. CCCMHB may orally inform the individual of and obtain oral agreement or objection to a use/disclosure under ¶2.10:

2.10.1. **Uses/Disclosures to Those Involved in Individual's Care, or for Notification Purposes:**

2.10.1.1. Permitted uses/disclosures:

2.10.1.1.2.CCCMHB may, in accordance with ¶¶ 2.10.1.2 and ¶¶ 2.10.1.3, except as otherwise provided in Ohio statutes or regulations, disclose to a family member, other relative, close personal friend of the individual, or any other person identified by individual, the PHI directly relevant to such person's involvement with or payment related to the individual's health care;

2.10.1.1.2 CCCMHB may, in accordance with ¶¶ 2.10.1.2., 2.10.1.3., and 2.10.1.4, use/disclose PHI to notify or assist (including identifying and locating) in the notification of a family member, personal representative, or another person responsible for care of the individual, of the individual's location, general condition, or death.

2.10.1.1.3. Information concerning an individual who is a patient or former patient or a person whose hospitalization has been sought under Chapter 5122 shall be shared pursuant to O.R.C. §5122.31.

2.10.1.2. If an individual is present or available (prior to use/disclosure), and has capacity to make health care decisions, CCCMHB may use/disclose PHI if it:

2.10.1.2.1. Obtains individual's agreement;

2.10.1.2.12. Provides individual with opportunity to object and individual does not object; or

2.10.1.2.1.3. CCCMHB, in exercise of professional judgment, reasonably infers from the circumstances that the individual does not object.

2.10.1.3. If individual is not present, or opportunity to agree or object cannot practicably be provided due to incapacity or emergency circumstance, CCCMHB Privacy Officer, in consultation with the Chief Clinical Officer, may, in exercise of professional judgment, determine whether disclosure is in the best interests of individual, and, if so, disclose only PHI that is directly relevant to person's involvement with individual's health care.

2.10.1.4. CCCMHB may use/disclose PHI to public or private entity authorized by law or by its charter to assist in disaster relief efforts, for purpose of coordinating with such entities the uses or disclosures permitted by ¶2.10.1.1.2. The requirements of ¶¶ 2.10.1.2 and 2.10.1.3 apply to such uses/disclosures to extent that CCCMHB, in exercise of professional judgment, determines that the requirements do not interfere with the ability to respond to the emergency circumstances.

2.11. USES AND DISCLOSURES OF PHI FOR WHICH AUTHORIZATION OR OPPORTUNITY TO AGREE OR OBJECT IS NOT REQUIRED: CCCMHB may use or disclose PHI without authorization or the opportunity to object in situations covered in Section 2.11.

2.11.1. Uses and Disclosures for Health Oversight Activities:

2.11.1.1. Permitted disclosures: CCCMHB may disclose PHI to a health oversight agency for oversight activities authorized by law; including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:

2.11.1.1.1. The health care system;

2.11.1.1.2. Government benefit programs for which health information is relevant to beneficiary eligibility;

2.11.1.1.3. Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or

2.11.1.1.4. Entities subject to civil rights laws for which health information is necessary for determining compliance.

2.11.1.2. Exception to health oversight activities: For purposes of disclosures permitted pursuant to ¶ 2.11.1.1., a health oversight activity does not include an investigation or other activity in which the individual is the subject of the investigation or activity and the investigation or other activity does not arise out of and is not directly related to:

2.11.1.2.1. The receipt of health care;

2.11.1.2.2. A claim for public benefits related to health;

or

2.11.1.2.3. Qualification for, or receipt of, public benefits or services when a patient's health is integral to the claim for public benefits or services.

2.11.1.3. Joint activities or investigations: Notwithstanding ¶2.11.1.2., if a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, the joint activity or investigation is considered a health oversight activity for purposes of ¶ 2.11.1.

2.11.1.4. Permitted uses: If a CCCMHB is also a health oversight agency, the CCCMHB may use PHI for health oversight activities as outlined in ¶ 2.11.1.

2.11.2. Uses and Disclosures for Public Health Activities:

2.11.2.1. Permitted disclosures: CCCMHB may disclose PHI for public health activities and purposes to:

2.11.2.1.1. A public health authority authorized by law to collect or receive information for the purpose of preventing or controlling disease, injury, or disability, including but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;

2.11.2.1.2. A public health authority or other government authority authorized by law to receive reports of child abuse or neglect;

2.11.2.1.4. A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the CCCMHB or public health authority is authorized by law to notify such

person as necessary in the conduct of a public health intervention or investigation; or

2.11.2.1.5 An employer, about an individual who is a member of the employer's workforce if:

2.11.2.1.5.1 The PHI that is disclosed consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance;

2.11.2.1.5.2 The employer needs such findings in order to comply with federal or state law to record such illness or injury or to carry out responsibilities for workplace medical surveillance; and

2.11.2.1.5.3 The provider provides written notice (directly or posted) to the individual that PHI relating to the medical surveillance of the workplace and work-related illness and injuries is disclosed to the employer.

2.11.2.2 Permitted uses: If CCCMHB is considered a public health authority, CCCMHB is permitted to use protected health information in all cases in which it is permitted to disclose such information for public health.

2.11.3. Uses/Disclosures Required by Law: CCCMHB may use or disclose PHI to the extent such use/disclosure is required by law and the use/disclosure complies with and is limited to the relevant requirements of such law. CCCMHB must meet the requirements described in ¶¶ 2.11.4 through 2.11.6 for uses/disclosures required by law.

2.11.4. Uses/Disclosures Relating to Abuse and Neglect:

2.11.4.1. Permitted disclosures: Except for reports of child abuse or neglect covered under ¶ 2.11.2.1.2., CCCMHB may disclose PHI about an individual whom CCCMHB believes to be a victim of abuse, neglect, or domestic violence to a governmental authority authorized to receive such reports:

2.11.4.1.1. To extent the disclosure is required by law, and is limited to relevant requirements of that law;

2.11.4.1.2. If the individual agrees; or

2.11.4.1.3. To the extent the disclosure is expressly authorized by statute or regulation, and the CCCMHB believes, in the exercise of professional judgment that the disclosure is necessary to prevent serious physical harm to the individual or others, or, if the individual cannot agree due to incapacity, law enforcement or other public official authorized to receive the report represents that disclosure is not intended for use against the victim and that the law enforcement activity would be materially and adversely affected by waiting for the consent.

2.11.4.2. Informing the individual: When CCCMHB makes a disclosure permitted under ¶ 2.11.4.1, CCCMHB will promptly inform the individual that the report has been or will be made unless:

- 2.11.4.2.1. CCCMHB, in the exercise of professional judgment, believes that informing the individual would place the individual at risk of serious harm; or
- 2.11.4.2.2. CCCMHB would be informing a personal representative whom the CCCMHB reasonably believes is responsible for the abuse, neglect, or other injury, and CCCMHB reasonably believes, in exercise of professional judgment, that informing such person would not be in the individual's best interests.

