

Great Rivers Behavioral Health Administrative Services Organization

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| Policy Title: Uses and Disclosures: For Treatment, Payment and Health Care Operations | Policy No. 5001.01 |
| Category: Privacy & Security | Date Adopted: 4/10/2020 Date Revised: 6/11/2021 Date Reviewed: 5/17/2021 |
| Reference: State of Washington Health Care Authority Contract with Great Rivers Behavioral Health Administrative Services Organization 45 CFR 164.506; 45 CFR 164.524 | |

POLICY:

- 1.1. Great Rivers Behavioral Health Administrative Services Organization (Great Rivers BH-ASO) will use and disclose Protected Health Information (PHI) of Individuals for treatment, payment, and health care operations without obtaining explicit permission from those Individuals. However, Great Rivers BH-ASO will use its best efforts to obtain a written acknowledgement from each Individual that they have received a copy of Great Rivers BH-ASO's Notice of Privacy Practices prior to providing treatment.
- 1.2. Individuals seeking treatment have the right to request that Great Rivers BH-ASO restrict its uses and disclosures of their PHI for treatment, payment, and health care operations. Great Rivers BH-ASO is not obliged to agree to those restrictions, but, if Great Rivers BH-ASO does, it must abide by them. Therefore, restrictions will not be granted without the express permission of the Privacy Officer who will evaluate an individual's request and determine:
 - 1.2.1. If the restrictions are reasonable; and
 - 1.2.2. If it is possible to implement the restriction in Great Rivers BH-ASO's practice.
- 1.3. Should the request be granted, the Authorization Form will reflect the restrictions that have been allowed. A "Request for Restrictions on Disclosures of PHI" form is available for use in situations where an Authorization was not completed. See Policy 5013, Individuals Right to Restrict Uses and Disclosures of Protected Health Information, for complete information on Restrictions.
- 1.4. Great Rivers BH-ASO evaluates whether or not to comply with personal representative requests for PHI on behalf of an Individual. In any case where Great Rivers BH-ASO elects to deny a PHI request from an otherwise authorized legal representative, Great Rivers BH-ASO will do so because:
 - 1.4.1. Great Rivers BH-ASO has a reasonable belief that the Individual has been or may be subjected to domestic violence, abuse, or neglect by such person; or
 - 1.4.2. Great Rivers BH-ASO, in the exercise of professional judgment, decides that it is not in the best interest of the Individual to treat the person as the Individual's legal representative;
 - 1.4.3. The person's authorization has expired or been obtained through fraudulent means; and
 - 1.4.4. The request does not meet agency and/or certain legal requirements.
- 1.5. In any such case, it is Great Rivers BH-ASO's policy to document that decision in the medical record and inform the Privacy Officer.
- 1.6. Documentation retention requirements include:

- 1.6.1. Policies and procedures for use and disclosure of PHI for treatment, payment, and health care operations.
- 1.7. Other policies and procedures to review that are related to this policy:
 - 1.7.1. 5007 Notice of Privacy Practices;
 - 1.7.2. 5002 Uses and Disclosures Authorizations; and
 - 1.7.3. 5003 Uses and Disclosures Opportunities for the Individual to Agree or Object.
- 1.8. Role of the Privacy Officer
 - 1.8.1. The Privacy Officer is responsible for the organization's Privacy Program including but not limited to daily operations of the program, development, implementation, and maintenance of policies and procedures, monitoring program compliance, investigation and tracking of incidents and breaches and insuring members' rights in compliance with federal and state laws.

PROCEDURE:

