COPPER COUNTRY MENTAL HEALTH SERVICES BOARD

POLICY AND PROCEDURE

DATE: March 30, 2011 Use and Release PHI.P3

RESINDS: September 24, 2008

CATEGORY: Administration

SUBJECT: Use And Release Of Protected Health Information

POLICY: It is the policy of Copper Country Mental Health Services Board (CCMHSB) that protected health information (PHI) and all information obtained in the course of providing services in the record of a person served shall be kept confidential and shall not be open to public inspection. The PHI may be disclosed outside the department, community mental health services program, licensed facility, or contract provider, whichever is the holder of the record, only in the circumstances and under the conditions set forth in this policy. To protect the confidentiality of persons served who have a co-occurring disorder, please refer to the CCMHSB policy Confidentiality Policy – Appendix 1.

PURPOSE: To assure a person’s served right to confidentiality of PHI is protected and that all use and disclosures are consistent with the Michigan Mental Health Code, Michigan Department of Community Health Administrative Rules, 42 CFR Part 2, and the Health Insurance Portability and Accountability Act (HIPAA).

DEFINITIONS:

DESIGNATED RECORD SET means:

* + - 1. A group of records maintained by or for a covered entity that is:
         1. The medical records and billing records about individuals maintained by or for a covered health care provider;
         2. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
         3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.
      2. For purposes of this paragraph, the term *record* means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.

INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION is information that is a subset of health information, including demographic information collected from an individual, and:

* 1. Is created or received by a health care provider, health plan, employer, or healthcare clearinghouse; and
  2. 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 an individual; and
     1. That identifies the individual; or
     2. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

PROTECTED HEALTH INFORMATION (PHI): means individually identifiable health information:

1. Except as provided in paragraph (2) of this definition, that is:

a. Transmitted by electronic media;

b. Maintained in electronic media; or

c. Transmitted or maintained in any other form or medium.

2. Protected health information excludes individually identifiable health information in:

* + 1. Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g;
    2. Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and
    3. Employment records held by a covered entity in its role as employer.

PSYCHOTHERAPY NOTES: means notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual’s medical record. *Psychotherapy notes* excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

REQUIRED BY LAW:means a mandate contained in law that compels a covered entity to make a use or disclosure of protected health information and that is enforceable in a court of law. *Required by law* includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

TREATMENT:means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a person served; or the referral of a person served for health care from one health care provider to another.

USE:means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

PROCEDURE:

All CCMHSB personnel authorized to release records and information must read, understand and comply with this policy.

All CCMHSB personnel will adhere strictly to the basic principle that prior consent of the person served is required before release or disclosure of person served information except where a specific law or regulation or the internal administrative needs of the facility require or permit such access without the person’s served consent.

A summary of MHC section 748 is kept in the clinical record of each person served.

### Uses And Disclosures Of PHI - General Rules

1. These policies and procedures shall be compliant with state and federal laws and regulations that have not been preempted by HIPAA and its implementing regulations, including privacy regulations, containing provisions relating to the release of information from the designated record set of a person served.
2. CCMHSB will provide the Secretary of the Center for Medicare/ Medicaid Services (CMS) access to PHI in order to investigate or determine CCMHSB’s compliance with Parts 160, 162, and 164 of HIPAA.
3. A person served or his/her legal representative has a right to review and/or obtain a copy of their PHI per Appendix 2.
4. A person served, guardian, or parent of a minor, after having gained access to treatment records in accordance with this procedure, may challenge the accuracy, completeness, timeliness, or relevance of factual information in the designated record set of the person served by requesting CCMHSB to amend the record or shall be allowed to insert a statement into the designated record set amending the information at issue without changing the original documentation per Appendix 4.
5. A person served, guardian, or parent of a minor may request an accounting of disclosures of PHI, which were not for treatment, payment or health care operations per Appendix 5.
6. A person served, guardian, parent of a minor may request a restriction of PHI per Appendix 9.
7. A request for person served information shall be directed to the clinical record staff for processing and documentation.
8. CCMHSB must obtain an authorization or give a person served an opportunity to object to a use or disclosure in order to use or disclose person served PHI except when disclosures are mandatory or authorized under the Michigan Mental Health Code, the HIPAA privacy standards, and/or other federal and state laws and regulations per Appendix 3.
9. CCMHSB must make all reasonable efforts not to use or disclose more than the minimum necessary PHI to accomplish the intended purpose of the use or disclosure.
10. CCMHSB may charge a reasonable fee to offset the costs associated with specific categories of requests.
11. Disclosures of PHI made by CCMHSB personnel shall be in compliance with all applicable policies and procedures governing such use and disclosure.
12. In the event of any improper use or disclosure of PHI, when such improper use becomes known to the agency, CCMHSB will attempt to mitigate any harmful effects to the extent practicable.
13. When disclosure is appropriate, clinical records staff and authorized clinicians will provide copies to authorized receivers stamped with the re-disclosure information. Each disclosure outside the agency will contain the following notice in bold letters:

**This information has been disclosed to you from records protected by State and Federal confidentiality rules (42 CFR Part 2, 45 CFR Part 160 and 164 and section 748 of the Michigan Mental Health Code). The Federal and State rules prohibit you from making any further disclosures of this information unless further disclosure is expressly permitted by the written authorization of the person, guardian or parent of a minor child to whom it pertains or other-wise permitted by law. A general authorization for the release of medical or other information is NOT sufficient for this purpose. 42 CFR Part 2 restricts any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.**