2.11.5. Uses/Disclosures for Judicial and Administrative Proceedings:

- 2.11.5.1. CCCMHB may disclose PHI in the course of any judicial or administrative proceeding:
 - 2.11.5.1.1. In response to an order of a court or administrative tribunal, but only the PHI expressly authorized for release by such order; or
 - 2.11.5.1.2. In response to a subpoena, discovery request or other lawful process not accompanied by a court or administrative order if:
 - 2.11.5.1.2.1. CCCMHB receives satisfactory assurance, as described in ¶ 2.11.5.1.3, from the party seeking the PHI that reasonable efforts have been made to give the individual notice of the request; or
 - 2.11.5.1.2.2. CCCMHB receives satisfactory assurance, as described in ¶ 2.11.5.1.4., from the party seeking the PHI that reasonable efforts have been made to secure a qualified protective order compliant with ¶ 2.11.5.1.5.
 - 2.11.5.1.3. Satisfactory assurance that individual has been given notice may be met by provision of a written statement and accompanying documentation demonstrating that:
 - 2.11.5.1.3.1. Party requesting the PHI has made a good faith attempt to provide written notice to the individual;
 - 2.11.5.1.3.2. Notice includes sufficient information about the litigation or proceeding to permit the individual to raise an objection in the tribunal; and
 - 2.11.5.1.3.3. The time to raise objections has lapsed and either no objection was filed or objections have been resolved in a manner consistent with disclosure.
 - 2.11.5.1.4. Satisfactory assurance that reasonable efforts have been made to secure a qualified protective order may be met by provision of a written statement and accompanying documentation demonstrating that the parties to the dispute have agreed to a qualified protective order and presented it to the tribunal, or the party seeking the PHI has requested a qualified protective order from the tribunal.
 - 2.11.5.1.5. *A qualified protective order* means an order that prohibits the use or disclosure of PHI for any purpose beyond the litigation at hand, and requires that the PHI, and all copies, be returned to the CCCMHB or destroyed when the litigation is over.

- 2.11.5.1.6. Notwithstanding ¶ 2.11.5.1.2., a CCCMHB may disclose PHI without the described assurances if the CCCMHB makes reasonable efforts to contact the individual as described in ¶ 2.11.5.1.3. or if it makes reasonable efforts to obtain a qualified protective order as described in ¶ 2.11.5.1.4.
- 2.11.5.2. Nothing in this section is meant to supersede or limit disclosures allowed by other sections.
- 2.11.6. **Uses/Disclosures for Law Enforcement Purposes:** CCCMHB may disclose PHI to law enforcement official for a law enforcement purpose if the conditions of ¶ 2.11.6 are met, as applicable.
- 2.11.6.1. **Permitted disclosures pursuant to process and as otherwise required by law:**
- 2.11.6.1.1. As required by law, including laws requiring reporting of certain types of wounds and injuries, except laws subject to ¶ 2.11.2.1.2. (re: reporting child abuse and neglect) and ¶ 2.11.4.1.1.; or
 - 2.11.6.1.2. In compliance with and as limited by relevant requirements of:
 - 2.11.6.1.2.1. A court order, or a court ordered warrant, subpoena or summons issued by a judicial officer;
 - 2.11.6.1.2.2. A grand jury subpoena; or
 - 2.11.6.1.2.3. An administrative request, provided that the information is relevant to the law enforcement inquiry, the request is limited to the extent practicable, and de-identified information could not reasonably be used.
- 2.11.6.2. **Permitted disclosure of limited information for identification and location purposes:** Except for disclosures required by law as permitted under ¶ 2.11.6.1., CCCMHB may disclose PHI in response to a law enforcement official's request to assist in identifying or locating a suspect, fugitive, material witness or missing person:
- 2.11.6.2.1. CCCMHB may disclose only the following information:
 - 2.11.6.2.1.1. Name and address;
 - 2.11.6.2.1.2. Date and place of birth;
 - 2.11.6.2.1.3. Social security number;
 - 2.11.6.2.1.4. ABO blood type and rh factor;
 - 2.11.6.2.1.5. Type of injury;
 - 2.11.6.2.1.6. Date and time of treatment;
 - 2.11.6.2.1.7. Date and time of death;
 - 2.11.6.2.1.8. Distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars, and tattoos.
 - 2.11.6.2.2. Except as permitted under ¶ 2.11.6.2.1., CCCMHB may not disclose for identification or location purposes any PHI relating to DNA or DNA analysis, dental records, typing, samples or analysis of body fluids or tissues.

2.11.6.3. **Victims of Crime:** Except for disclosures permitted under ¶ 2.11.6.1., CCCMHB may disclose PHI in response to a law enforcement official's request relating to an individual who is or is suspected of being a victim of a crime, other than disclosures subject to ¶¶ 2.11.2. and 2.11.4., if:

2.11.6.3.1. Individual agrees; or

2.11.6.3.2. CCCMHB is unable to obtain individual's agreement because of incapacity or other emergency provided that:

2.11.6.3.2.1. The law enforcement official needs the information to determine if someone else committed a crime, and the PHI will not be used against the victim;

2.11.6.3.2.2. Immediate law enforcement activity that depends on disclosure of the PHI would be materially and adversely affected by waiting; and

2.11.6.3.2.3. CCCMHB, exercising professional judgment, believes disclosure is in the best interest of the victim.

2.11.6.4. **Decedents:** CCCMHB may disclose decedent's PHI to law enforcement in order to alert law enforcement of the death if the CCCMHB suspects the death resulted from criminal conduct.

2.11.6.5. **Crime on Premises:** CCCMHB may disclose PHI to law enforcement if the CCCMHB in good faith believes the PHI constitutes evidence of a crime committed on the premises of the CCCMHB.

2.11.6.7. Correctional institutions and other law enforcement custodial situations:

CCCMHB may disclose PHI to a correctional institution or to law enforcement official with custody of the individual when a correctional institution or law enforcement official represent that the PHI is necessary to provide care to the individual, or for the health and safety of the individual, other inmates, correctional employees, transport employees, law enforcement personnel at the location, and for the safety, security and good order of the institution.

2.11.6.7.1. CCCMHB that is a correctional institution may use PHI for any purpose for which the PHI may be disclosed.

2.11.6.7.2. An individual is no longer an inmate once released on parole, probation, supervised release or is otherwise no longer in lawful custody.

2.11.7. Uses and Disclosures to Avert a Serious Threat to Health or Safety:

2.11.7.1. CCCMHB may, consistent with applicable law and standards of ethical conduct, use or disclose PHI if the CCCMHB in good faith believes the use or disclosure is:

2.11.7.1.1. Necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat;

or

2.11.7.1.2. Necessary for law enforcement authorities to identify or apprehend an individual:

2.11.7.1.2.1. Because of a statement by an individual admitting participation in a violent crime that the CCCMHB reasonably believes may have caused serious physical harm to the victim, or

2.11.7.1.2.2. Where it appears from all circumstances that the individual has escaped from a correctional institution or from lawful custody.

2.11.7.2. Use/disclosure not permitted: A use or disclosure pursuant to ¶2.11.7.1.2.1. may not be made if the information described therein is learned by the CCCMHB in the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure, or counseling or therapy; or through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy.

2.11.7.3. Limit on information to be disclosed: A disclosure made pursuant to ¶2.11.7.1.2.1. shall contain only the statement described therein and the PHI described under ¶2.11.6.2.1. (disclosures for law enforcement for identification and location purposes).