- 2.1. Uses and Disclosures – Treatment, Payment, and Health Care Operations.
 - 2.1.1. Internal Uses and Disclosures of PHI for Treatment, Payment, or Operations.
 - 2.1.1.1. All uses and disclosures for treatment, payment, and operations are subject to the right of the Individual to request restrictions on the uses and disclosures of their PHI. Great Rivers BH-ASO must comply with any restrictions it agrees to. Please see Policy 50013, Individuals Right to Restrict Uses and Disclosures of Protection Health Information for additional information.
 - 2.1.1.2. It will be the responsibility of each employee who uses or discloses PHI for internal and external use to read and to understand the organization's Privacy Practices. These practices are outlined in detail in of Great Rivers BH-ASO's Notice of Privacy Practices, which is attached to Policy 5007, Notice of Privacy Practices. This notice may be amended from time to time.
 - 2.1.1.3. In general, Great Rivers BH-ASO will use and disclose PHI for internal purposes without the Individual's explicit authorization. However, prior to their beginning a treatment relationship with Great Rivers BH-ASO, Great Rivers BH-ASO will, except in emergency situations, provide each Individual with a copy of Great Rivers' Notice of Privacy Practices that details the types of uses and disclosures of PHI that Great Rivers BH-ASO makes for treatment, payment, and operations.
 - 2.1.1.4. Psychotherapy notes are an exception to the general rule within the scope of this policy regarding Great Rivers BH-ASO's use and disclosure of PHI without express authorization (see below for further clarification).
 - 2.1.1.5. If an employee designated to make disclosures of PHI has any questions about whether or not a use or disclosure is permitted, they must request assistance from either their supervisor or the Privacy Officer before the contemplated use or disclosure of PHI.
 - 2.1.2. External Uses and Disclosures of PHI for Treatment, Payment, and Operations.
 - 2.1.2.1. **Treatment:**
 - 2.1.2.1.1. The Health Insurance Portability and Accountability Act (HIPAA) allows the use and disclosure of most PHI (psychotherapy notes and substance abuse information being exceptions to this general rule) to third party providers involved in the treatment of an Individual, without the authorization of the Individual. However, the Great Rivers BH-ASO

policy/procedure is that workforce members are required to obtain a signed authorization for each release of PHI to any third party entity or individual.

2.1.2.1.2. Clinical teams may exchange information among all treatment team members with a need to know but will follow additional procedures to make sure the Individual understands and agrees with its' practices as follows:

2.1.2.1.2.1. Clinicians will go over the paragraph in the Notice of Privacy Practices that describes sharing PHI for treatment purposes to make sure the Individual understands its' meaning with regard to disclosures to treatment team members who are employees of Great Rivers BH-ASO. This is documented on the "Acknowledgement of Receipt of Copy of Notice of Privacy Practices" form signed by the Individual that acknowledges receipt of the Notice;

2.1.2.1.2.2. Disclosures to treatment team members who are not employees of Great Rivers BH-ASO require Individual's written authorization before disclosure of PHI;

2.1.2.1.2.3. A list of current treatment team members will be kept in the medical record and may be reviewed regularly by the Individual and clinical staff to make sure it is accurate. Disclosures would then, by policy, only be allowed to those listed, which will include those for whom Individual has signed an authorization to Use and Disclose PHI;

2.1.2.1.2.4. In the event the Individual will only provide written authorization for any disclosures for treatment purposes to the primary clinician or those in a direct treatment relationship with the Individual, disclosures could only be made internally with the authorization of the Individual except for billing and health care operations; and

2.1.2.1.2.5. Great Rivers BH-ASO' staff members will be trained that when in doubt they should always get an authorization.

2.1.2.2. **Payment:**

2.1.2.2.1. Great Rivers BH-ASO may disclose PHI to another healthcare provider to assist in getting payment for services provided to one of its Individuals. However, in all cases, the PHI disclosed must be only the minimum necessary needed to secure payment. [An example of this might be a situation in which Great Rivers BH-ASO has called an ambulance to transport

an Individual in an emergency situation. The ambulance employees may not be able to obtain information at that time from the Individual for payment purposes and so may need to contact Great Rivers afterwards for necessary information.] In order to ensure that only the minimum necessary information is released, and that the disclosure complies with Great Rivers BH-ASO's privacy practices, the following procedure will be followed:

- 2.1.2.2.1.1. The Chief Executive Director (CED), or designee, will be responsible for all disclosures to other healthcare providers for payment purposes;
- 2.1.2.2.1.2. This responsibility may be delegated to trained employees or business associates who follow written instructions for each type of routine payment request the organization receives for information for payment purposes;
- 2.1.2.2.1.3. The written instructions must be developed by the CED, or designee, and approved by the Privacy Officer. The written instructions will list the disclosures allowed by type of service as well as type of provider, the PHI that is allowed to be disclosed, and a procedure for ensuring that the provider requesting the information has provided a service to an Individual and could not obtain the information directly from the Individual;
- 2.1.2.2.1.4. Employees who have not been trained and do not have access to the written instructions for disclosures must not, in any circumstances, disclose information to a third party who requests for its own payment purposes; and
- 2.1.2.2.1.5. The request must be sent to the Business Office Manager or designee for disposition if the Request:
 - 2.1.2.2.1.5.1.1. Is from a third party that is not listed in the written instructions;
 - 2.1.2.2.1.5.1.2. Asks for additional PHI not listed in the instructions; or
 - 2.1.2.2.1.5.1.3. Is for payment for a type of service not contemplated in the instructions, in which case the request must be sent to the CED, or designee, for disposition.

