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Revised Date: 5/31/13  
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## North Sound Mental Health Administration

### Section 2500 – Privacy: Right to Access Protected Health Information

Authorizing Source: RCW 70.02; 45 CFR 165 (HIPAA)

Cancels:

See Also:

Providers must have own “HIPAA & WAC compliant policy”

Responsible Staff: Privacy Officer

Approved by: Executive Director

Signature:

Date: 7/17/2013

## **POLICY #2514.00**

### **SUBJECT: RIGHT TO ACCESS PROTECTED HEALTH INFORMATION (PHI)**

#### **PURPOSE**

The North Sound Mental Health Administration (NSMHA), in compliance with the Privacy Rules of Health Insurance Portability and Accountability (HIPAA) Act Administrative Simplification provisions, set out in this policy, the processes for requesting, granting, denying, and reviewing of denial, of consumer requests for access to their Protected Health Information (PHI).

#### **POLICY**

NSMHA will consider all written requests from consumers (or the consumer’s designated representative) who are our consumers, or previously were our consumers, for access to their PHI that is maintained by us (including our Business Associates, unless NSMHA maintains duplicate information). Information as to how to obtain access to PHI will be included in our Notice of Privacy Practices. We will consider consumer requests to either inspect or obtain a copy of his or her PHI for as long as we maintain the PHI in the designated record set. A consumer or the personal representative must provide proof of their identity and legal authority to obtain these records.

We will require that consumers make their requests in writing using the form that has been designed for that purpose – the Access Request Form (attached as Exhibit A.) This form is subject to change, and at a minimum will contain:

1. Identification of the specific PHI to which the consumer wishes access;
2. An indication of whether the consumer wishes to inspect or to obtain copies of the PHI;
3. Notification of the reasonable cost we will charge which may include these cost components:
  - a. Copying- first 100 pages free, 10 cents per page for each additional page thereafter (No per-page fees charged may be in excess of the direct cost of the materials);
  - b. Supplies and labor;
  - c. Postage (if the consumer wants a mailed copy);
  - d. Preparation of an explanation or summary of the PHI if the requester agrees to receive such a summary;
  - e. Paper or computer disks, if used.
4. Notification of the consumer’s right to obtain a summary or explanation of their information, along with the reasonable cost of that service;
5. An opportunity for the consumer to amend their request; and
6. A statement that upon request, we will provide an explanation of any code or abbreviation used in the record.

Note: NSMHA will not charge any fees for retrieving or handling the information or for processing the request.

NSMHA reserves the right to deny any consumer request for access to PHI in circumstances that include, but are not limited to any of the following:

1. Information compiled for likely use in a civil, criminal, or administrative action or proceeding;
2. PHI maintained that is subject to the Clinical Laboratory Improvement Act (CLIA) Amendments of 1988 when CLIA would prohibit a consumer's access to the information;
3. The PHI is subject to the Federal Privacy Act, 5 USC 552a as long as the denial of access would meet the requirements of that law;
4. The information was obtained from someone other than a healthcare provider under the promise of confidentiality and the access requested would likely reveal the source of that information;
5. Information, which is reasonably likely to endanger the life or physical safety of the consumer or another person;
6. Information, which is not part of the designated record set, such as information compiled for peer review, quality assurance, or administrative purposes; and
7. Exempt under other state or Federal law.

The general intent of NSMHA's access policy is, to the extent possible in the reasonable judgment of NSMHA, to give consumer's access to their PHI in whole or in part, so long as it is not included in the listed circumstances for denial. If we deny the consumer's request for examination and copying, in whole or in part, we shall permit examination and copying of the record by another health care provider, selected by the consumer, who is licensed, certified, registered, or otherwise authorized under the laws of the state of Washington to treat the consumer for the same condition as NSMHA. NSMHA shall inform the consumer of the consumer's right to select another provider. The consumer shall be responsible for arranging the compensation of the other health care provider so selected. We will also promptly inform the individual, in writing, if the reviewer upholds the denial. In those cases where the reviewer permits access, in whole or in part, the individual will also be informed in writing.

Access will be provided during regular business hours. NSMHA will provide access to the extent reasonably possible in our judgment to any other requested PHI that is not part of other PHI to which access has been denied. We will make reasonable efforts to redact any denied PHI from the designated record set and allow copying of any remaining information.

NSMHA will respond to access requests in writing, giving the basis for denial in plain language within the time period set forth below, and will also inform requesting consumers of their right to request a review of the denial of access, along with a description of how the consumer may file a complaint with NSMHA or with the Secretary of the United States Department of Health and Human Services (DHHS).

When we have agreed to grant access to PHI, we will notify the consumer and arrange for access as promptly as required under the circumstances, but no later than fifteen working days after receiving the request. If we do not maintain a record of the information requested, we will inform the consumer and provide the name and address, if known, of the health care provider who maintains the record.

If the information is in use, or unusual circumstances have delayed handling the request, we will inform the consumer and specify in writing the reasons for the delay and the earliest date, not later than twenty-one working days after receiving the request, when the information will be available for examination or copying, or when the request will be otherwise disposed of.

When we have agreed to inspection of the designated record set, we will arrange a mutually agreeable time and place during business hours for the inspection within the above-described time frames. Upon request, NSMHA will provide an explanation for any code or abbreviation used in the health care information.

When we have agreed to provide copies of the requested PHI, we will confer with the consumer and determine their preference for the medium in which to receive it – paper or electronic (where available). We will reserve the right to charge a reasonable and related cost as described elsewhere in this policy. The consumer will be notified of that charge in the Access Request Form.

Documentation retention requirements include:

1. Policies and procedures for access
2. Access Request Form
3. Notifications
4. Review documentation

Other policies and procedures to review that are related to this policy:

1. Consumer's Right to Request Amendment of PHI
2. Consumer's Right to Request Confidential Communication
3. Consumer's Right to Accounting of Disclosures of PHI
4. Consumer's Right to Request Restriction of Disclosures
5. Complaint Process
6. Administrative requirements – documentation retention
7. Business Associate policy and procedure

## **ATTACHMENTS**

2514.01 – Procedure 2514-A

2514.02 – Form 2514-A (manual and electronic)