2.11.7.4. CCCMHB is presumed to have acted in good faith if its belief is based upon the CCCMHB's actual knowledge or reliance on a credible representation by a person with apparent knowledge or authority.

2.11.8. Uses and Disclosures for Research Purposes:

2.11.8.1. CCCMHB may use/disclose PHI for research, regardless of the source of funding, provided that:

2.11.8.1.1. CCCMHB obtains documentation that an alteration or waiver of the authorization required under 164.508 [¶7.] has been approved by either:

2.11.8.1.1.1. An Institutional Review Board (IRB) established under cited sections of the CFR, or

2.11.8.1.1.2. A Privacy Board that: (i) has members with varying backgrounds and appropriate professional competency to review the effect of the research protocol on privacy rights and related interests; (ii) includes at least one member who is not affiliated with the CCCMHB or the entity conducting or sponsoring the research, and is not related to anyone affiliated with these entities, and; (iii) does not have any member participating in a review of a project in which s/he has a conflicting interest.

2.11.8.1.2. CCCMHB obtains from researcher written statements that:

2.11.8.1.2.1. Use/disclosure is sought solely to review PHI to prepare a research protocol, or for a similar preparatory purpose;

2.11.8.1.2.2. No PHI will be removed from the CCCMHB, and;

2.11.8.1.2.3. PHI sought is necessary for research purposes.

2.11.8.1.3. For research on decedents' information, CCCMHB obtains from the researcher:

2.11.8.1.3.1. Representation that use/disclosure is sought solely for research on PHI of decedents;

2.11.8.1.3.2. Documentation of the death of individuals whose PHI is sought, upon request by the CCCMHB;

2.11.8.1.3.3. Representation that the PHI is necessary for research purposes.

2.11.8.2. Documentation supporting approval of alteration/waiver pursuant to ¶ 2.11.8.1.1. must include:

2.11.8.2.1. Identification of approving board and date of approval;

2.11.8.2.2. Statement that board determined that alteration/waiver satisfies the following criteria:

2.11.8.2.2.1. Use/disclosure of PHI involves no more than minimal risk to the privacy of the individuals, based on, at least, the presence of the following elements;

2.11.8.2.2.1.1 Adequate plan exists to protect identifiers from improper use/disclosure;

2.11.8.2.2.1.2 Adequate plan exists to destroy identifiers unless there is justification for retention; and

2.11.8.2.2.1.3 Adequate written assurances given that PHI will not be used or disclosed other than as authorized for research study or otherwise under law.

2.11.8.2.2.2 The research could not practicably be conducted without the waiver or alteration; and

2.11.8.2.2.3 The research could not practicably be conducted without access to and use of the PHI.

2.11.8.2.3 A brief description of the PHI for which use or disclosure has been determined to be necessary by the IRB or privacy board has determined pursuant to ¶2.11.8.2.2.3;

2.11.8.2.4 Statement that the alteration/waiver was reviewed and approved as follows:

2.11.8.2.4.1 IRB must follow requirements of the Common Rule, including normal and expedited procedures (see cites in 164.512(i)(2)(iv)(A));

2.11.8.2.4.2 Privacy Board: normal review - must review at convened meetings where majority of members are present, including at least one member satisfying criteria of 164.512(i)(1)(i)(B)(2) [¶ 2.11.8.1.1.2.(ii)] (at least one member not affiliated with CE or conduct/sponsorship of project}; alteration/waiver must be approved by majority of members approved by majority of members present; or

2.11.8.2.4.3 Privacy Board: expedited review - may be used only if research involves no more than minimal risk to privacy; review and approval may be carried out by Chair, or one or more members as designated by Chair.

2.11.8.2.5. Documentation must be signed by Chair of approving IRB or Privacy Board, or by member designated by Chair.

2.11.9. Uses and Disclosures about Decedents:

2.11.9.1. Coroners and Medical Examiners: CCCMHB may disclose PHI to a coroner or medical examiner to identify a deceased person, determine the cause of death, or perform other functions authorized by law. A CCCMHB may use PHI for these purposes if it functions as a coroner or medical examiner.

2.11.9.2. Funeral Directors: CCCMHB may disclose PHI to funeral directors, consistent with applicable law, as necessary to carry their duties. If necessary, PHI may be disclosed prior to, and in reasonable anticipation of, the individual's death.

2.11.10. Uses and Disclosures for Cadaveric Organ, Eye or Tissue

Donation Purposes: CCCMHB may use or disclose PHI to organ procurement organizations or other entities engaged in procurement, banking, or transplantation of cadaveric organs, eyes or tissue for the purpose of facilitating organ, eye or tissue donation or transplantation.

2.11.11. Uses and Disclosures for Specialized Government Functions:

2.11.11.1. Military and veterans activities:

2.11.11.1.1. CCCMHB may use/disclose PHI of armed forces personnel for activities deemed necessary by the appropriate military command authority to fulfill the military mission if notice has been published in the Federal Register that identifies the appropriate military command authorities and the purposes for which the PHI may be used or disclosed.

2.11.11.1.2. CCCMHB that is a component of the Department of Defense or Department of Transportation may disclose PHI of a member of the armed services to the Department of Veterans Affairs (DVA) upon his or her discharge or separation from the military for the purpose of a determination by DVA of the individual's eligibility for or entitlement to benefits.

2.11.11.1.3. CCCMHB that is a component of DVA may use and disclose PHI to other components of DVA that determine eligibility for or entitlement to, or that provide, benefits.

2.11.11.1.4. CCCMHB may use and disclose PHI of foreign military personnel to their appropriate foreign military authority for the same purposes for which uses and disclosures are permitted for U.S. armed services personnel.

2.11.11.2. National security and intelligence activities: CCCMHB may disclose PHI to authorized federal officials for the conduct of lawful intelligence, counterintelligence, and other activities authorized by the National Security Act (50 U.S.C. 401, *et seq.*) and implementing authority.

2.11.11.3. Protective services for the President and others: CCCMHB may disclose PHI to authorized federal officials for the provision of protective services:

2.11.11.3.1. To the President and others designated under 18 U.S.C. 3056;

2.11.11.3.2. To foreign heads of state or others designated under 22 U.S.C. 2709(a)(3); or

2.11.11.3.3. For the conduct of investigations authorized by 18 U.S.C. 871 and 872.11.

2.11.11.5. Government programs providing public benefits:

2.11.11.5.1. CCCMHB is a government program providing public benefits and may disclose PHI relating to eligibility for or enrollment in the health plan to another agency

administering a government program providing public benefits if the sharing of eligibility or enrollment information among such agencies or the maintenance of such information in a single or combined data system accessible to all such agencies is required or expressly authorized by statute or regulation.

2.11.11.5.2. CCCMHB is a government agency administering a government program providing public benefits and may disclose PHI relating to the program to another CE that is a government program providing public benefits if the programs serve the same or similar populations and the disclosure of PHI is necessary to coordinate the covered functions of such programs or to improve administration and management relating to the covered functions.

2.11.12. **Disclosures for Workers' Compensation:** CCCMHB may disclose PHI as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs.