1. When information is being requested for evaluation, accreditation, or statistical compilation, the primary clinician will determine whether such disclosure is appropriate for that person served and will determine whether the person served identity may be disclosed.
2. The primary clinician will determine when identification would be harmful to a person served.
3. The Clinical Records Department will retain the original request, the authorization for release of information, and any copies of cover letters in the person served record for the appropriate record retention period for medical and business-related records or for not less than six (6) years from the date of release, whichever is longer.
4. CCMHSB can use or disclose de-identified information per Appendix 11.
5. CCMHSB will implement administrative, technical, and physical safeguards (i.e. HIPAA Security Rule) to protect the confidentiality and integrity of PHI by the due date of the HIPAA Security standards.
6. CCMHSB requires a written, signed, current, valid authorization to release PHI as follows:

| **CATEGORY** | **REQUIRED SIGNATURE** |
| --- | --- |
| Adult | The person served or a duly authorized representative, such as court-appointed guardian or attorney. Proof of authorized representation required, such as notarized power of attorney. |
| Deceased | Executor/administrator/personal representative of the estate as authorized by Letters of Authority. |
| Unemancipated Minor | Parent, next of kin, or legally appointed guardian/attorney (proof of relationship required). |
| Unemancipated Minor  (minor requesting services on their own). | Same as adult above for first 12 sessions. Any disclosures thereafter will require signature of parent or guardian. |
| Emancipated Minor | Same as adult above. |
| Psychiatric Program | Same as adult above. CCMHSB requires a signed authorization for Treatment Payment Operations. |

### Uses And Disclosures For Which An Authorization, Or Opportunity To Object Are Not Required

### When requested, CCMHSB personnel may use or disclose PHI to the extent that, such use and disclosure is required by law and the use and disclosure complies with and is limited to the relevant requirements of such law. PHI shall be used or disclosed only under one or more of the following circumstances:

* 1. For treatment, payment or health care operations as follows:
     1. For CCMHSB’s own treatment, payment, or health care operations.
     2. Disclose PHI for treatment activities of a health care provider.
     3. Disclose PHI to another covered entity or a health care provider for payment activities of the entity that receives the information.
     4. Disclose PHI to another covered entity for health care operation activities of the entity that receives the information, if each entity either has or had a relationship with the individual who is the subject of the PHI being requested, the PHI pertains to such relationship, and the disclosure is:
        1. For conducting quality assessment and improvement activities,
        2. Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs, accreditation, certification, licensing, or credentialing activities.
        3. For the purpose of health care fraud and abuse detection or compliance.
  2. Pursuant to valid orders or subpoenas of a court of record, subpoenas of the legislature, unless the information is made privileged by law as outlined in Appendix 6;
  3. To a prosecuting attorney as necessary for the prosecuting attorney to participate in a proceeding governed by the Michigan Mental Health Code if it is either:
     1. Non-privileged information disclosed or;
     2. Privileged information disclosed pursuant to MHC section 750 (2) including:
        1. Names of witnesses to acts which support the criteria for involuntary admission;
        2. Information relevant to alternatives to admissions to a hospital;
        3. Other information designated in CCMHSB policies.
  4. To an attorney for the person served, with the authorization of the person served, the guardian with authority to consent, or the parent with legal physical custody of a minor;
  5. If necessary to comply with another provision of law. In the case that a request for disclosure is received based on a federal or state law other than used in this policy and procedure, refer that request to CCMHSB’s Privacy Officer;
  6. To the Department of Community Health or other health oversight agency, if the information is necessary in order for said entity to discharge a duty placed upon it by law. Oversight does not include investigation or activity in which the person served is the subject of the investigation or activity that does not arise out of and is not directly related to the receipt of health care, claim for public benefits related to health, or qualification for/receipt of public benefit or services when the health of the person served is integral to qualification or receipt;
  7. To the office of the auditor general, if the information is needed for that office to discharge its constitutional responsibility;
  8. To the person having the authority to act on behalf of the deceased’s estate to the extent the disclosures are necessary for that personal representation. Relatives who are not personal representatives and otherwise entitled to benefits must obtain information from another source;
  9. To an adult if all of the following apply:
     1. A request has been received from the person served;
     2. The person served does not have guardian and has not been adjudicated legally incompetent.
     3. The case entry has been made after March 28, 1996. The information shall be disclosed as expeditiously as possible but in no event later than 30 days after receipt of a request or, if the person served is receiving treatment before the person served is released from treatment, whichever is earlier.
  10. As necessary for the purposes of outside, evaluation, accreditation, or statistical compilation, provided that the individual who is the subject of the information can be identified only if such identification is essential in order to achieve the purpose for which the information was sought or if preventing such identification would clearly be impractical, but in no event if the subject of the information would likely be harmed by the identification;
  11. To providers of mental or other health services or a public agency, if there is a compelling need for disclosure based upon a substantial probability of harm to the person served or other individuals.
  12. Staff shall report suspected abuse or neglect to Protective Services in accordance with Act 238 of the Public Acts of 1975 and Act 519 of the Public Acts of 1982 and CCMHSB Policies and Procedures.
  13. To individuals or committees assigned a peer review function, including reviewing the quality and appropriateness of services, shall be used only for peer review, are not public records, and are not subject to court subpoena.
  14. To an identified representative of Michigan Protection and Advocacy Services in accordance with Public Law 94-103, 89 Stat. 486, Public Law 99-319, 100 Stat. 478, and Act 258 of the Public Acts of 1974, as amended per appendix 7.
  15. Upon receipt of a written request from the Department of Human Services/Child Protection Services that a child abuse or neglect investigation has been initiated involving a person who has received services from Copper Country Mental Health Services, mental health records and information that is pertinent to the investigation shall be released within 14 days of the request in accordance with Act 258 of the Public Acts of 1974, as amended, per Section 748a.
  16. The holder of the record shall not deny or delay disclosing information that is a mandatory disclosure listed above per:
      1. A request from the attorney of a person served even if the legally empowered guardian or the parent of a minor requests a delay, or;
      2. A case record made after March 28, 1996, which is being disclosed to an adult, upon request by the person served, if the person served does not have a guardian and has not been adjudicated legally incompetent.

### Uses And Disclosures Requiring An Opportunity For The Individual To Agree Or To Object

If the person served is present for, or otherwise available prior to a use or disclosure to a family member, other relative, or a close personal friend of the person served, or any other person identified by the person served, CCMHSB may use or disclose the PHI if it is documented in the clinical record and:

* + - * 1. The person served agrees and the agreement is documented in a progress note;
        2. The clinician provides the person served with the opportunity to object to the disclosure, and the person served does not express an objection.

