



<b>Health Care Agency</b> <b>Behavioral Health Services</b> <b>Policies and Procedures</b>	Section Name:	Client's Rights
	Sub Section:	HIPAA
	Section Number:	02.05.01
	Policy Status:	<input type="checkbox"/> New <input checked="" type="checkbox"/> Revised

	SIGNATURE	DATE APPROVED
Chief of Operations Behavioral Health Services	_____	_____

**SUBJECT:** Notice of Privacy Practices

**PURPOSE:**

To establish policy and guidelines for Behavioral Health Services (BHS), a designated health care component and a health plan, as to the content and distribution of the Notice of Privacy Practices as set forth in the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

**POLICY:**

- I. An individual has the right to adequate notice of the uses and disclosures of Protected Health Information (PHI) that may be made by or on behalf of the County, and of the individual's rights and County's legal duties with respect to PHI, except as otherwise set forth in the HIPAA regulations.
- II. All individuals, inmates excepted, will be given a copy of the County's Notice of Privacy Practices (NPP) at the time of their first face-to-face contact with Behavioral Health Services.
- III. Revisions to Notice – BHS shall promptly distribute a revised notice of privacy practices whenever the County determines a substantial revision is required and provides that revision for distribution.
- IV. Provision of Notice - BHS shall provide individuals with the notice of privacy practices upon request, in addition to the provision of the NPP at the time of the first service, as set forth in the HIPAA regulations. It shall obtain the individual's written acknowledgement of receipt, or document good faith effort to obtain such acknowledgement. The receipt of acknowledgement will be maintained in the medical record.

**SCOPE:**

This policy pertains to all BHS Service Chiefs and BHS providers.

**REFERENCES:**

45 Code of Federal Regulations (CFR) §164.520, §164.530(j)(1)

**FORMS:**

[Notice of Privacy Practices](http://ochealthinfo.com/about/admin/hipaa/forms) (F042-01.1996) <http://ochealthinfo.com/about/admin/hipaa/forms>

[Notice of Privacy Practices Acknowledgement of Receipt](http://ocintranet.ocgov.com/hipaa/acknowledge.asp) (F042-01.1994)  
<http://ocintranet.ocgov.com/hipaa/acknowledge.asp>

**DEFINITIONS:**

Protected Health Information (PHI) any individual identifiable health information that is created, transmitted, or maintained by a covered entity in any form or medium. PHI excludes individually identifiable health information:

- In education records;
- In employment records held by a covered entity in its role as employer; and
- Regarding a person who has been deceased for more than 50 years.

Treatment, Payment and Health Care Operations (TPO) include the following:

- Treatment generally means the provision, coordination, or management of health care and related services, consultation between providers relating to individuals, or referral of an individual to another provider for health care.
- Payment means activities undertaken by a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan, or activities undertaken by a health care provider or health plan to obtain or provide reimbursement for the provision of health care, and these described activities relate to the individual to whom health care is provided, and include, but are not limited to, determinations of eligibility or coverage and adjudication or subrogation of health benefit claims, risk adjustment, billing, claims management, collection activities and obtaining payment under a contract for reinsurance, review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care or justification of charges, utilization review activities and certain disclosures to consumer reporting agencies of specified PHI relating to collection of premiums or reimbursement.
- Health Care Operations include, but are not limited to, activities related to covered functions, such as quality assessment and improvement activities; certain population-based activities; protocol development, case management and care coordination, contacting patients and health care providers about treatment alternatives; review of competency and qualification reviews of health care professionals, health plan performance, certain training programs, underwriting, premium rating, medical review, legal services and auditing functions, business planning and development, and general business and administrative activities. Said activities may include implementation and compliance of HIPAA regulations, customer service, resolution of internal grievances, and consistent with regulations, the creation of de-identified health information or a limited data set, as well as fundraising for the covered entity.

- Disclosure means the release, transfer, provision of, access to, or divulging in any manner of information outside the County's health care components.
- Use means the sharing, employment, application, utilization, examination or analysis of individually identifiable health information, within the County's health care components.