Article Three. NOTICE OF PRIVACY PRACTICES/PRIVACY NOTICE

3.1. Notice Of Privacy Practices to Individuals:

3.1.1. **Provision of Notice:** CCCMHB will make its “Notice of Privacy Practices” available on request to any person and to individuals specified hereunder, as applicable:

3.1.2. CCCMHB will provide the “Notice of Privacy Practices” to individuals who are new enrollees.

3.1.3. When the CCCMHB makes a material revision to its privacy practices, the CCCMHB will provide notice of said revision within sixty (60) days of a material revision to individuals then covered by the plan. Except when required by Federal or Ohio law, a material change to the CCCMHB’s privacy practices will not be implemented prior to the effective date of the notice reflecting the change.

3.1.4. No less frequently than once every three years, the CCCMHB will notify individuals then covered by the plan of the availability of the notice and how to obtain the notice.

3.1.5.. Requirements Specific to **Electronic Notice:** As long as the CCCMHB maintains a web site providing information about the CCCMHB's customer services or benefits, it will prominently post its notice on the web site and make it available electronically through the web site.

3.2 **Documentation:** CCCMHB will document its compliance with notice requirements by retaining copies of notices issued as required and a list of those individuals to who notice was sent. [¶11.3.10.]

Article Four. AUTHORIZATION

4.1. Authorization Requirement: Except as otherwise permitted or required under 45 CFR Part 164 and Ohio Law, CCCMHB will not use or disclose PHI without a valid authorization, and may only use/disclose PHI consistent with such authorization.

4.1.1. Psychotherapy notes: CCCMHB must obtain authorization for any use/disclosure of psychotherapy notes, except:

4.1.1.1. For the following TPO:

4.1.1.1.1. Use by originator of notes for treatment;

4.1.1.1.2. Use/disclosure by CCCMHB for conducting its own counseling training programs in which students, trainees or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family or individual counseling; or

4.1.1.1.3. Use/disclosure by CCCMHB to defend a legal action or other proceeding brought by the individual; and

4.1.1.2. Use/disclosure: to Secretary of HHS regarding compliance; as required by law; for health oversight activities with respect to the oversight of the originator of notes; to coroners and medical examiners, or; to avert serious threat to health or safety.

4.1.1.2 **Authorization Required - Marketing:**

4.1.1.2.1 CCCMHB will obtain an authorization for any use or disclosure of PHI for marketing, except of the communication is in the form of:

4.1.1.2.1.1 A face-to-face communication made by a CCCMHB to an individual; or

4.1.1.2.1.2. A promotional gift of nominal value provided by the CCCMHB.

4.1.1.2.2 If the marketing involves direct or indirect remuneration to CCCMHB from a third-party, the authorization must state that such remuneration was involved.

4.2. General Requirements for Authorization: At all times that an authorization is necessary for the use/disclosure of PHI, CCCMHB will utilize an “Authorization” that conforms to the provisions of 45 CFR Part 164 and Ohio Law as delineated below:

4.2. Core Elements and Requirements of Authorization:

4.2.1. Description of the information to be used or disclosed, with sufficient specificity;

4.2.2. Name of the person(s) or class of persons authorized to use or disclose the PHI;

4.2.3. Name of the person(s) or class of persons to whom the CCCMHB is authorized to make the use or disclosure;

4.2.4 Description of each purpose of the requested use/disclosure. Statement “at the request of the individual” is sufficient when an individual initiates the authorization and does not, or elects not to, provide a statement of purpose.

4.2.5. Expiration date or an expiration event that relates to the individual or the purpose of the use/disclosure. Statement “end of research study,” “non,” or similar language is sufficient if authorization is for research, including the creation and maintenance of research database or research repository.

- 4.2.6. Statement of the individual's right to revoke authorization in writing and exceptions thereto, with description of how to revoke;
- 4.2.7. Statement that information used or disclosed may be subject to re-disclosure by the recipient and may no longer be protected by this rule;
- 4.2.8. Signature of individual and date;
- 4.2.2.11. If signed by personal representative, a description of the representative's authority to act for the individual;
- 4.2.10. Must be written in plain language.
- 4.2.11 The name and signature of the CCCMHB staff member facilitating a request for information will be included on the authorization.
- 4.2.12 The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization by stating either 1) CCCMHB may not condition treatment, payment, enrollment or eligibility for benefits on whether individual signs authorization when the prohibition on conditioning authorizations applies; or 2) the consequences to the individual of a refusal to sign when, CCCMHB can condition on failure to obtain such authorization.

4.3. CCCMB will provide the individual with a copy of the signed authorization.

4.4 Compound authorizations: An authorization may not be combined with any other document, including any other written legal permission from the individual, except as follows:

4.4.1. Authorization for use/disclosure of PHI created for research that includes treatment of the individual may be combined with consent to participate in research, consent for use/disclosure of PHI for TPO, and/or the privacy notice. [see ¶ 7.6.2.]

4.4.2. Authorization for use/disclosure of psychotherapy notes may only be combined with another authorization for use or disclosure of psychotherapy notes.

4.4.3. Authorizations other than for use or disclosure of psychotherapy notes may be combined with any other such authorization, provided that the CCCMHB has not conditioned the provision of treatment, payment, enrollment in health plan, or eligibility for benefits on obtaining the authorization.

4.5. CCCMHB may not condition provision of treatment, payment, and enrollment in health plan, or eligibility for benefits on provision of authorization except:

4.5.1. CCCMHB may condition provision of research-related treatment;

4.5.2. CCCMHB may condition eligibility for benefits and enrollment in the health plan prior to an individual's enrollment if the authorization is not for use or disclosure of psychotherapy notes and is sought 1) for eligibility or enrollment determinations or 2) for its underwriting or risk-rating determinations;

4.5.3. CCCMHB may condition the provision of health care for the sole purpose of creating PHI for disclosure to a third party upon authorization for disclosure to the third party.

4.6. Expiration and Revocation:

4.6.1. Expiration:

4.6.1.1 If a person is a part of an approved research study, authorization by the person of a date, event, or condition upon which consent will expire if longer than ninety days from the date of authorization;

4.6.1.2 The authorization will expire ninety days after the authorization is executed unless the individual has exercised an option for a shorter or longer period of time;

4.6.1.2.1. The authorization will automatically expire ninety days after the date of the authorization unless the individual has specified a longer period of time and the individual is expected to continue receiving services beyond ninety days and has given authorization for a longer prior of time which may be up to one hundred and eighty days.

4.6.2. **Revocation:** An individual may revoke an authorization at any time, in writing, except to the extent that CCCMHB has taken action in reliance thereon, or if authorization was obtained as a condition of obtaining insurance coverage and other law provides insurer right to contest claim under the policy or the policy itself.

4.7. **Documentation:** CCCMHB will document and retain signed authorizations for period of six years from last effective date.

Article Five. INDIVIDUAL'S RIGHTS RELATED TO PHI:

5.1. Access of Individuals to PHI:

5.1.1. **Right of access:** An individual has a right of access to inspect and obtain a copy of PHI about the individual in a designated record set, for as long as the PHI is maintained in the designated record set, except for:

5.1.1.1. Psychotherapy notes;

5.1.1.2. Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding; and

5.1.1.3. PHI maintained by a CCCMHB that is: subject to the Clinical Laboratory Improvements Amendments of 1988 (CLIA), to the extent the provision of access to the individual would be prohibited by law; or exempt from CLIA.