### Disclosures - Where Authorization Is Required

Except as otherwise provided in this policy, CCMHSB staff may not disclose PHI without authorization that is valid under this policy. Valid authorization can be obtained with an informed consent from the person served, that person’s guardian with authority to provide informed consent, the parent of a minor, or the court appointed legal representative or executor of the estate if the individual is deceased. Confidential PHI can be disclosed with a valid authorization to all of the following:

* 1. Providers of health services, other than CCMHSB, when these providers receive the authorized portions of the clinical and medical record;
  2. The person served, his or her guardian, the parent if a minor child, any other individual or agency unless in the written judgment of the holder of the record the disclosure would be detrimental to the person served or others unless the person served is an adult and does not have a guardian.

When information is disclosed for clinical purposes and with appropriate authorization, the holder of the record shall release a copy of the entire medical and clinical record to the provider of mental health services. Release of the entire medical and clinical record must be done in a circumstance where it is clinically appropriate to do so.

### Disclosures - Detrimental Information

For case records entries made subsequent to March 28, 1996, information made confidential by Sec. 748 of the Mental Health Code shall be disclosed to an adult, upon request of the person served, if the person served is legally competent. The information shall be disclosed as expeditiously as possible but in no event later than 30 days after receipt of a request or, if the person served is receiving treatment before the person served is released from treatment, whichever is earlier. This information may not be withheld even if the holder of the record judges it would be detrimental to the person served or others. See Appendix 2.

Unless the above applies to a request for PHI, the holder of the record may make a determination that disclosure of PHI may be detrimental to the person served or others and decline to disclose the PHI or determine whether part of the PHI may released without detriment. See Appendix 2.

## To review PHI for a determination of detriment, CCMHSB staff will follow the procedure set forth in Appendix 8. If an individual does not receive the requested PHI because a determination of detriment or any other reason, they may file a recipient rights complaint and/or a complaint with the CCMHSB Privacy Officer.

All supervisors are responsible for implementing this policy. CCMHSB personnel who violate this policy are subject to discipline up to and including termination from employment in accordance with CCMHSB Sanction Policy.

### List of Appendices:

1. Notice of Privacy Practices Procedure
2. A Person Served or His/Her Legal Representative Access To Records And Schedule of Fees for Copying Procedure
3. Authorization For Use and Release Of PHI Procedure
4. A Person Served Right To Request Amendment Of PHI Procedure
5. Accounting Of Disclosures Procedure
6. Court Order Or Subpoena Of A Court Or Administrative Tribunal Procedure
7. Disclosures to Protection and Advocacy Procedure
8. Review for Detriment Procedure
9. A Person Served Request For A Restriction Of Uses and Disclosures of PHI Procedure
10. Verification of Identity Procedure
11. De-identifying Information Procedure
12. HIPAA Privacy Practices Training Procedure
13. Business Partner/Associate Agreement Procedure
14. HIPAA Sanction Procedure

CROSS REFERENCE:

1. CCMHSB Policy - Client Record Control/Security
2. CCMHSB Policy - Client Records
3. CCMHSB Policy - Confidentiality
4. CCMHSB Policy - Minimum Necessary Protected Health Information
5. Act 258 of the Public Acts of 1974, as amended (Michigan Mental Health Code) Sections 748, 748a, and 750.
6. Michigan Department of Community Mental Health Administrative Rules Section R 330.7051 Rule 7051.
7. 45 CFR part 160 et al.
8. 45 CFR part 164 et al.
9. 42 CFR part 2 et al.
10. CCMHS Clinical Guideline – Privacy Notices

##### APPENDIX 1

SUBJECT: NOTICE OF PRIVACY PRACTICES PROCEDURE

PROCEDURE:

1. The Notice of Privacy Practices will be posted at all Copper Country Mental Health Services Board (CCMHSB) facilities in areas accessible to persons served. It will also be posted on the CCMHSB website at http://cccmh.org and downloadable in a PDF format.
2. If the person served cannot read or understand the Notice of Privacy Practices, accommodations will be provided. Contact the Customer Services Coordinator for assistance.
3. The designated responsible staff shall provide the CCMHSB Notice of Privacy Practices and NorthCare Notice of Privacy Practices to each person served or their legal representative upon admission to services. In an emergency treatment situation, a copy of the notices will be provided as soon as reasonably practicable.
4. If the person served does not have a current acknowledgment (within 6 years) on file, one shall be provided. The retention period for the Notice of Privacy Practice for protected health information shall be maintained for a maximum of six years following the date of creation or last revision date.
5. A signed acknowledgment of the receipt of the Notice of Privacy Practices will be maintained in the person served permanent clinical record. If a signed acknowledgment of receipt of the notice is not obtained and a good faith effort was made, the effort made and the reason why the acknowledgment was not obtained shall be documented.

Program supervisors are responsible for implementing this procedure.

APPENDIX 2

SUBJECT: A PERSON SERVED OR HIS/HER LEGAL REPRESENTATIVE ACCESS TO RECORDS AND SCHEDULE OF FEES FOR COPYING PROCEDURE

A person served, guardian, or parent of a minor has a right to inspect and/or obtain a copy of their PHI in a designated record set, for as long as the PHI is maintained in said designated record set.

PROCEDURE:

1. All requests to review or obtain a copy must be made in writing to the CCMHSB’s Records Department.

2. CCMHSB will process requests for information from person’s served records in a timely, consistent manner as set forth in this procedure.

3. For case records entries made subsequent to March 28, 1996, information made confidential by Section 748 of the Mental Health Code shall be disclosed to an adult, upon request by the person served, if the person served is legally competent. Release is done as expeditiously as possible but in no event later than the earlier of 30 days of a request or, if the person served is receiving treatment before the person served is released from treatment. This information may not be withheld even if the holder of the record judges it would be detrimental to the person served or others.

4. Unless section 748(4) of the act (as stated above) applies to the request for information, the director of the provider may make a determination that disclosure of information may be detrimental to the person served or others. If the director of the provider declines to disclose information because of possible detriment to the person served or others, then the director of the provider shall determine whether part of the information may be released without detriment. A determination of detriment shall not be made if the benefit to the person served from the disclosure outweighs the detriment. If the record of the person served is located at the resident’s facility, then the director of the provider shall make a determination of detriment within 3 business days from the date of the request. If the record of the person served is located at another location, then the director of the provider shall make a determination of detriment within 10 business days from the date of the request. The director of the provider shall provide written notification of the determination of detriment and justification for the determination to the person who requested the information. If a determination of detriment has been made and the person seeking the disclosure disagrees with that decision, he or she may file a recipient rights complaint with the Office of Recipient Rights of CCMHSB or the Secretary of the U.S. Department of Health and Human Services, Office for Civil Rights.

