

Great Rivers Behavioral Health Administrative Services Organization

Policy Title:	Uses and Disclosures: Business Associates	Policy No. 5005.01
Category:	Privacy & Security	Date Adopted: 1/10/2020 Date Revised: 06/11/2021 Date Reviewed: 05/18/2021
Reference:	Washington Health Care Authority Contract with Great Rivers Behavioral Health Administrative Services Organization; 45 CFR 160.103; Subparts C and E of 45 CFR Part 164.	

Policy:

- 1.1. Any vendor or independent contractor who proposes to do business with Great Rivers Behavioral Health Organization (Great Rivers BH-ASO) will have the business arrangement evaluated to determine if it qualifies for the protections and responsibilities that apply to Business Associates Agreements. A "Business Associate" is a person or entity that performs certain functions or activities that involve the use or disclosure of protected health information on behalf of, or provides services to, a covered entity. A member of the covered entity's workforce is not a business associate.
- 1.2. Any vendor or independent contractor who qualifies as a Business Associate will be required to sign a Business Associate Agreement. The agreement will be in the form attached to this policy.
- 1.3. Amendments to the Business Associates Agreement may not be made without the approval of legal counsel.
- 1.4. Protection of an individual's health information is important; therefore, Great Rivers BH-ASO requires its employees to be sensitive to the behavior of Great Rivers BH-ASO's Business Associates and to report to the Privacy Officer any conduct that appears inappropriate.
- 1.5. Documentation retention requirements include:
 - 1.5.1. Policies and procedures for Business Associates;
 - 1.5.2. Business Associate Agreement template; and
 - 1.5.3. Executed Business Associate Agreements

Procedure:

- 2.1. Uses and Disclosures: Business Associates - Transitional Period
 - 2.1.1. The Privacy Officer, or designee, will be responsible for developing and maintaining a list of the agency's Business Associates.
 - 2.1.1.1. Great Rivers BH-ASO contracting team will report to the Privacy Officer any time they are considering the development of a business relationship with another individual or organization that will use PHI created or disclosed by the agency to conduct agency-related work.
 - 2.1.1.2. A listing of the current business associate relationships, will be available upon request to all Great Rivers BH-ASO staff members.
 - 2.1.1.2.1. The list will be reviewed and updated if needed monthly or more often as needed.

- 2.1.1.3. All Business Associate Agreements will follow basic form of the business associate agreement template attached and will be approved by the agency's counsel, Privacy Officer, and Chief Executive Director.
 - 2.1.1.3.1. Business Associate Agreements may contain, on the advice of counsel, certain provisions for the oversight of the contract including on-site audits and self-reporting by the business associate of breaches of the agreement.

2.2. Procedures for Executing the Business Associate Agreements – attached to this document.

Executing Form Business Associate Agreements New Contracts.

- 2.2.1. This Business Associate Agreement may be used to initiate a contractual relationship with a new Business Associate. This Agreement (Form 1) contains the necessary contractual provisions related to uses and disclosures of PHI, in addition to standard contract language. [See Article VI (Miscellaneous)].
- 2.2.2. Articles III (Other Obligations of Business Associate) and IV (Other Obligations of Health Care Provider) of Form will be completed by senior staff, in consultation with a lawyer, to reflect all the other rights, duties, obligations and conditions regarding contractual matters NOT associated with PHI.
 - 2.2.2.1. Sections 2.12 (Proper Management and Administration of Business Associate) and 2.13 (Data Aggregation), permit Business Associates to use and disclose PHI for the proper management and administration of its own business and for data aggregation purposes, respectively. If the Business Associate does not require PHI for either of these purposes, Great Rivers BH-ASO will delete the relevant provision(s) from the Agreement and renumber the remaining provisions of Article 2.
 - 2.2.2.2. If the Business Associate will not need to receive PHI in a Designated Record Set, Great Rivers BH-ASO will delete Sections 2.14 and 2.15 of this Agreement.
- 2.2.3. Prior to Executing the Business Associate Agreement
 - 2.2.3.1. At or prior to the time any Business Associate Agreement is signed, Great Rivers BH-ASO must:
 - 2.2.3.1.1. Provide Great Rivers BH-ASO Business Associate with a copy of Great Rivers BH-ASO's current Notice of Privacy Practices. (See Section 2.7 of the agreement). Any updates or new versions of this Notice must be sent to all Business Associates at least 10 working days prior to the effective date.
 - 2.2.3.2. Obtain a copy of the Business Associate's insurance policy or a certificate from its insurer evidencing the required insurance coverage as provided in Section 6.2 of the Agreement.
- 2.2.4. If at any time any staff person has a reasonably good faith belief that a Business Associate is or may be in breach of the Business Associate Agreement, then in that event, they should promptly inform their supervisor or the Privacy Officer. Breaches can include security lapses, privacy violations, and/or non-cooperation with the agency in complying with its obligations (e.g. failure to account for disclosures of PHI or to give individuals access to their PHI).
 - 2.2.4.1. Business Associates are contractually obligated to report any breaches of Great Rivers BH-ASO contract with them or violations of Great Rivers BH-ASO privacy practices. Any reports received from a Business Associate should be immediately forwarded to the Compliance Officer.

- 2.2.4.2. The Privacy Officer will be responsible for logging these reports and notating appropriate follow-up. Privacy Officer will report out issues to the Compliance Officer and the Chief Executive Director.
- 2.2.4.3. If the Privacy Officer reasonably believes that a Business Associate has materially breached the Agreement or has over time and due to a series of smaller breaches created objective concerns about the Business Associate's ability to perform in compliance with the agreement, then in that event, the Privacy Officer may, after consultation with the Compliance Officer and Chief Executive Director and legal counsel, terminate the Business Associate Agreement utilizing the process contained therein.
- 2.2.4.4. In the event the Business Associate is a sole source provider which Great Rivers BH-ASO is unable to replace notwithstanding substantiated performance concerns, the Privacy Officer or Compliance Officer will document the following: 1) the basis of the decision to not terminate the contract; 2) any corrective actions imposed; and 3) evidence that those corrective actions have been taken and are producing the intended results. In some situations, it may be necessary to report a breach to the HCA and Federal Health and Human Services (HHS) Secretary.
- 2.2.5. Upon termination of a Business Associate Agreement, the Business Associate must destroy or return the PHI they are maintaining, using or storing on behalf of Great Rivers BH-ASO. The Privacy Officer or Compliance Officer will be responsible for overseeing the orderly transfer or destruction of the PHI and for assuring the Business Associate's compliance with any post-contract obligations.
- 2.2.6. If the PHI cannot be returned or destroyed, the Privacy Officer or Compliance Officer should extend the protections of the Business Associate Agreement to the PHI still being held and limit further use and disclosure to only those purposes that prevent the return or destruction of the PHI.

*A self-renewing contract is defined as one that does not have any changes except an automatic inflationary adjustment to the price.

ATTACHMENT
Business Associates Agreement

POLICY SIGNATURE

DocuSigned by:
Trinidad L. Medina
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6/24/2021

Trinidad Medina,
Chief Executive Director

Date