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Review Date: 6/13/2013

## North Sound Mental Health Administration

### Section 2500 – Privacy: Uses and Disclosures – Business Associate

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 #2501.00

### SUBJECT: USES AND DISCLOSURES-BUSINESS ASSOCIATE

#### PURPOSE

The North Sound Mental Health Administration (NSMHA), in compliance with the Privacy Rules of the Health Insurance Portability and Accountability Act (HIPAA) Administrative Simplification provisions and the Health Information Technology for Economic and Clinical Health (HITECH) Act, sets out, in this policy, the nature of third-party relationships that will be considered to be Business Associates and the requirements for contracting with them.

#### POLICY

Any vendor or independent contractor who proposes to do business with NSMHA will be subjected to procedures to determine if the vendor or subcontractor is a Business Associate for purposes of compliance with HIPAA Privacy Rules and the HITECH Act. The determination of whether a vendor or contractor is a Business Associate depends not on what it is, but on the basis of its relationship to NSMHA and its use and disclosure of PHI in the course of executing its services for us. We will consider any vendor or independent contractor to be a Business Associate if it or they have the following characteristics:

1. They are persons and organizations who/that perform specified services or activities for NSMHA involving the creation, obtaining, use or disclosure of individually identifiable Protected Health Information (PHI), such as claims processing, data aggregation, data analysis, data management, quality assurance, billing, and benefit management, as well as those who provide legal, accounting, or administrative functions;
2. They provide the specified services to NSMHA and the provision of those services involves disclosure of PHI by NSMHA to them (for example: any legal, actuarial, accounting, consulting, data aggregation or management, information technology, administrative, accreditation, or financial services provided to or for NSMHA); and
3. They are **not**:
  - a. Health care providers to whom we disclose PHI for treatment of a NSMHA client;
  - b. Providing consumer-conducted financial transactions; or
  - c. Employees of NSMHA

Any vendor or independent contractor (but **not** any member of NSMHA workforce) who qualifies as a Business Associate, will be required to sign a Business Associate Agreement (BAA). The BAA will be in the form attached to this policy.

NSMHA reserves the right to categorize Business Associates according to the degree of risk (high, medium, or low) that their function or activity would likely give rise to a material breach of client privacy. We reserve the right to require proof of insurance against privacy breaches.

Amendments to the BAA may not be made without the prior advice and recommendation of NSMHA's legal counsel.

Because the protection of our clients' PHI is of crucial importance to us, we require our employees to be cognizant of the behavior of our Business Associates and to report any conduct that appears to violate the BAA to NSMHA's Privacy Officer/Designee.

Documentation retention requirements include:

1. Policies and procedures for Business Associates;
2. Business Associate Agreement template; and
3. Executed Business Associate Agreements.

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

Administrative requirements – documentation retention

#### **ATTACHMENTS**

2501.01 – Procedure 2501-A

2501.02 – Model Business Associate Agreement Form