

## **HIPAA: Health Insurance Portability and Accountability Act**

HIPAA is a federal law that includes privacy regulations that govern the use and release of consumer's personal health information. It also gives consumers rights regarding the access and control of protected health information (PHI) and includes security regulations that govern the electronic use of the consumer's personal health information.

- What is Protected Health Information?
- What is Individually Identifiable Health Information?
- Authorizations
- Disclosure of Protected Health Information
- Privacy Officer
- Rights under the Privacy Rule

### **What is Protected Health Information?**

- Any information that identifies a consumer
- Includes demographic information collected from our consumers
- Any health information that 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 our consumers.
- Health information maintained by Gulf Bend Center in ANY FORM - verbal, paper, and electronic which may be found in :
  - Medical Records
  - Computer Systems / Electronic Records
  - Photographs, Videos, Audiotapes
  - Reports / Minutes
  - Billing Records
  - Appointment Books / Schedules
  - Pharmacy Records

## WHAT IS INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION?

Any information that might identify someone or connect our consumers to their personal health information:

- Name
- DOB
- Address
- Telephone / Fax number, e-mail address
- Social Security, Driver's License, or Insurance Policy Number
- Pictures / Fingerprints
- Names of relatives and employees
- Medical Record Number

## AUTHORIZATIONS

- Gulf Bend Center must receive an authorization in writing to disclose information. Verbal authorizations are not acceptable.
- If Gulf Bend asks for an authorization from an individual, the individual must be provided a copy of the authorization
- Only the Center's approved authorization form can be used to request information.
- GBC can accept authorizations for information from others if it has all required components.
- A valid authorization must include:
  - A meaningful description of information to be disclosed
  - The name of the entity to disclose the information
  - The name of person/entity to receive information
  - Purpose
  - An expiration date or event
  - Statement regarding individual's right to revoke and description of how to revoke
  - A statement that if PHI is released to a non-covered entity, it will no longer be protecte
  - If authorization is signed by someone other than the consumer, the relationship and authority must be documented

## Release of Information

Whenever a staff person discloses ANY information (outside the Center verbally or in writing) such disclosures must be documented in the consumer record.

What information is disclosed

- What information is disclosed
- To Whom
- Purpose

Document such disclosures in the progress note or on a log (get from medical records.)

## DISCLOSURE OF PROTECTED HEALTH INFORMATION

Gulf Bend Center may not use or disclose protected health information (PHI), except as PERMITTED or REQUIRED by the Privacy Rule.

### Required Disclosures of PHI:

- To the individual (consumer) who request their PHI (medical records) in writing.
- To the Department of Health and Human Services (DHHS) for investigation of HIPAA compliance (without authorization).

### Permitted Disclosures of PHI without an Authorization:

**Treatment** - To provide, coordinate, or manage the care and treatment of consumers among providers:

- Consultation between health care providers
- Referrals / Transfers
- In emergency situations when information is NECESSARY for treatment

Example: Can send a copy of a medical record to a doctor/therapist who needs information to treat the consumer.

**Payment** - To obtain or provide payment for services provided:

- Provider may disclose information as part of a claim for payment
- Provider may give information to a laboratory service in order to bill for the service

**Health Care Operations** - Administrative, financial, legal and quality improvement activities necessary to run business and support core functions of treatment and payment:

- Quality assessment / Improvement activities
- Training / Licensing Activities
- Legal Services and Management Activities
- Business Management

### **Public Health Authorities**

- To report vital statistics, e.g. death to the Department of Health
- To prevent or control disease, e.g. report TB, HIV/AIDS to Public Health Department

**DDPRS (APS or CPS)** - To report abuse or neglect of a child or adult:

- If you report abuse of an adult consumer to APS, the consumer needs to know that a report was made on their behalf
- When reporting child abuse, you cannot disclose any information about the parent if they are a consumer unless you have an authorization or a court order.

### **Other:**

- To medical or law enforcement personnel if it is determined that there is a probability of physical injury to the client or others or if there is a probability of immediate mental or emotional injury to the client
- For judicial and administrative proceedings - upon receipt of subpoena or court order. Upon receipt of a subpoena/court order contact Privacy Officer or Medical Records IMMEDIATELY!!!
- To a correctional facility (jail, prison) where consumer is detained for the purpose of providing treatment.
- To Coroners and Medical Examiners on deceased individuals for the purpose of identifying the person or determining cause of death.
- In emergency situations when information is NECESSARY for treatment.
- For national security and intelligence activities - to FBI or CIA .
- For protective services for the president/others - to Secret Service when threats have been made to the President.
- Information on special needs offenders may be released to parole officer, juvenile probation, parole office to monitor needs of consumer.

### **Exception to Permitted Disclosures**

We cannot disclose a consumer's substance abuse diagnosis, etc. without an authorization for treatment purposes or in the following instances:

- TCOOMMI / Department of Corrections
- APS for investigation of abuse/neglect of an adult
- External doctor/hospital for treatment purposes

Information on consumers with a Substance Abuse Diagnosis CANNOT BE DISCLOSED unless we have a SPECIFIC AUTHORIZATION or in the following instances:

- To medical personnel to meet a medical emergency
- For audits and evaluations
- To TDPRS to report child/adult abuse/neglect
- Upon receipt of a subpoena AND court order

**Gulf Bend Center MUST HAVE AN AUTHORIZATION to release PHI unless the disclosure is for payment, treatment or health care operations, or if the disclosure is required or permitted by law.**

## **PRIVACY OFFICER**

Please refer requests to access, amend, etc. to the Privacy Officer along with any questions regarding the disclosure of PHI.

BJ Janak - Privacy Officer
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Phone: (361) 582-2358
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### **Sanctions will be imposed for Privacy & Security Violations:**

- General penalty for failure to comply - \$100 for each violation
- Maximum penalty for violations of an identical requirement – not to exceed \$25,000
- Wrongful disclosure - \$50,000, imprisonment of no more than one year, or both
- Offense under false pretense - \$100,000, imprisonment of not more than five years, or both.  
If offense committed with intent to sell information - \$250,000, imprisonment of no more than 10 years, or both

Please remember that COMPLIANCE IS NOT OPTIONAL, IT'S MANDATED!

## **RIGHTS UNDER THE PRIVACY RULE**

Consumer's have the following rights under the Privacy Rule:

- Receive a written Notice of Privacy Practices
  - Receive notice on the first day of services
  - Posted at all service locations and on the Web-site
  - The consumer must sign an acknowledgment of receipt of the notice which should be filed in the consumer's record
- Request restrictions on how their information (PHI) is used and disclosed.
- Request access to (inspect or copy) their medical records unless it is determined it will endanger the life of physical safety of the consumer or others.
- Request amendments (corrections) to their medical records - however we can never remove anything that is corrected from the record.
- Request special accommodations (considerations) on how their health information is communicated (e.g. alternate addresses and phone numbers).
- Request an accounting of who PHI has been disclosed to.
- File a complaint with Gulf Bend, TDHHS, Texas Attorney General, and/or to the Federal Department of Health and Human Services.

**ALL REQUESTS TO ACCESS, FOR AN ACCOUNTING, TO AMEND, TO RESTRICT, ETC. MUST BE IN WRITING.**