5.1.2. **Denial of right of access without right of review:** CCCMHB may deny an individual access without providing the individual an opportunity for review, in the following circumstances:

5.1.2.1. The PHI is excepted from the right of access [¶ 5.1.1.];

5.1.2.2. An individual's access to PHI created or obtained by a CCCMHB in the course of research that includes treatment may be suspended while the research is in progress if the individual agreed to the denial of access when consenting to anticipate in the research, and the provider informed the individual that right of access will be reinstated upon completion of the research;

5.1.2.3. An individual's access to PHI contained in records subject to the Privacy Act (5 U.S.C. 552a) may be denied in accordance with the requirements of the Act;

5.1.2.4. The PHI was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

5.1.3. Denial of right of access with right of review: CCCMHB may deny an individual access, provided that the individual is given a right to have such denials reviewed, in the following circumstances:

5.1.3.1. The CCCMHB Chief Clinical Officer, who is a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;

5.1.3.2. The PHI makes reference to another person (not a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person, or;

5.1.3.3. The request for access is made by the individual's personal representative and the CCCMHB Chief Clinical Officer, who is a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to the individual or another person.

5.1.3.4. If access is denied based on one of the grounds set forth in ¶¶ 5.1.3.1. to 5.1.3.3., the individual has the right to have the denial reviewed by a licensed health care professional, designated by the covered entity to act as a reviewing official, who did not participate in the original decision to deny. CCCMHB will promptly refer a request for review to the reviewing official, who must then determine, within a reasonable period of time, whether or not to deny the access requested based on the grounds set forth above. CCCMHB will promptly provide written notice to the individual of the reviewing official's determination, and will provide or deny access in accordance with the determination.

5.1.4. Requests for access; timely action:

5.1.4.1. CCCMHB will permit an individual to request access to inspect or to obtain a copy of the PHI about the individual that is maintained in a designated record set. Said request must be in writing, and CCCMHB will inform individuals that it must be a written request.

5.1.4.2. CCCMHB will act on a request for access no later than 30 days after CCCMHB receives the written request as follows:

5.1.4.2.1. If CCCMHB grants the request, in whole or in part, it must inform the individual of the acceptance of the request and provide the access requested, as set forth in ¶ 5.1.5.;

5.1.4.2.2. If CCCMHB denies the request, in whole or in part, it must provide the individual with a written denial, as set forth in ¶ 5.1.6.

5.1.4.3. If the request for access is for PHI that is not maintained or accessible to the CCCMHB on-site, CCCMHB will act on the request no later than 60 days from the receipt of the request.

5.1.4.4. If the CCCMHB is unable to act on the request within the appropriate time limit (30 or 60 days, as applicable), CCCMHB may extend the time for such actions by no more than 30 days, provided that the CCCMHB, within the appropriate time limit, as applicable, provides the individual with a written statement of the reasons for the delay and the date by which CCCMHB will complete its action on the request. The CCCMHB will have one such extension of time for action on a request for access.

5.1.5. Provision of access:

5.1.5.1. CCCMHB must provide the access requested by individuals, including inspection or obtaining a copy, or both, of the PHI about them in designated record sets. If the same PHI that is the subject of a request for access is maintained in more than one designated record set or at more than one location, the CCCMHB need only produce the PHI once in response to a request for access.

5.1.5.2. CCCMHB will 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 CCCMHB and the individual.

5.1.5.3. CCCMHB may provide the individual with a summary of the PHI requested, in lieu of providing access to the PHI or may provide an explanation of the PHI to which access has been provided, if:

5.1.5.3.1. The individual agrees in advance to such a summary or explanation; and

5.1.5.3.2. The individual agrees in advance to the fees imposed, if any, by the CCCMHB for such summary or explanation.

5.1.5.4. CCCMHB will provide the access as requested by the individual in a timely manner, including arranging with the individual for a convenient time and place to inspect or obtain a copy of the PHI, or mailing the copy of the PHI at the individual's request.

5.1.5.5. If the individual requests a copy of the PHI or agrees to a summary or explanation of such information, the CCCMHB will impose a reasonable, cost-based fee, provided that the fee includes only the cost of:

- 5.1.5.5.1. Copying, including the cost of supplies and labor;
- 5.1.5.5.2. Postage; and
- 5.1.5.5.3. Preparing an explanation or summary of the PHI, if agreed to by the individual.

5.1.6. Denial of access:

5.1.6.1. CCCMHB will provide a timely, written denial to the individual. The denial must be in plain language and must contain:

- 5.1.6.1.1. The basis for the denial;
- 5.1.6.1.2. If applicable, a statement of the individual's right to have the denial reviewed, including a description of how the individual may exercise such right; and
- 5.1.6.1.3. A description of how the individual may complain to CCCMHB pursuant to the complaint procedures set forth in ¶7.3.4. The description must include the name, or title, and telephone number of the contact person or office.

5.1.6.2. CCCMHB will, to the extent possible, give the individual access to any other PHI requested, after excluding the PHI as to which the CCCMHB has a ground to deny access.

5.1.6.3. If the CCCMHB does not maintain the PHI that is the subject of the individual's request for access, and CCCMHB knows where the requested information is maintained, CCCMHB will inform the individual where to direct the request for access.

5.1.7. Documentation: CCCMHB must document the following and retain the documentation for six years from the date of its creation:

- 5.1.7.1. The designated record sets that are subject to access by individuals; and
- 5.1.7.2. The titles of the persons or offices responsible for receiving and processing requests for access by individuals.

5.2. Rights to Request Privacy Protection for PHI:

5.2.1. Right of an individual to request restriction of uses and disclosures:

5.2.1.1. CCCMHB will permit individual to request that CCCMHB restrict uses/disclosures for TPO and disclosures pursuant to ¶5.2;

5.2.1.1.1. CCCMHB is not required to agree to the restriction;

5.2.1.1.2. If CCCMHB agrees to the restriction, it must not use or disclose the PHI in violation of the restriction except, if individual who made request is in need of emergency treatment and the restricted PHI is needed to provide that treatment, CCCMHB may use the restricted PHI or disclose it to a health care provider to provide such treatment;

5.2.1.1.3. Upon disclosure pursuant to ¶5.2.1.1.2., CCCMHB will request that such health care provider not further use or disclose the PHI;

5.2.1.1.4. An agreed upon restriction is not effective to prevent uses or disclosures permitted or required under ¶¶2.2.1 or 2.11.

5.2.1.2. Terminating a restriction: CCCMHB may terminate its agreement to a restriction if:

5.2.1.2.1. The individual agrees to or requests the termination in writing;

5.2.1.2.2. The individual orally agrees to the termination, and agreement is documented; or

5.2.1.2.3. CCCMHB informs the individual that it is terminating its agreement to the restriction, except that termination is only effective as to PHI created or received after such notice.

5.2.1.3. Documentation: When CCCMHB agrees to a restriction, CCCMHB must document the restriction in accordance with ¶ 11.3.10.

5.2.2. Confidential communications:

5.2.2.1. Requirements:

5.2.2.1.1. CCCMHB will permit individuals to request to receive communications of PHI from CCCMHB by alternative means or at alternative locations if the individual clearly states that disclosure of the information could endanger the individual.