Record of Disclosures

CCMHSB clinical records department and authorized clinicians will keep a record of all disclosures which includes:

* 1. Verification of the identity of the individual requesting disclosure (see Appendix 10).
  2. Date request was received;
  3. Information released and date released;
  4. Fee charged;
  5. To whom it is released;
  6. The purpose stated by the person requesting the information;
  7. A statement indicating how the disclosed information is germane to the stated purpose;
  8. The subsection of Section 748 of the Mental Health Code, or other applicable law, under which a disclosure was made;
  9. A statement stamped on the information that the individual receiving confidential information shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained and in accordance with Section 748.

# Fee Schedule

If a person served requests a copy of their PHI, CCMHSB may charge a reasonable, cost-based fee for the copying, including the labor and supply costs of copying. If the person served requests the information to be mailed, the fee may include the cost of postage. CCMHSB has established the following fees for copies of patient records:

* + - * 1. The first copy of the person served record will be free of charge to the person served only. The PHI that is released to the person served shall be logged in the clinical record, disclosure log of the person served.

b. CCMHSB may charge up to 10 cents per page and the hourly wage of the records staff person copying the PHI, times the number of hours it takes to copy the PHI. An invoice prepared by the records staff person shall be included in the packet of PHI. Copy of the invoice shall be sent to the billing office.

c. The Executive Director or designee has the authority to waive fees.

LEGAL AUTHORITY

1. Act 258 of the Public Acts of 1974, as amended (Michigan Mental Health Code) Sections 748 and 752.
2. 45 CFR Part 164 Section 524.

###### APPENDIX 3

SUBJECT: AUTHORIZATION FOR USE AND RELEASE OF PHI PROCEDURE

PROCEDURE:

1. An authorization for use or disclosure (release) of PHI may not be combined with any other document to create a compound authorization.
2. The authorization must be written in plain language.
3. CCMHSB may condition the provision of health care, that is solely for the purpose of creating PHI for disclosure to a third party, on an authorization for the disclosure of PHI to such third party.
4. An individual may revoke an authorization at any time provided that their revocation is in writing except to the extent that the covered entity has taken action in reliance thereon.
5. CCMHSB must document and retain any signed authorization. The authorizations will be filed in the medical record under the release section of the chart.
6. A valid authorization under this section must contain at least the following elements:
   1. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.
   2. The name or other specific identification of the person(s) or class of persons authorized to make requested use or disclosure.
   3. The name or other specific identification of the person(s) or class of persons to whom the covered entity may make the requested use or disclosure.
   4. An expiration date or expiration event that relates to the individual or the purpose of the use or disclosure.
   5. A description of each purpose of the requested use or disclosure.
   6. A statement of the individual’s right to revoke authorization in writing and the exceptions to the right to revoke, together with a description of how the individual may revoke the authorization.
   7. A statement that information used or disclosed pursuant to the authorization may be subject to re-disclosure by the person served and no longer be protected by this rule.
   8. Signature of the individual and date; and
   9. If the authorization is signed by a personal representative of the individual, a description of such representative’s authority to act for the individual.
   10. A statement that CCMHSB will not condition treatment, payment, enrollment or eligibility for benefits on the person served signing the authorization.
7. Any use or disclosure of psychotherapy notes requires a valid authorization except:
   1. Use by the originator of the psychotherapy notes for treatment;
   2. Use or disclosure by CCMHSB for it own internal training programs;
   3. Use or disclosure by CCMHSB to defend itself in a legal action or other proceeding brought by the person served;
   4. To the person served;
   5. Uses and disclosures required by law;
   6. Uses and disclosures for health oversight of the originator;
   7. Uses and disclosures by Coroners and Medical Examiners;
   8. If necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.
8. CCMHSB will not consider an authorization valid if:
   1. The expiration date has passed or the expiration event is known by CCMHSB;
   2. The authorization is not filled out completely;
   3. CCMHSB knows that the authorization has been revoked;
   4. The authorization is combined with another document;
   5. Treatment, payment, enrollment or eligibility is conditioned upon the receipt of a signed authorization from the person served;
   6. CCMHSB knows that material information in the authorization is false.

# LEGAL AUTHORITY

1. Act 258 of the Public Acts of 1974, as amended (Michigan Mental Health Code) Sections 748, 748 (a), and 750.
2. 45 CFR Part 164 Section 508.

APPENDIX 4

SUBJECT: A PERSON SERVED RIGHT TO REQUEST AMENDMENT OF PHI PROCEDURE

PROCEDURE:

* + - 1. Right To Amend

A person served or his/her legal representative has the right to request CCMHSB to amend PHI or a record about the person served in a designated record set for as long as the PHI is maintained in the designated record set.

A person served or his/her legal representative must submit a written request for amendment by providing a reason to support a requested amendment directly to the Privacy Officer.

The Privacy Officer must act on the individual’s request for an amendment no later than thirty (30) days after receipt of such a request. If the Privacy Officer is unable to act on the request within the thirty (30) days, the individual will be notified in writing the reasons for the delay and the expected date that action will be completed. This delay will not exceed an additional thirty (30) days. This will be the only extension allowed.

The Privacy Officer may deny an individual’s request for amendment, if it is determined that the PHI or record that is subject of the request:

1. Was not created by the covered entity, unless the person served provides a reasonable basis to believe that the originator of PHI is no longer available to act on the requested amendment;
2. Is not part of the designated record set;
3. Would not otherwise be available for inspection under 45 CFR 164.524 of the Privacy Rule; or
4. Is deemed to be accurate and complete.
   * + 1. Statement Correcting or Amending Information

A person served, guardian, or parent of a minor, after having gained access to treatment records, may challenge the accuracy, completeness, timeliness, or relevance of factual information in the record of the person served. The person served, guardian, or parent of a minor shall be allowed to insert into the record a statement correcting or amending the information at issue. The statement shall become part of the record.