**PROCEDURE:**

- I. All staff shall receive training on the NPP.
- II. In most circumstances, it shall be the responsibility of the person providing the first service (Care Coordinator, Therapist, Case Manager, M.D., etc.) to give the NPP and obtain/complete the acknowledgement form.
- III. BHS providers shall obtain the individual's written acknowledgement of receipt, or document good faith effort to obtain such acknowledgment, utilizing the Notice of Privacy Practices Acknowledgement of Receipt form (F042-01.1994).
- IV. The written acknowledgement of receipt will be maintained in the section of the clinical chart that contains the admission documents.
- V. BHS providers shall provide the NPP to consumers at the time the first face-to-face service is provided.
- VI. In the unusual event that the first service is not face-to-face and it is not expected that a face-to-face service will be provided within 24 hours, the NPP shall be mailed (see VII below) to the consumer within one working day of that first non face-to-face service.
- VII. Mailing NPPs:
  - A. When circumstances require an NPP to be mailed rather than provided in person, both the NPP and an acknowledgement form shall be mailed to the consumer or requestor with a note asking that the acknowledgement form be signed and returned.
  - B. The staff person shall complete a separate acknowledgement form by:
    1. Printing the consumer's (or representative's) name on the appropriate line,
    2. Indicating the date that the NPP and acknowledgement form was mailed in the section provided for documentation
    3. Signing, dating and printing name in the section provided for staff sign-off, and,
    4. Placing this form in the section of the clinical chart that contains the admission documents.

- C. If the acknowledgement form is in fact signed and returned, it shall be filed in the chart as well.
- VIII. In the event that the first face-to-face service is an emergency situation and BHS staff does not provide the NPP for this reason, the BHS staff shall document the reason in the progress note. The NPP shall be given at the time of the next face-to-face service, if that service is within 24 hours of the first face-to-face service. If no further services are to be provided, or if the next face-to-face service is not expected to be provided within 24 hours, the BHS staff shall mail a copy of the NPP. (See VII above)
- IX. Outreach and engagement services may be provided to seriously and persistently mentally ill persons who have not yet formally agreed to enter into services. These services may include, but are not limited to, case management and assessment services. In this situation, the clinician must make a determination as to whether the potential consumer is so disturbed that to provide the NPP would interfere with the engagement process.
- A. If the clinician believes that giving the NPP would not interfere with the engagement process, then the NPP should be given at the first contact as in II-IV above.
  - B. If the clinician believes that giving the NPP would interfere with the engagement process, then the clinician shall document this utilizing the Notice of Privacy Practices form. In this circumstance, the NPP shall be given as soon as the clinician determines it may be done without jeopardizing the engagement process. If the person moves from the outreach and engagement phase to become a formal consumer, then the NPP shall be given at the first service after becoming a formal consumer.
- X. If the consumer refuses to sign the acknowledgement or to accept the copy of the NPP, the provider shall complete an acknowledgement form as in VII above, noting the refusal on the form.
- XI. Upon request by any person, a copy of the NPP shall be provided to that person.
- XII. Should any person ask a BHS staff person for an explanation of all or part of the NPP, the staff person shall answer the questions or, if unsure of the answer, arrange for the person asking the question to meet with a BHS staff person who can answer the question.
- XIII. All Service Chiefs shall ensure that the NPP is posted, in all threshold languages, in a clear and prominent position where it is reasonable to expect that consumers can read it.
- XIV. All Service Chiefs shall ensure that the NPP, in all threshold languages, is available at the work site for consumers to take with them.

- XV. BHS websites that include information on available services shall post a copy of the NPP.
  
- XVI. There will be some units that will have specialized procedures for handling of the NPP. These units shall develop detailed, written, unit-specific procedures for their staff to follow. This will be most common in units where most or all of the consumers have personal representatives, such as units dealing with minor dependents of the courts, or consumers on conservatorships. Any unit developing specialized procedures for handling the NPP shall consult with the Authority and Quality Improvement Services regarding the need for and the development of the specialized procedures.