5.2.2.2. Conditions on providing confidential communications:

5.2.2.2.1. CCCMHB requires the individual to make a written request for a communication to be made by alternative means or to an alternative location;

5.2.2.2.2. CCCMHB conditions the provision of a reasonable accommodation on information as to how payment, if any, will be handled, when appropriate, and specification of an alternate address or method of contact;

5.2.2.2.3. CCCMHB may require that a request contain a statement that disclosure of the information to which the request pertains could endanger the individual.

5.3. Amendment of PHI:

5.3.1. **Right to amend and denial of amendment:**

5.3.1.1. Individual has the right to have CCCMHB amend PHI or other information in the designated record set for as long as CCCMHB maintains the record sets.

5.3.1.2. CCCMHB may deny amendment request if it determines that the PHI or other record:

- 5.3.1.2.1. Was not created by the CCCMHB, unless the individual provides reasonable basis to believe that originator of PHI is no longer available to act on request;
- 5.3.1.2.2. Is not part of the designated record set;
- 5.3.1.2.3. Would not be available for inspection under ¶5.1.; or
- 5.3.1.2.4. Is accurate and complete.

5.3.2. Request for amendment and timely action:

5.3.2.1. CCCMHB will permit an individual to request that the CCCMHB amend PHI maintained in the designated record set. CCCMHB requires request to be in writing and to provide reason/support for request.

5.3.2.2. CCCMHB will act on request within 60 days of receipt, as follows:

5.3.2.2.1. If CCCMHB grants the request, in whole or in part, it must follow the requirements of ¶¶ 5.3.3.1. and 5.3.3.2. If it denies the request, in whole or in part, it must follow the requirements of ¶ 5.3.4.

5.3.2.2.2. If CCCMHB needs more time to comply, it may take **one** extension for up to thirty (30) days, provided that the CCCMHB notifies the individual in writing within the first sixty (60) days of the reasons for delay and of the date by which action will be taken.

5.3.3. Accepting the amendment: If CCCMHB accepts the requested amendment, in whole or part, it must:

5.3.3.1. Make the amendment by, at a minimum, identifying the affected records and appending or otherwise providing a link to the location of the amendment;

5.3.3.2. Timely inform the individual that the amendment is accepted and obtain his/her identification of and agreement to have CCCMHB notify relevant persons with which amendment needs to be shared pursuant to

¶ 5.3.3.3.;

5.3.3.3. Make reasonable efforts to inform and timely provide amendment to:

5.3.3.3.1. Persons identified by the individual as having received PHI and needing the amendment; and

5.3.3.3.2. Persons, including business associates, that CCCMHB knows to have PHI that is the subject of the amendment and that may have relied, or could foreseeably rely on such information to the detriment of the individual.

5.3.4. Denying the amendment: If the CCCMHB denies the requested amendment, in whole or part, it must:

5.3.4.1. Provide the individual with a timely, written denial in plain language and containing:

5.3.4.1.1. The basis for the denial, in accordance with ¶ 5.3.1.2.;

- 5.3.4.1.2. Notice of individual's right to submit a written statement disagreeing with the denial, and information on how to file such statement;
- 5.3.4.1.3. Statement that, if individual does not submit a statement of disagreement, individual may request that CCCMHB provide individual's request and the denial with any future disclosures of the PHI that is subject of the request; and
- 5.3.4.1.4. Description of how individual may complain to CCCMHB, including name or title, and telephone number of contact person or office.

5.3.4.2. Statement of disagreement: CCCMHB must permit the individual to submit to the CCCMHB a written statement disagreeing with the denial and the basis for disagreement. CCCMHB may reasonably limit the length of the statement.

5.3.4.3. Rebuttal statement: CCCMHB may prepare a written rebuttal to the statement of disagreement. Whenever a rebuttal is prepared, CCCMHB must provide a copy to the individual.

5.3.4.4. Record keeping: CCCMHB will, as appropriate, identify the record or PHI that is subject to the disputed amendment and append or otherwise link the request for amendment, the denial, any statement of disagreement, and any rebuttal to the designated record set.

5.3.4.5. Future disclosures:

5.3.4.5.1. If a statement of disagreement has been submitted, the CCCMHB will include the material appended in accordance with ¶ 5.3.4.4. or, at the election of the CCCMHB, an accurate summary of such information, with any subsequent disclosure of the PHI to which the disagreement relates.

5.3.4.5.2. If a statement of disagreement has not been submitted, the CCCMHB must include the request for amendment and the denial, or an accurate summary of such information, with any subsequent disclosure of PHI only if the individual has requested such action in accordance with ¶ 5.3.4.1.3.

5.3.4.5.3. When a subsequent disclosure is being made using a standard transaction under Part 162 of the regulations that does not permit additional material to be included, CCCMHB will separately transmit the material required by ¶¶ 5.3.4.5.1. or 5.3.4.5.2., as applicable, to the recipient of the standard transaction.

5.3.5. When CCCMHB is informed by another CE of an amendment to an individual's PHI pursuant to ¶5.3.3.3., CCCMHB will amend the PHI in designated record sets as provided in ¶ 5.3.3.1.

5.3.6. **Documentation:** CCCMHB will document the titles of the persons or offices responsible for receiving and processing requests for amendments and maintain documentation.

Article 6. ORGANIZATIONAL REQUIREMENTS:

6.1. Disclosures to Business Associates (BAs):

6.1.1. Standard for disclosures to BAs: CCCMHB may disclose PHI, or allow BA to create or receive PHI on CCCMHB's behalf, if CCCMHB enters into a written agreement with the BA assuring that the BA will safeguard the information; this standard does not apply with respect to:

6.1.1.1. Disclosure by CCCMHB to a provider concerning the individual's treatment;

6.1.1.2. Disclosure by group health plan, or health insurance issuer or HMO with respect to the plan, when requirements of ¶ 10.6. are met, or;

6.1.1.3. Uses/disclosures by health plan that is a governmental program providing public benefits, regarding PHI collected or shared for determination of eligibility or enrollment, where such information is collected, or eligibility or enrollment is determined, by an agency other than the one administering the plan, and such activity is authorized by law.