3. Notification of Amendment to Relevant Persons

Obtain the individual’s identification of and agreement to have CCMHSB notify the relevant persons with whom the amendment needs to be shared and make reasonable efforts to inform and provide the amendment within a reasonable time to:

* 1. Persons identified by the individual as having received PHI about the individual and needing the amendment; and
  2. Persons, including business associates, that CCMHSB knows have the PHI that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the person served.

### LEGAL AUTHORITY

* 1. Act 258 of the Public Acts of 1974, as amended (Michigan Mental Health Code) Sections 748, 749, 750.
  2. 45 CFR Part 164 Section 526.

## APPENDIX 5

SUBJECT: ACCOUNTING OF DISCLOSURES PROCEDURE

PROCEDURE:

1. Disclosure Log

A. A disclosure log entry is required when a disclosure of information in the designated record set is made to parties other than those identified in the exceptions below. The disclosures shall be documented in the disclosures log of the CCMHSB Records Department. The person served is also entitled to an accounting of disclosures made by business associates of CCMHSB.

1. An individual’s right to this accounting is limited to at least a six (6) year period or less prior to the date on which the accounting is requested.
2. The Disclosure Log will track all disclosures except for the following:
3. To carry out treatment, payment and healthcare operations;
4. To individuals of protected health information about them;
5. Incident to a use or disclosure otherwise permitted or required in the CCMHSB Use and Disclosure of PHI Policy and Procedure.

4. For a facility’s directory, or to persons involved in the individual’s care or other notification purposes in the CCMHSB Use and Disclosure of PHI Policy and Procedure.

5. For national security or intelligence purposes.

6. To correctional institutions or law enforcement officials.

7. As part of a limited data set.

8. That occurred prior to the compliance date for CCMHSB.

2. Request for Accounting of Disclosures

* 1. When a request for an accounting of disclosures is received from a person served:
     1. The acceptability and credibility of the request will be determined.
     2. If the request for accounting is accepted, the disclosure log will be prepared and distributed.
     3. Medical records staff will be notified of the disclosure and will log the accounting of disclosure in the Medical Records Queue as described under 2.F. - Documentation of Accounting of Disclosure Requests.
  2. The accounting must include the following information for the first disclosure:
     1. Date of the disclosure.
     2. Name and address (if known) of the organization or person who received the PHI.
     3. Description of the PHI disclosed. This includes document type and date of service.
     4. Brief statement of the purpose of the disclosure or a copy of the written request for disclosure.
     5. Person(s) processing the requests.
  3. The accounting must include the following information for subsequent and repeated disclosures of the same information to the same person or organization for a single purpose:
     1. Date of the disclosure.
     2. Name and address (if known) of the organization or person who received the PHI.
     3. Description of the PHI disclosed. This includes document type and date of service.
     4. Brief statement of the purpose of the disclosure or a copy of the written request for disclosure.
     5. Person(s) processing the requests.
     6. Frequency or number of disclosures made during the accounting period.
     7. Date of the last disclosure made during the accounting period.
  4. Timelines for providing the accounting
     1. Provide the accounting to the requesting party as soon as is reasonably possible, but no later than sixty (60) days after the receipt of the request. Document the date of receipt by date stamping any paper request.
     2. If unable to comply with the sixty (60) day rule the response period may be extended by thirty (30) days by sending the requesting party a written statement of the reasons for the delay and the date CCMHSB will provide the accounting.
  5. Costs for the accounting.
     1. CCMHSB will provide one accounting every twelve (12)-month period commencing with the date of the first request.
     2. For any subsequent, individuals must be notified in advance of the fee and must provide the requesting party the opportunity to withdraw or modify their request to eliminate or reduce said fee.
  6. Documentation of accounting of disclosure requests.
     1. Medical Records Staff will document all accounting of disclosures of PHI in the Medical Records Queue. The following information will be logged regarding the disclosure:
        + 1. Date of the accounting of disclosure written request.
          2. Name and address (if known) of the organization or person requesting the accounting of disclosure of PHI.
          3. Description of the PHI disclosed. This includes document type(s) and date(s) of service.

d. Brief statement of the purpose of the disclosure or a copy of the written request for disclosure.

* + - 1. Person(s) processing the requests.
      2. The time period of the accounting of disclosure provided.

### LEGAL AUTHORITY

A. Michigan Department of Community Mental Health Administrative Rules Section R 330.7051 Rule 7051.

* + - 1. 45 CFR Part 164 Section 528.

APPENDIX 6

SUBJECT: COURT ORDER OR SUBPOENA OF A COURT OR ADMINISTRATIVE TRIBUNAL PROCEDURE

PROCEDURE:

When CCMHSB receives a court order or subpoena either to appear or for records (duces tecum):

1. The Order/Subpoena is given to the Executive Director or designee.
2. CCMHSB receives satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to insure that the individual who is the subject of the PHI that has been requested, has been given notice to that request.
   1. That assurance must be a written statement demonstrating that the party requesting such information has made a good faith effort to provide written notice to the individual or that the individual’s location is unknown and has mailed notice to the individual’s last known address.
   2. The notice should include sufficient information about the litigation or proceeding for which the PHI is requested to permit the individual to raise an objection to the court or Administrative Tribunal.
   3. The time for the individual to raise objection to the court or administrative tribunal has elapsed, no objections were filed or the court or tribunal has resolved all objections filed by the individual.
   4. CCMHSB can assume notice has been received if CCMHSB receive satisfactory assurance demonstrating that there has been a qualified protective order issued.
3. CCMHSB may notify Legal Counsel that records are the subject of an order/subpoena.
4. Legal Counsel may be provided a copy of the order/subpoena and shall notify CCMHSB relative to whether the information must be disclosed under the Mental Health Code.
5. Not withstanding, a subpoena for duces tecum, a person’s served PHI is considered confidential will not be released without signed authorization.

