



## Policies and Procedures

Subject: Notice of Privacy Practices for PHI to Individuals  
Policy Number: HIPAA 4.9  
Effective Date: 1/11/18  
Entity Responsible: Division of General Counsel  
Revision Date: 1/18/2023

### 1. Purpose:

To provide instruction and guidance on the required notice of privacy practices to be provided to service recipients of the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) and the Regional Mental Health Institutes (RMHIs) as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, 42 U.S.C. 290dd-2 and its accompanying regulations codified at 42 C.F.R. Part 2, and other relevant federal and state laws.

### 2. Policy:

2.1: The TDMHSAS and the RMHIs recognize that each individual has a right to adequate notice of the uses and disclosures of protected health information (PHI) that may be made by the TDMHSAS or the RMHI, and of the individual's rights and the TDMHSAS' or the RMHIs' legal duties with respect to the individual's PHI.

2.2: The TDMHSAS and the RMHI provide each patient who receives treatment at the RMHIs a written notice that is in plain language and contains the following additional elements:

2.2.1: a header which prominently states:

NOTICE OF PRIVACY PRACTICES OF [INSERT TDMHSAS OR RMHI, AS APPLICABLE]

THIS NOTICE DESCRIBES:

- HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED
- YOUR RIGHTS WITH RESPECT TO YOUR MEDICAL INFORMATION
- HOW TO EXERCISE YOUR RIGHT TO GET COPIES OF YOUR RECORDS AT LIMITED COST OR, IN SOME CASES, FREE OF CHARGE
- HOW TO FILE A COMPLAINT CONCERNING A VIOLATION OF THE PRIVACY, OR SECURITY OF YOUR MEDICAL INFORMATION, OR OF YOUR RIGHTS CONCERNING YOUR INFORMATION, INCLUDING YOUR RIGHT TO INSPECT OR GET COPIES OF YOUR RECORDS UNDER HIPAA.

YOU HAVE A RIGHT TO A COPY OF THIS NOTICE (IN PAPER OR ELECTRONIC FORM) AND TO DISCUSS IT WITH [ENTER NAME OR TITLE AT [PHONE AND EMAIL] IF YOU HAVE ANY QUESTIONS.

- 2.2.2: a description, including at least one example of the types of uses and disclosures that the TDMHSAS or the RMHI is permitted to make for each of the following purposes: treatment, payment, and health care operations;
- 2.2.3: a description of each of the other purposes for which the TDMHSAS or the RMHI is permitted or required to disclose PHI without individual's written authorization;
- 2.2.4: if a use or disclosure as described in 2.2.2 and 2.2.3 includes a more stringent law (such as Tenn. Code Ann. Title 33), the description of such use or disclosure must reflect that more stringent law;
- 2.2.5: the description must include sufficient detail to place the individual on notice of the uses and disclosures that are permitted or required by HIPAA and other applicable law;
- 2.2.6: a description of the types of uses and disclosures that require authorization, a statement that other uses and disclosures not described in the notice will be made only with the individual's written authorization, and a statement that the individual may revoke an authorization;
- 2.2.7: a statement of the individual's rights with respect to PHI and a brief description how the individual may exercise these rights, as provided by law, as follows:

- (1): The right to request restrictions on certain uses and disclosures of PHI, including a statement that the TDMHSAS or the RMHI is not required to agree to a requested restriction except in circumstances outlined by law;
- (2): The right to receive confidential communications of PHI;
- (3): The right of access to inspect and obtain a copy of PHI at limited cost or, in some cases, free of charge; and the right to direct a covered health care provider to transmit an electronic copy of PHI in an electronic health record to a third party;
- (4) The right to amend PHI;
- (5): The right to receive an accounting of disclosures of PHI. *See* TDMHSAS HIPAA Policy 4.8; and
- (6): The right of an individual, including an individual who has agreed to receive notice electronically, to obtain a paper copy of the notice from the TDMHSAS or the RMHI upon request.
- (7): The right to discuss the notice with a designated contact person identified by the TDMHSAS or the RMHI pursuant to paragraph 2.2.10 of this policy.

2.2.8: a statement of the TDMHSAS and/ or the RMHIs duties including:

- (1): A statement that the TDMHSAS and the RMHI is required by law to maintain the privacy of PHI, to provide individuals with notice of its legal duties and privacy practices with respect to PHI, and to notify individuals of a breach of unsecured PHI;
- (2): A statement that the TDMHSAS and the RMI is required to abide by the terms of the notice currently in effect; and
- (3): A statement that the TDMHSAS or the RMHI reserves the right to change the terms of its notice and to make the new notice provisions effective for all PHI that it maintains and describe how it will provide individuals with revised notice.

- 2.2.9: A statement that individuals may complain to the TDMHSAS and to the Secretary of the Department of Health and Human Services (“DHHS”) if they believe their privacy rights have been violated, a brief description of how the individual may file a complaint with the TDMHSAS and/or DHHS, and a statement that the individual will not be retaliated against for filing the complaint;
- 2.2.10: The notice must contain the name or title and telephone number and email for a designated person who is available to provide further information and answer questions about the TDMHSAS or the RMHI's privacy practices;
- 2.2.11: An effective date on which the notice is first in effect, which may not be earlier than the date on which the notice is printed or otherwise published.
- 2.3: The TDMHSAS and the RMHI must promptly revise and distribute its notice whenever there is a material change to the uses or disclosures, the individual's rights, the covered entity's legal duties, or other privacy practices stated in the notice. Except when required by law, a material change to any term of the notice may not be implemented prior to the effective date of the notice in which such material change is reflected.
- 2.4: The TDMHSAS or the RMHI may provide notice as described above to an individual by e-mail, if the individual agrees to electronic notice and such agreement has not been withdrawn. If the TDMHSAS or the RMHI knows that the e-mail transmission has failed, a paper copy of the notice must be provided to the individual.

**3. Procedure/ Responsibility:**

- 3.1: The TDMHSAS and the RMHIs must make the notice described above available on request to any person or to individuals.
- 3.2: The TDMHSAS and the RMHIs must provide the notice no later than the date of first service delivery, including the service delivered electronically, to such individual after the compliance date for the covered health care provider; or in an emergency treatment situation, as soon as reasonably practicable after the emergency treatment situation.
- 3.3: Except in the emergency treatment situation as described in paragraph 3.2 of this policy, the TDMHSAS and the RMHI will make a good faith effort to obtain a written acknowledgement from the recipient of notice provide, and if not obtained, document its good faith efforts to obtain such acknowledgment and the reason(s) why acknowledgment was not obtained.

- 3.4: At the physical site of the RMHIs, the notice shall be provided at the hospital site for individuals to request to take with them upon leaving; and the notice shall be posted in a clear and prominent location where it is reasonable to expect individuals seeking service to be able to read the notice; and whenever the notice is revised promptly update the notice in compliance with paragraph 3.2 of this policy.
- 3.5: At the TDMHSAS website, the notice will be prominently displayed and make the notice available electronically through the website.
- 3.6: The TDMHSAS or RMHI Privacy Officer must document compliance with the notice requirements and retain copies of the notices issued for six (6) years from the date of its creation or the date when it was last in effect, whichever is later.

**4. Other Considerations:**

4.1: Authority:

45 C.F.R. §§ 164.508(b)(5), 164.520, 164.522(b), 164.524, 164.526, 164.528, and 164.530(a)(1)(ii).

Approved:



Commissioner

1-18-2023

Date