6.1.2. Any written agreement entered into by and between the CCCMHB and its BA must meet the following requirements:

6.1.2.1. Establish permitted and required uses/disclosures of PHI that are consistent with those authorized for the CCCMHB under the regulations, except that the contract/arrangement:

6.1.2.1.1. May permit BA to use/disclose PHI for management and administration of the BA: (i) if disclosure is required by law, or (ii) BA obtains reasonable assurances that the PHI will be held confidentially and used/disclosed only as required by law or for the purpose of the disclosure and person notifies BA of any breach of confidentiality; and

6.1.2.1.2. May permit BA to provide data aggregation services relating to the health care operations of the CCCMHB;

6.1.2.2. Provide that the BA will:

6.1.2.2.1. Not use/disclose PHI except as authorized or as required by law;

6.1.2.2.2. Use safeguards to prevent unauthorized uses/disclosures;

6.1.2.2.3. Report unauthorized uses/disclosures to CCCMHB;

6.1.2.2.4. Pass on same obligations to subcontractors/agents;

6.1.2.2.5. Make PHI available for access and/or amendment by individuals in accordance with the provisions of ¶¶ 8.1. and 8.3.];

6.1.2.2.6. Make information available for provision of accounting of uses/disclosures [¶ 11.2.];

- 6.1.2.2.7. Make information available to the Secretary of HHS for purposes of determining CCCMHB's compliance with the regulations, and;
- 6.1.2.2.8. Return or destroy all PHI at termination of the contract, or offer ongoing protection for PHI.
- 6.1.2.3. Authorize termination of the contract by the CCCMHB upon material breach by the BA.
- 6.1.3. If CCCMHB knows of a pattern or practice of material non-compliance by the BA, and reasonable steps have not cured breach, CCCMHB will do one of the following:
 - 6.1.3.1. Terminate the contract, if feasible; or
 - 6.1.3.2. Report the problem to the Secretary of HHS.
- 6.1.4. If CCCMHB and BA are both governmental entities, CCCMHB may comply with requirements of a BA agreement:
 - 6.1.4.1. By entering into a Memorandum of Understanding covering the required terms; or
 - 6.1.4.2. If other law contains requirements applicable to the BA that satisfy the objectives of the terms.
- 6.1.5. If a BA is required by law to perform a function or activity or to perform a specified service on behalf of CCCMHB, CCCMHB may disclose PHI to the extent necessary to comply with that mandate, as long as CCCMHB documents an attempt to obtain the enumerated BA assurances and the reasons such assurances could not be obtained.
- 6.1.6. CCCMHB may omit requirement for termination provision in contract if it would be inconsistent with statutory obligations of CCCMHB or BA.

Article Seven. ADMINISTRATIVE REQUIREMENTS

7.1. Verification Requirements:

- 7.1.1. Prior to any disclosure permitted under the regulations, CCCMHB will:
 - 7.1.1.1. Except with respect to disclosures under ¶2.10, verify the identity of a person requesting PHI and the authority of such person to access the PHI if not known to the CCCMHB; and
 - 7.1.1.2. Obtain written documentation, statements, or representations from the person requesting the PHI when it is a condition of the disclosure under this Policy and Federal or State law.
- 7.1.2. Implementation requirements:
 - 7.1.2.1. Conditions on disclosure: If a disclosure is conditioned under the regulations on particular documentation, statements, or representations from the person requesting the PHI, CCCMHB may rely, if reasonable under the circumstances, on documentation, statements or representations that, on their face, meet the applicable requirements.
 - 7.1.2.1.1. The conditions in ¶ 2.11.6.1.2.3. may be satisfied by the administrative subpoena or similar process or by a separate

written statement that, on its face, demonstrates that the applicable requirements have been met.

7.1.2.1.2. The documentation required by ¶ 2.11.8.2. may be satisfied by one or more written statements, provided that each is appropriately dated and signed in accordance with the provisions ¶¶2.11.8.2.1 and 2.11.8.2.5.

7.1.2.2. Identity of public officials: CCCMHB may rely, if reasonable under the circumstances, on any of the following to verify identity when the disclosure of PHI is to a public official or a person acting on behalf of a public official:

7.1.2.2.1. If the request is made in person, presentation of agency identification badge, other official credentials, or other proof of government status;

7.1.2.2.2. If the request is in writing, on appropriate government letterhead;

7.1.2.2.3. If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting with authority, or other evidence of agency, such as a contract for services, MOU, purchase order, which establishes that the person is acting on behalf of the public official;

7.1.2.3. Authority of public officials: CCCMHB may rely, if reasonable under the circumstances, on any of the following to verify authority when the disclosure of PHI is to a public official or a person acting on behalf of the public official:

7.1.2.3.1. A written statement of legal authority under which the information is requested, or, if a written statement would be impractical, an oral statement of such authority;

7.1.2.3.2. A request made by legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.

7.1.2.4. Exercise of professional judgment: Verification requirements of ¶7.1 are met if CCCMHB relies on the exercise of professional judgment in making a use or disclosure in accordance with ¶2.10. or acts on a good faith belief in making a disclosure under ¶ 2.11.7.

7.2. Accounting of Disclosures of PHI:

7.2.1. Right to an accounting of disclosures of PHI:

7.2.1.1. CCCMHB will provide an individual with an accounting of disclosures of PHI made by CCCMHB in the six years prior to the date on which the accounting is requested, except for disclosures:

7.2.1.1.1. To carry out TPO;

7.2.1.1.2. To individuals of PHI about them as provided in ¶2.1;

7.2.1.1.4. For national security or intelligence purposes as provided in ¶ 2.11.11.2.;

7.2.1.1.5. To correctional institutions or law enforcement officials; or

7.2.1.1.6. That occurred prior to April 14, 2003.

7.2.1.2. Suspension of right to accounting:

7.2.1.2.1. CCCMHB must temporarily suspend an individual's right to receive an accounting of disclosures to a health oversight agency or law enforcement official, as provided for in ¶ 11.2.1.1., for the time specified by such agency or official, if such agency or official provides the covered entity with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities and specifying the time for which such a suspension is required.

7.2.1.2.2. If the agency or official statement is made orally, CCCMHB will:

(i) document the statement, including the identity of the agency or official making the statement; (ii) temporarily suspend the individual's right to an accounting of disclosures subject to the statement; and (iii) limit the temporary suspension to no longer than 30 days from the date of the oral statement, unless a written statement pursuant to ¶ 11.2.1.2.1. is submitted during that time.

7.2.1.3. An individual may request an accounting of disclosures for a period of time less than six years from the date of the request.

7.2.2. **Content of the Accounting:** CCCMHB will provide the individual with a written accounting that meets the following requirements:

7.2.2.1. Except as otherwise provided above, the accounting must include disclosures of PHI that occurred during the six years (or such shorter time period at the request of the individual) prior to the date of the request for an accounting, including disclosures to or by business associates of the CCCMHB.

7.2.2.2. The accounting must include for each disclosure:

7.2.2.2.1. The date of the disclosure;

7.2.2.2.2. The name of the entity or person who received the PHI and, if known, the address of such entity or person;

7.2.2.2.3. A brief description of the PHI disclosed; and

7.2.2.2.4. A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure; or, in lieu of such statement: (i) a copy of the individual's written authorization; or (ii) a copy of a written request for a disclosure, if any.

7.2.2.3. If, during the period covered by the accounting, CCCMHB has made multiple disclosures of PHI to the same person or entity for a single purpose, or pursuant to a single authorization, the accounting may, with respect to such multiple disclosures, provide:

7.2.2.3.1. The information required in ¶11.2.2.2 for the first disclosure during the accounting period;

7.2.2.3.2. The frequency, periodicity, or number of the disclosures made during the accounting period; and

7.2.2.3.3. The date of the last such disclosure during the accounting period.

7.2.2.4 If, during the period covered by the accounting, CCCMHB has made disclosures of PHI for a particular research purpose in accordance with ¶ 2.11.8 for 50 or more individuals, the accounting may, with respect to such disclosures for which the protected health information about the individual may have been included, provide: (1) The name of the protocol or other research activity; (2) A

description, in plain language, of the research protocol or other research activity including the purpose of the research and the criteria for selecting particular records; (3) A brief description of the type of protected health information that was disclosed; (4) The date or period of time during which such disclosures occurred, or may have occurred, including the date of the last such disclosure during the accounting period; (5) The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and (6) A statement that the protected health information of the individual may or may not have been disclosed for a particular protocol or other research activity. (ii) If CCCMHB provides an accounting for research disclosures, in accordance with this section, and if it is reasonably likely that PHI of the individual was disclosed for such research protocol or activity, the CCCMHB will, at the request of the individual, assist in contacting the entity that sponsored the research and the researcher.