# Authorizations

1. CCMHSB shall determine if there is a valid authorization in the record.
2. In the absence of a valid authorization, CCMHSB shall make a reasonable effort to notify the person served that her/his record is generally considered privileged and they should secure their own legal advice in that regard.
3. Since mental health records are confidential, there must be an

authorization signed by a party with authority to authorize prior to the release of records.

Asserting Privilege

1. If the person served asserts privilege, CCMHSB Legal Counsel shall notify the requesting party that privilege is asserted, assuming time permits.
2. In the event time does not permit notice to the requester, CCMHSB or CCMHSB Legal Counsel shall communicate to the Court involved that privilege is asserted and shall appear at the time and place indicated in the event the subpoena is for production of the record at a specified Court hearing.
3. No records shall be disclosed or released.
4. Absent a valid release, the potential liability for releasing records outweighs any potential contempt hearing for not releasing the record.
5. Whenever a subpoena for records is received for any Court proceedings:
   1. CCMHSB shall verify that the person served and/or his/her attorney is notified of the same.
   2. CCMHSB cannot give legal advice to a person served regarding confidentiality or privilege and the person served should be advised to seek the advice of an attorney.
   3. Where the person served cannot be located, or in the event she/he claims privilege, CCMHSB Legal Counsel shall be made aware of the subpoena in a timely manner and shall direct a response to the subpoena consistent with this Protocol.

# Subpoenas for Personal Appearances

* + 1. The affected employee shall notify her/his supervisor who will in turn notify CCMHSB Legal Counsel.
    2. Decision to quash subpoena will be made on a case-by-case basis.

For case record entries made subsequent to March 28, 1996, PHI made confidential by this Section shall be disclosed to an adult, upon request by the person served, if the person served does not have a guardian and has not been adjudicated legally incompetent. The holder of the record shall comply with the adult’s request for disclosure as expeditiously as possible but in no event later than the earlier of 30 days after receipt of the request or, if the person served is receiving treatment from the holder of the record, before the person served is released from treatment. Unless section 748(4) of the act applies to the request for PHI, the director of the provider may make a determination that disclosure of PHI may be detrimental to the person served or others.

Abuse/Neglect Cases

1. In abuse/neglect cases, if the Family Court has jurisdiction over minor children, and if CCMHSB has conducted a court-ordered examination, interview of course of treatment, any PHI relating thereto must be released upon receipt of a subpoena in that proceeding.
2. Court ordered treatment means that an examination, interview or course of treatment commences on and after date of the Court Order. A court cannot order a parent or child to receive any examination, interview, or course of treatment unless it has jurisdiction. (This excludes emergency mental health treatment or hospitalization).
3. The release of information pursuant to an order/subpoena applies only to the person or persons who have been ordered to receive any form of service and therefore equally applies to adults (parents) under the Subpoena Procedure for Adults.

For any questions concerning the interpretation of this procedure, refer to the Privacy Officer or Legal Counsel.

LEGAL AUTHORITY

1. Act 258 of the Public Acts of 1974, as amended (Michigan Mental Health Code) Sections 748, 748 (a), and 750.
2. 45 CFR Part 164 Section 512 (e).

**APPENDIX 7**

SUBJECT: DISCLOSURES TO PROTECTION AND ADVOCACY PROCEDURE

PROCEDURE:

1. An identified representative of Michigan’s Protection and Advocacy Services shall be granted access to records in accordance with Public Law 94-103, 89 Stat. 486, Public Law 99-319, 100 Stat. 478, and Act 258 of the Public Acts of 1974, as amended. This includes:
   1. If the person served, the guardian of the person served with authority to consent, or a parent of minor with legal and physical custody of the minor has consented to the access;
   2. A person served, including a person served who has died or whose whereabouts are unknown, if all of the following apply:
      1. Because of mental or physical condition, the person served is unable to consent to the access;
      2. The person served does not have a guardian or other legal representative, or the guardian of the person served is the state;
      3. Michigan Protection and Advocacy has received a complaint on behalf of the person served or has probable cause to believe based on monitoring or other evidence that the person served has been subject to abuse or neglect;
   3. A person served who has a guardian or other legal guardian if all of the following apply:
      1. A complaint has been received by Michigan Protection and Advocacy or there is probable cause to believe the health or safety of the person served is in serious and immediate jeopardy;
      2. Upon receipt of the name and address of the legal representative of the person served, Michigan Protection and Advocacy has contacted the representative and offered assistance in resolving the situation;
      3. The representative has failed or refused to act on behalf of the person served.

### LEGAL AUTHORITY

Act 258 of the Public Acts of 1974, as amended (Michigan Mental Health Code) Sections 748, 748 (a), and 750.

APPENDIX 8

SUBJECT: REVIEW FOR DETRIMENT PROCEDURE

PROCEDURE:

1. Request for Access

When the records department receives any request for access, it will be given to the authorized clinician who processes the request. If CCMHSB does not maintain the PHI that is the subject of the request of the person served and CCMHSB knows where the requested information is maintained, the person served or legal representative must be informed where to direct their request for access.

1. Analysis of Person Served Status

An Authorized clinician determines whether the person served is a competent adult and entitled to receive his or her entire record under Mental Heath Code Sec. 748(4) or the person served is a legally incapacitated adult with guardian or a minor and a determination of detriment may be made.

1. Review for Detriment Process

If a review of detriment is appropriate (see Appendix 2) then the authorized clinician in conjunction with his or her clinical supervisor will perform such review under the following guidelines.

* + - 1. Authorized clinician has determined in the exercise of professional judgment that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person.
      2. The PHI makes reference to another person and the authorized clinician has determined in the exercised professional judgment that the access requested is reasonably likely to cause substantial harm to such other person.
      3. Request for access is made by the individual’s personal representative and the authorized clinician in the exercise of professional judgment has determined that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

In all cases a determination of detriment shall not be made if the benefit to the person served from the disclosure outweighs the detriment.

1. Authorization by the Executive Director

The authorized clinician will send a written statement to the Executive Director outlining what information is to be withheld and why. The Executive Director or designee will make the final determination.