2.1.2.2.1.6. In any cases where Great Rivers BH-ASO is releasing the entire record to a third party for payment purposes, Great Rivers BH-ASO must justify in writing why this is being done and file this documentation in the Individual's medical record and with the Privacy Officer. This should be documented on the "Accounting for Disclosures" form discussed in and attached to Policy 5012, Individual's Right to Accounting of Disclosures of Protected Health Information.

2.1.2.3. **Operations:**

2.1.2.3.1. PHI may be disclosed to a third-party provider in certain limited circumstances for operational needs. In all cases, the third party requesting the information must have or have had a relationship with Great Rivers BH-ASO's Individual and the information requested must be related to that relationship. However, because of the complexity of determining what is or is not a permitted disclosure, the following procedure will be followed:

2.1.2.3.1.1. The Privacy Officer will be responsible for all disclosures to third party requests for that third party's operations. This responsibility may be delegated to trained employees or business associates who follow written instructions for each type of routine request the organization receives for information for the operations of a third-party provider.

2.1.2.3.1.2. The written instructions must be developed and will include:

2.1.2.3.1.2.1. A list of disclosures allowed to each third party specifically;

2.1.2.3.1.2.2. A procedure for ensuring that the PHI requested is pertinent to the relationship the third party has or had to the Individual; and

2.1.2.3.1.2.3. The PHI disclosed is the minimum necessary for the operational purpose contemplated.

2.1.2.3.2. Since Great Rivers BH-ASO is a part of an Organized Health Care Arrangement (OHCA) the disclosures for operations within the OHCA does not require that both the disclosing and receiving entities have relationships with the Individual.

2.1.2.3.3. Employees who have not been trained and do not have access to the written instructions for disclosures must not, in

any circumstances, disclose information to a third party who requests for their own operations purposes.

- 2.1.2.3.4. If the request is from a third party that is not listed in the written instructions, requests additional PHI not listed in the instructions, or is for an operational reason not contemplated in the instructions, the request must be sent to the Privacy Officer for disposition.
- 2.1.2.3.5. In any cases where Great Rivers BH-ASO is releasing the entire record to a third party for operational purposes, Great Rivers BH-ASO must justify in writing why this is being done and file this documentation in the medical record with a copy to the Privacy Officer. This should be documented on the Accounting for Disclosures form discussed in and attached to Policy 5012, Individual's Right to an Accounting of Disclosures of Protected Health Information.
- 2.1.2.3.6. All other requests for disclosures of PHI to third parties, including to cover entities, will require the Individual's signed authorization.
- 2.1.2.3.7. If an employee designated to disclose records has any questions about whether or not a use or disclosure is permitted, they must request assistance from either their supervisor or the Privacy Officer before making the disclosure or using the PHI.

2.1.2.4. Psychotherapy Notes

- 2.1.2.4.1. Any request for the use and disclosure of psychotherapy notes by anyone other than the originator of the notes for treatment purposes must be approved by the Privacy Officer. In most cases, an authorization by the Individual will be required. Exceptions to this, include:
 - 2.1.2.4.1.1. The Privacy Officer has approved use of Psychotherapy Notes in an internal training program for treatment staff that is appropriately supervised;
 - 2.1.2.4.1.2. The Psychotherapy Notes are used to develop a defense against a legal action brought by the Individual against the organization or the provider. The Privacy Officer in conjunction with legal counsel will determine the need for use and disclosure of the psychotherapy notes in defense of any allegations;
 - 2.1.2.4.1.3. In other situations, in which the disclosure is required by law or regulation to assist in health care oversight, to determine or investigate the organization's compliance with the Privacy Regulations under HIPAA, and to assist law enforcement in certain limited situations. In each of the situations

described in this paragraph, the Privacy Officer must be consulted. They, with advice from legal counsel, will determine if there is a need for the disclosure and the extent of the disclosure of psychotherapy notes; and In all cases the development or use of psychotherapy notes to assist in psychotherapy will be restricted to mental health professionals in the organization with a need to know and restricted to only such notes as needed for an intended purpose. The measures the treating professional will take to secure these notes must have the approval of the Privacy Officer.

2.1.2.4.1.4.

2.1.2.5. Substance Abuse Disclosures

2.1.2.5.1. Any PHI disclosed without authorization of an Individual in a federally assisted substance abuse program may only be made in consultation with a supervisor or the Privacy Officer.

POLICY SIGNATURE

DocuSigned by:
Trinidad L. Medina
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Trinidad Medina,
Chief Executive Director

6/24/2021

Date