7.2.3. Provision of the Accounting:

7.2.3.1. CCCMHB must provide the individual with the accounting requested no later than sixty (60) days after receipt of the request; or

7.2.3.2. If CCCMHB is unable to provide the accounting within sixty (60) days after receipt of the request, CCCMHB may extend the time to provide the accounting by no more than thirty (30) days, provided that:

7.2.3.2.1. CCCMHB, within sixty (60) days after receipt of the request, provides the individual with a written statement of the reasons for the delay and the date by which CCCMHB will provide the accounting; and

7.2.3.2.2. CCCMHB will have one such extension of time for action on a request for an accounting.

7.2.3.3. CCCMHB must provide the first accounting to an individual in any twelve (12) month period without charge. CCCMHB may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same individual within the twelve (12) month period, provided that the CCCMHB informs the individual in advance of the fee and provides the individual with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.

7.2.4. Documentation: CCCMHB must document the following and retain the documentation for six (6) years from the date of its creation:

7.2.4.1. The information required to be included in an accounting for disclosures of PHI that are subject to an accounting;

7.2.4.2. The written accounting that is provided to an individual; and

7.2.4.3. The titles of the persons or offices responsible for receiving and processing requests for an accounting by individuals.

7.3. Administrative Requirements:

7.3.1. **Required Personnel Designations:** CCCMHB Chief Executive Officer will designate, and document designations of:

7.3.1.1. A “Privacy Official”: Responsible for development and implementation of the CCCMHB’s policies and procedures, and

7.3.1.2. A “Contact Person or Office”: Responsible for receiving complaints under this section and able to provide information relating to the Privacy Notice [¶4].

7.3.2. **Required Training:** CCCMHB will train, and document the training of, all workforce members on policies and procedures relating to PHI as necessary and appropriate to their work functions, as follows:

7.3.2.1. To all workforce members by April 14, 2003;

7.3.2.2. To each new member of the workforce within a reasonable time upon joining CCCMHB’s workforce;

7.3.2.3. To each workforce member whose functions are affected by a material change in policies or procedures required under the privacy regulations, within a reasonable time after the material change becomes effective.

7.3.3. **Safeguards to be in place:** CCCMHB will have in place appropriate administrative, technical and physical safeguards to reasonably safeguard PHI from intentional or unintentional unauthorized use or disclosure.

7.3.4. **Complaint Process:** CCCMHB will implement a procedure for individuals to make complaints about CCCMHB's policies and procedures required by the privacy regulations and/or CCCMHB's compliance with those policies and procedures, and will document all complaints received and disposition of same, if any.

7.3.5. **Sanctions to be in place:** CCCMHB will have, apply, and document application of appropriate sanctions against its workforce members who fail to comply with CCCMHB’s privacy policies and procedures or the requirements of the privacy regulations; NOTE: This standard does not apply to workforce members’ actions that meet the requirements of the 45 CFR 164.502(j) regarding disclosures by whistleblowers and workforce member crime victims, or the requirements of 45 CFR 164.530(g)(2) involving intimidating and retaliatory acts.

7.3.6. **Mitigation of harmful effects:** CCCMHB will mitigate, to extent practicable, any harmful effects that are known to the CCCMHB of unauthorized uses/disclosures of PHI in violation of its policies and procedures or the requirements of the privacy regulations by CCCMHB or BA.

7.3.7. **Intimidating or retaliatory acts prohibited:** CCCMHB may not intimidate, threaten, coerce, discriminate against or take other retaliatory action against:

7.3.7.1. Any individual for exercise of any right or participation in any process established by the privacy regulations; or

7.3.7.2. Any individual or other person for: filing a complaint with the Secretary of HHS; testifying, assisting, or participating in investigation, compliance review, or proceeding/hearing under the regulations, or; engaging in reasonable opposition to any act or practice that the person in good faith believes to be unlawful under the regulations, as long as such opposition does not involve the disclosure of PHI in violation of privacy regulations.

7.3.8. **Waiver of Rights prohibited:** CCCMHB may not require individuals to waive any of their rights to file a complaint with the secretary of HHS or otherwise under these regulations as a condition of treatment, payment, enrollment, or eligibility for benefits.

7.3.2.11. Changes to Policies and Procedures: CCCMHB reserves its right to change this Policy at any time.

7.3.10. **Documentation Requirements:** CCCMHB will maintain the required policies and procedures in written or electronic form, and must maintain written or electronic copies of all communications, actions, activities, or designations that are required to be documented under the regulations, for a period of six years from the later of the date of creation or the last effective date.

Article 8. COMPLAINTS AND ENFORCEMENT

8.2. Complaints to the Secretary of HHS:

8.2.1. Right to file complaint: A person who believes CCCMHB is not complying with the regulations may file a complaint with the Secretary of HHS.

8.2.2. Requirements for filing complaint:

8.2.2.1. Complaint must be filed in writing, either on paper or electronically;

8.2.2.2. Complaint must name entity that is the subject of the complaint and describe acts or omissions believed to be in violation of the regulations;

8.2.2.3. Complaint must be filed within 180 days of when complainant knew or should have known of the act or omission, unless the time limit is waived by the Secretary of HHS for good cause shown.

8.3. Responsibilities of CEs:

8.3.1. Provide records and compliance reports: CCCMHB will keep such records and submit such compliance reports, in such time and manner and containing such information, as the Secretary of HHS may determine to be necessary to enable the Secretary to ascertain whether CCCMHB has complied and is complying with the regulations.

8.3.2. Cooperate with complaint investigations and compliance reviews: CCCMHB will cooperate with the Secretary of HHS if the Secretary undertakes an investigation or compliance review of the policies, procedures or practices of a CCCMHB.

8.3.3. Permit access to information:

8.3.3.1. CCCMHB will permit access by the Secretary of HHS during normal business hours to its facilities, books, records, accounts, and other sources of information, including PHI, that are pertinent to ascertaining compliance with the regulations. If the Secretary determines that exigent circumstances exist, CCCMHB will permit access at any time, without notice.

8.3.3.2. If any of the information required of CCCMHB hereunder is in the exclusive possession of another agency, institution, or person that fails or refuses to furnish the information, CCCMHB must so certify, and set forth the efforts it undertook to obtain the information.

8.3.3.3. PHI obtained by the Secretary of HHS in connection with an investigation or compliance review will not be disclosed by the Secretary, except

if necessary for ascertaining or enforcing compliance with the applicable requirements of the regulations.

RESPONSIBILITIES

It is the responsibility of the Chief Executive Officer to establish office procedures to implement this Policy.

William M. Denihan
CCCMHB Chief Executive Officer

Bonita Caplan
CCCMHB Board Chair

Approval Date

Review Date