1. Implementation and Process for Denial of Access

If CCMHSB denies access in whole or in part, the following requirements must be complied with:

* + 1. CCMHSB must to the extent possible give the individual access to any other PHI requested after excluding the PHI which has been denied;
    2. CCMHSB must provide a timely written denial to the person served;
    3. The denial must be in plain language and must state the basis for denial;
    4. The denial must also contain a description of how the person served may complain to the rights office and request a review of the denial from CCMHSB or CMS.

1. Timeframes

If the record of the person served is located at the site where the request is made, the determination of detriment will be made within 3 business days of the request for access. If the record of the person served is located in another site, the determination of detriment will be made within 10 business days of the request for access.

1. Request for Review of Denial of Access
   1. All requests for review of denial of access shall be forwarded to the rights office/privacy officer.
   2. The rights office/privacy officer will ensure that a licensed health care professional who is not directly involved in the denial shall promptly provide a second opinion of the denial of access.
   3. The licensed health care professional must determine within a reasonable period of time, not to exceed 10 business days, whether or not to uphold the denial of access. The licensed health care professional shall promptly inform the person served of the decision in writing.
   4. If the person served is not satisfied with the final determination he or she can file a complaint with the Office of Recipient Rights.

LEGAL AUTHORITY

1. Act 258 of the Public Acts of 1974, as amended (Michigan Mental Health Code) Sections 748, 748 (a), and 750.
2. 45 CFR Part 164 Section 524.

APPENDIX 9

SUBJECT: A PERSON SERVED REQUEST FOR A RESTRICTION OF USES AND DISCLOSURES OF PHI PROCEDURE

PROCEDURE: Right Of An Individual To Request Restriction Of Uses And Disclosures

1. CCMHSB must permit any person served to request in writing a restriction on any use or disclosure of protected health information for treatment, payment, health care operations, or to family member. CCMHSB is not required to agree to the restriction, however if CCMHSB does agree it must protect the person’s served health information according to the agreed upon terms of the restriction.
2. Exceptions to adhering to an agreed upon restriction:
   1. In an emergency treatment situation, CCMHSB may use or disclose previously restricted PHI that is necessary to provide emergency treatment. If CCMHSB exercises its rights, it will request that the recipients of this information not further use or disclose it.
   2. Uses and disclosures to the Secretary of the Center for Medicare/Medicaid Services to investigate or determine CCMHSB’s compliance with the applicable local, state or federal law. If CCMHSB agrees to such restrictions they are not enforceable under this rule.
3. CCMHSB may terminate its agreement to a restriction, if:
   1. The individual agrees to or requests the termination in writing;
   2. The individual orally agrees to the termination and the oral agreement is documented; or
   3. CCMHSB informs the individual that it is terminating its agreement to a restriction, except that such termination is only effective with respect to PHI created or received after it has so informed the individual.

Confidential Communications Requirements

CCMHSB must permit individuals to request and must accommodate reasonable requests by individuals to receive communications of PHI from CCMHSB by alternative means or at alternative locations.

1. An individual must provide in writing, any request for confidential communications.
2. CCMHSB may condition the provision of a reasonable accommodation on:
   * 1. When appropriate, information as to how payment, if any, will be handled; and
     2. Specification of an alternative address or other method of contact.

LEGAL AUTHORITY: 45 CFR Part 164 Section 522.

###### APPENDIX 10

SUBJECT: VERIFICATION OF IDENTITY PROCEDURE

PROCEDURE:

# Verification Requirements

1. Prior to any disclosure permitted CCMHSB must:
   1. Except as otherwise required in CCMHSB policies and procedures, CCMHSB staff will verify the identity of a person requesting PHI and the authority of any such person to have access to PHI under CCMHSB policies and procedures, if the identity or any such authority of such person is not known to CCMHSB staff; and
   2. Obtain any documentation, statements, or representations, whether oral or written, from the person requesting the PHI when such documentation, statement or representation is a condition of the disclosure under CCMHSB policies and procedures.

# Verification Specifications

1. Conditions of Disclosures - If a disclosure is conditioned by CCMHSB policies or procedures on particular documentation, statements or representations from the person requesting the PHI, CCMHSB staff may rely, if such reliance is reasonable under such circumstances, on documentation, statements, or representations that, on their face, meet the applicable requirements.
2. Identity of Public Officials - CCMHSB staff may rely, if such reliance is reasonable under the circumstances, on any of the following to verify identity when the disclosure of PHI is to a public official or a person acting on behalf of the public official:
   1. If the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;
   2. If the request is in writing, the request is on the appropriate government letterhead;
   3. If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government’s authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official.
3. Authority of Public Officials - CCMHSB staff may rely, if such reliance is reasonable under the circumstances, on any of the following to verify authority when the disclosure of PHI is to a public official or a person acting on behalf of the public official:
   1. A written statement of the legal authority under which the information is requested or, if a written statement would be impracticable, an oral statement of such legal authority;
   2. If a request is made pursuant to legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.
4. Exercise of professional judgment - The verification requirements of this policy and procedure are met if CCMHSB staff relies on the exercise of professional judgment in making a use or disclosure or acts on a good faith belief in making a disclosure in accordance with CCMHSB policies and procedures.

LEGAL AUTHORITY

45 CFR Part 164 Section 514 (h) (1).

###### APPENDIX 11

SUBJECT: DE-IDENTIFIED INFORMATION PROCEDURE

PROCEDURE:

CCMHSBstaff will de-identify PHI of a person served in compliance with this policy and procedure when there is a need to release information in the absence of valid authorization or business associate agreement for the purposes of accreditation recording, public health, public policy initiatives, compliance audits, marketing and/or fundraising.

* + 1. To release health information to a third party in the absence of a valid authorization or business associate agreement the following identifiers must be removed pertaining to the person served, relatives, employers, or household members of the person served:

1. Names; Last, First, Middle Initial
2. State, including street address, city, county, precinct, zip code.
3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death.
4. Telephone numbers;
5. Fax Numbers;
6. Electric Mail Addresses;
7. Social Security Number;
8. Medical Record Numbers;
9. Health Plan Identification Numbers;
10. Account Numbers;
11. Certificate/License Numbers;
12. Vehicle Identifiers and Serial Numbers;
13. Device Identifier Numbers and Serial Numbers;
14. Web Universal Resource Locators;
15. Internet Protocol (IP) Address Numbers;
16. Biometric Identifiers, including finger and voiceprints.
17. Full Face Photographic Images and Any Comparable Images; and
18. Any Other Unique Identifying Number, Characteristic or Code.

