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North Sound Behavioral Health Organization

Section 2500 – Privacy: Right to Request Restrictions on Uses and Disclosures of PHI

Authorizing Source: 45 CFR 164.522 (HIPAA); 42 CFR Part 2 (Part 2); RCW 70.02

Cancels:

See Also:

Responsible Staff: Privacy Officer

Executive Director's Signature:

Approved by: Board of Directors

Motion #: 03-013

Date: 4/14/2003

Date: 3/6/2018

POLICY #2518.00

SUBJECT: RIGHT TO REQUEST RESTRICTIONS ON USES AND DISCLOSURES OF PHI

PURPOSE

In compliance with Health Insurance Portability and Accountability Act (HIPAA), Part 2 and Washington law, this policy sets out the requirements for responding to requests from or on behalf of Individuals for restrictions on certain uses and disclosures of Protected Health Information (PHI).

Capitalized terms have special meanings. Definitions under this policy include Authorized Representative, Health Care Operations, Individual, Payment, PHI and Treatment. See Policy 2502:00: Definitions for Policies Governing PHI.

POLICY

North Sound Behavioral Health Organization (North Sound BHO) will consider all requests by Individuals or their Authorized Representatives (the Requestors) for restrictions on the uses and disclosures of PHI about the Individual for purposes of Treatment, Payment and Health Care Operations and for disclosures to an Individual's relatives, family members, close friends and other persons involved in the Individual's care, or Payment for care, or for notification purposes. North Sound BHO will comply with requests when required to do so and otherwise will make its own determinations in response to a request. North Sound BHO will implement any restrictions that are Required by Law or to which it agrees, unless otherwise prohibited by law.

PROCEDURES

1. **Requests for Restrictions.** Requests for restrictions must be in writing, preferably using the North Sound BHO form <http://northsoundbho.org/Forms>.
2. **Receiving Requests.** Workforce receiving a request by a Requestor for a restriction on use and/or disclosure of PHI should direct the request to the Privacy Officer.
3. **Verification of Identity and Authority of Requestor.** Upon receiving the request, the Privacy Officer or his/her designee will verify the identity and authority of the Requestor as an Individual or the Individual's Authorized Representative. See Policy 2524.00: Verification of Identity.

4. **Responding to Requests.** Unless Required by Law to agree to a restriction, the Privacy Officer will decide whether or not to grant the request and will inform the Requestor of the decision.
 - 4.1 **Discretion over Restriction.** The Privacy Officer is not required to agree to the request, except under the circumstances described in Section 4.2 of this policy below. North Sound BHO reserves the right to agree to restrictions that North Sound BHO, in its sole judgment, determines to be in the best interests of the Individual. Except when the record is updated while the Individual is present or on the telephone, a written response to an Individual's request for restrictions on the use and disclosure of PHI should be sent to the Individual within a reasonable period of time. The response should indicate whether or not the request was accepted and, if not, an explanation.
 - 4.2 **Required Restriction.** The Privacy Officer must grant a request to restrict disclosures to a Health Plan for Payment or Health Care Operations (unless the disclosure is Required by Law), if the PHI pertains solely to a health care item or service for which the Individual (or person other than the Health Plan) has paid for in full (that is, out-of-pocket).
 - 4.3 **Identifying Difficulties.** North Sound BHO will discuss with the Requestor the potential difficulties that are inherent in granting restrictions.

5. **Agreement to Restriction.** If the Privacy Officer agrees to the request for a restriction on use and disclosure of PHI, the following guidelines shall apply:
 - 5.1 **Limited Restriction.** The Privacy Officer should make good faith efforts to limit any restriction to that necessary to accomplish the purposes of the requested restriction.
 - 5.2 **Notification and Documentation.** The Privacy Officer will make appropriate notations in the Individual's record and will "flag" the record with the approved restrictions. The Privacy Officer will also communicate the decision to the appropriate Workforce, Business Associates, Qualified Service Organizations (QSO) and departments as necessary. The Privacy Officer also may direct the Requestor to the Individual's Health Care Provider(s) or behavioral health agency with respect to the request. The Privacy Officer will have requests and responses appropriately documented in the Individual's record.
 - 5.3 **Emergency Situations.** Workforce members will not use or disclose PHI in a manner inconsistent with the Individual's restrictions unless the Individual is in need of emergency Treatment. When the Individual requires or reasonably appears to require emergency Treatment and restricted PHI is needed to provide the Treatment, North Sound BHO will disclose to the Individual's treating Health Care Provider the PHI that is required for the Treatment and will direct the Health Care Provider that any further uses or disclosures of the restricted PHI is prohibited.

- 5.4 **Requests for Restricted Information.** In non-emergency situations (see Section 5.3 of this policy for emergency situations), when North Sound BHO receives a request for restricted PHI that reasonably appears to be required for appropriate Treatment, North Sound BHO may attempt to locate and discuss with the Requestor the need to send the PHI and attempt to obtain the Requestor's agreement to do so. The Requestor's agreement or disagreement to the release will be documented. If the Requestor refuses to permit North Sound BHO from disclosing the PHI, North Sound BHO may communicate to the Individual's treating Health Care Provider that portions of the Individual's PHI are restricted and are not being disclosed. This communication should not disclose the restricted information itself.
6. **Denial of Restriction.** In the event the Privacy Officer denies the request, the Privacy Officer will provide written notice of the denial to the Requestor.
7. **Termination of the Restriction.** The Privacy Officer may terminate a restriction in the following situations:
- 7.1 **Written Agreement or Request.** The Individual or when permissible the Authorized Representative, agrees to or requests the termination in writing;
- 7.2 **Oral Agreement or Request.** The Individual or when permissible the Authorized Representative, orally agrees to the termination and the oral agreement is documented by the Privacy Officer; or
- 7.3 **North Sound BHO Termination.** The Privacy Officer informs the Individual or when permissible the Authorized Representative, the restriction is being terminated in which case.
- 7.3.1 This termination is effective only for PHI disclosed after the Privacy Officer has informed the Individual or when permissible the Authorized Representative, of the termination; and
- 7.3.2 Is not effective for requests granted under Section 4.2 of this policy, which relate to required restrictions.
8. **Notice of Privacy Practices.** North Sound BHO will inform Individuals of their right to request restrictions of certain uses and disclosures of PHI through its notice of privacy practices.
9. **Documentation.** If the Privacy Officer agrees to a restriction, the Privacy Officer will document the restriction in electronic or written form. The documentation will be retained as long as the restriction is in effect and for a period of at least six (6) years after the restriction ends. Documentation retention requirements include:
- 9.1 **Policies and procedures** for restrictions on the right to request uses and disclosures of PHI;
- 9.2 **Restrictions** granted and denied; and
- 9.3 **Terminations.**

10. **Related Policies.** Other policies and procedures to review that are related to this policy:

- 10.1 **Policy 2501.00: Privacy and Confidentiality;**
- 10.2 **Policy 2502.00: Definitions for Policies Governing PHI;**
- 10.3 **Policy 2506.00: Documentation;**
- 10.4 **Policy 2507.00: Business Associate and Qualified Service Organizations (QSO);**
- 10.5 **Policy 2510.00: Notice of Privacy Practices; and**
- 10.6 **Policy 2524.00: Verification of Identity.**

ATTACHMENTS

None