2. Staff must not have actual knowledge that the information could be used alone or in combination with other information to identify a person served who is a subject of the information.

3. Release of de-identified person served information must be limited to that information which is the minimum necessary to meet the reason for the release of de-identified information.

APPENDIX 12

SUBJECT: HIPAA PRIVACY PRACTICES TRAINING PROCEDURE

PROCEDURE:

All CCMHSB personnel will be trained on the policies and procedures with respect to PHI of the person served, as necessary and appropriate, for their position.

1. CCMHSB will provide the required training as follows:

a. To all new personnel within thirty (30) days of hire; and

b. To all personnel whose functions are affected by a material change in the policies or procedures within a reasonable period of time after the material change becomes effective.

2. CCMHSB will document that the training has been provided and retain the documentation for six (6) years from the date of its last creation or the date when it last was in effect, whichever is later.

LEGAL AUTHORITY:

45 CFR Part 164 Section 530(b)(2).

###### APPENDIX 13

SUBJECT: BUSINESS PARTNER/ASSOCIATE AGREEMENT PROCEDURE

PROCEDURE:

CCMHSB may disclose PHI to a Business Associate and may allow a Business Associate to create or receive PHI on its behalf, if CCMHSB obtains satisfactory assurance that the Business Associate will appropriately safeguard the information. CCMHSB must document the satisfactory assurances required through a written contract or other written agreement or arrangement with the Business Associate.

This standard does not apply with respect to disclosures by CCMHSB to a health care provider concerning the treatment of the individual.

A covered entity that violates the satisfactory assurances provided as a Business Associate of CCMHSB will be in noncompliance with the standards, implementation specifications, and requirements.

CCMHSB is not in compliance with the standards if CCMHSB knew of a pattern of activity or practice of the Business Associate that constituted a material breach or violation of the Business Associate’s obligation under the contract or other arrangement, unless CCMHSB took reasonable steps to cure the breach or end the violation, as applicable, and, if such steps were unsuccessful:

1. Terminated the contract or arrangement, if feasible; or
2. If termination is not feasible, reported the problem to the Secretary of the U.S. Department of Health and Human Services, Office for Civil Rights.

A contract between the covered entity and a Business Associate must:

1. Establish the permitted and required uses and disclosures of the PHI. The contract may not authorize the Business Associate to use or further disclose the information in a manner that would violate the requirements of this subpart, if done by the covered entity, except that:
   1. The contract may permit the Business Associate to use and disclose PHI for the proper management and administration of the Business Associate; and
   2. The contract may permit the Business Associate to provide data aggregation services relating to the health care operations of the covered entity.
2. Provide that the Business Associate will:
3. Not use or further disclose the PHI other than as permitted or required by the contract or as required by law;
4. Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by the contract;
5. Report to CCMHSB any use or disclosure of the information not provided for by the contract of which it becomes aware;
6. Ensure that any of its agents or subcontractors to whom it provides PHI received from, or created or received by the Business Associate on behalf of, CCMHSB agrees to the same restrictions and conditions that apply to the business associate with respect to such information.
7. Make the PHI available for inspection by the person served.
8. Make available PHI for amendment and incorporate any amendments to PHI in accordance with Appendix 4;
9. Make available the information require to provide an accounting of disclosures in accordance with Appendix 5;
10. Make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, CCMHSB available to the Secretary of the U.S. Department of Health and Human Services, Office for Civil Rights for purposes of determining CCMHSB compliance with the business associate agreement;
11. At termination of the contract, if feasible, return or destroy all PHI received from, or created or received by the Business Associate on behalf of, CCMHSB, that the Business Associate still maintains in any form and retain no copies of such information or if such return or destruction is not feasible, extend the protections of the contract to the information and limit further uses and disclosures to the purposes that make the return or destruction of the information infeasible.

3. Authorize termination of the contract by CCMHSB if CCMHSB determines that the Business Associate has violated a material breach of the contract.

### LEGAL AUTHORITY

45 CFR Part 164 Section 502(e)(1) and 504(e)(1)

###### APPENDIX 14

SUBJECT: HIPAA SANCTION PROCEDURE

PROCEDURE:

CCMHSB will protect the confidentiality and integrity of PHI and provide progressive sanctions for any substantiated failure to comply with any standards required by law, professional ethics, or accreditation standards.

CCMHSB and its departments have adopted procedures and standards to carry out the objectives of this policy. All CCMHSB personnel must adhere to these procedures and standards. All violations constitute grounds for disciplinary action up to and including termination, professional discipline, and criminal prosecution.

1. Duty To Report

All CCMHSB personnel are required to report any and all breaches of the CCMHSB privacy and security policies and procedures. CCMHSB personnel should immediately verbally report such breach to his or her supervisor and to the Privacy Officer and/or Security Officer or their designee, immediately and write an incident report within 24 hours.

1. Duty To Investigate

The Privacy and/or Security Officer or designees will conduct a thorough and confidential investigation into the allegations. CCMHSB will not retaliate against or permit reprisals against a complainant.

1. Sanction For A Substantiated Violation

The CCMHSB Corrective/Progressive Discipline Policy and Procedure shall be used to determine and apply appropriate sanctions.

Disclaimer: The Sanction Policy and Procedure is intended as a guide for the efficient and professional performance of employees’ duties to protect the integrity and confidentiality of PHI. Nothing herein shall be construed to be a contract between the employer and the employee. Additionally, nothing in this Sanction Policy and Procedure is to be construed by any employee as containing binding terms and condition of employment. Nothing in this Sanction Policy should be construed as conferring any employment rights on employees or changing their status from “at-will employees.” The organization retains the absolute right to terminate any employee, at any time, with or without good cause. Management retains the right to change the contents of this Sanction Policy and Procedure, as it deems necessary with or without notice.

LEGAL AUTHORITY:

45 CFR Part 164 Section 530 (e) (1)