

Effective Date: 7/1/2019
Review Date: 12/23/2024
Revised Date: 12/23/2024

North Sound Behavioral Health Administrative Services Organization, LLC

Section 2500 – Privacy: Privacy and Confidentiality of Protected Health Information

Authorizing Source: 45 CFR 164 (HIPAA); 42 CFR Part 2 (Part 2); RCW 70.02

Approved by: Executive Director Date: 12/23/2024 Signature:

POLICY # 2501.00

SUBJECT: PRIVACY AND CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION (including Business Associate and Administrative Responsibilities)

PURPOSE

In compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Part 2, State Law and any applicable Business Associate Agreements (BAAs) and Qualified Service Organization Agreements (QSOAs) with Upstream Covered Entities, this policy declares the commitment of North Sound Behavioral Health Administrative Services Organization (North Sound BH-ASO), and sets out guidelines to maintain a culture of compliance, for the protection of the privacy and confidentiality of Protected Health Information (PHI), including appropriately Using and Disclosing PHI, affording Individuals rights with respect to PHI and implementing administrative responsibilities to promote and protect the privacy and confidentiality of PHI. North Sound BH-ASO is committed to privacy, security and confidentiality protections.

Capitalized terms in this policy have specific meanings. Definitions under this policy include Authorized Representative, Business Associate, Business Associate Agreement (BAA), Individual, Mental Health Information, Part 2, Part 2 Information, Payment, Protected Health Information (PHI), Pre-Transition PHI, Required by Law, Sexually Transmitted Disease (STD), State Law, Transition Date, Treatment, Upstream Covered Entity, Use and Workforce. See Policy 2502.00: Definitions for Policies Governing Protected Health Information (PHI).

BACKGROUND

On July 1, 2019 (the Transition Date), as required by the Washington Health Care Authority (HCA), North Sound BH-ASO transitioned from a behavioral health organization, which was a Covered Entity under HIPAA, to a behavioral health administrative services organization, which is a Business Associate of Upstream Covered Entities and is no longer a Covered Entity under HIPAA. Accordingly, North Sound BH-ASO will continue to Use and Disclose, as well as recognize Individual rights with respect to, Pre-Transition PHI as permitted and required for a Covered Entity. For all other PHI, North Sound BH-ASO shall act as a Business Associate. Pre-Transition PHI has been segregated from PHI created, received, maintained or transmitted by North Sound BH-ASO in its capacity as a Business Associate.

In its designated role as the regional behavioral health administrative services organization, North Sound BH-ASO has multiple responsibilities mandated by federal law and State Law.

North Sound BH-ASO bears considerable responsibility for protecting the PHI accessed, created, received, transmitted, maintained, Used or Disclosed by North Sound BH-ASO, in the performance of its duties, against

misuse by, or Disclosure to, unauthorized Persons. Further, North Sound BH-ASO is acutely aware that mental illness, Substance Use Disorder (SUD) and Sexually Transmitted Disease (STD) continue to be categories of conditions that may subject Individuals to discrimination and other disadvantages. The goal of North Sound BH-ASO is to adopt and maintain a culture of protecting the confidentiality, privacy and security of all PHI, particularly these more sensitive categories of PHI, and to comply with federal law and State Law. In these privacy, security and Breach notification policies, procedures and practices, references to North Sound BH-ASO include its Workforce.

POLICY

North Sound BH-ASO is fully committed to providing confidentiality, privacy and security protections for PHI. North Sound BH-ASO also recognizes Individuals put a great deal of trust in us. North Sound BH-ASO and its Workforce will: embrace a culture of compliance with respect to confidentiality, privacy and Individual rights relating to PHI; comply with applicable federal law and State Law relating to the privacy and confidentiality of PHI including HIPAA, Part 2 and State Law; protect PHI from unauthorized Use or Disclosure; promote Individual rights with respect to PHI; comply with its obligations as a Business Associate of Upstream Covered Entities; and implement and maintain certain administrative processes with respect to the privacy and confidentiality of PHI. North Sound BH-ASO's privacy policies, procedures and practices collectively honor that obligation and commitment. North Sound BH-ASO further honors that obligation and commitment by enforcing its privacy and confidentiality policy, procedures and practices.

PROCEDURES

1. **Culture of Privacy and Confidentiality Compliance.** North Sound BH-ASO and its Workforce are committed to protecting the privacy and confidentiality of PHI and the Individuals we serve. North Sound BH-ASO and its Workforce are and will continue to be committed to fostering a culture of compliance with respect to protecting the privacy and confidentiality of PHI.
2. **Compliance with Laws.** North Sound BH-ASO will comply with applicable law, including:
 - 2.1 **45 CFR Parts 160, 164 (HIPAA):** Administrative Simplification Section of the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act and their implementing regulations;
 - 2.2 **42 CFR Part 2 (Part 2):** Confidentiality of Substance Use Disorder Patient Records;
 - 2.3 **42 CFR 432.300 – 431.307:** State Organization and General Administration, Safeguarding Information on Applicants and Recipients; and
 - 2.4 **RCW 70.02** Uniform Health Care Information Act.

Note: In considering issues related to privacy and confidentiality, a State Law that permits or requires a Disclosure prohibited by federal law is invalid. If, however, a contrary State Law is more stringent than HIPAA, meaning it provides greater privacy protections or greater Individual rights than HIPAA, then the State Law prevails. Other "preemption" exceptions also may apply. If North Sound BH-ASO is able to comply with both HIPAA and the State Law, then North Sound BH-ASO will comply with both. If Workforce members are uncertain as to the applicable standard, then they should consult with North Sound BH-ASO's Privacy Officer.

3. **Personnel Designations.**

3.1 Privacy Officer. North Sound BH-ASO has an appointed Privacy Officer. The Privacy Officer has primary responsibility for: developing and implementing this policy and related privacy policies, procedures and practices; receiving privacy complaints, concerns and questions; providing further information about matters covered in the notice of privacy practices that apply to Pre-Transition PHI; and performing other duties as may be assigned.

3.2 Security Officer. North Sound BH-ASO has an appointed Security Officer. The Security Officer is responsible for the development and implementation of security policies, procedures and practices for North Sound BH-ASO and has other duties as may be assigned.

4. Business Associate Obligations. North Sound BH-ASO, as a Business Associate, shall comply with the terms and conditions of its Business Associate Agreements (BAAs) and Qualified Service Organization Agreements (QSOAs) with Upstream Covered Entities. North Sound BH-ASO also will comply with requirements under HIPAA, Part 2 and State Law that apply directly to Business Associates.

5. Covered Entity Obligations. North Sound BH-ASO, as a former Covered Entity, shall comply with those applicable requirements under HIPAA, Part 2 and State Law that applied to Covered Entities with respect to Pre-Transition PHI.

6. Uses and Disclosures of PHI. Workforce members will Use and Disclose PHI only as permitted or required under Policy 2522.00: Uses and Disclosures of Protected Health Information (PHI) and by HIPAA, Part 2, State Law and applicable BAAs and QSOAs. Workforce members will provide additional protections for Part 2 Information, Mental Health Information and Sexually Transmitted Disease (STD) information as Required by Law and applicable BAAs and QSOAs. See Policy 2522.00: Uses and Disclosures of Protected Health Information (PHI).

6.1 Prohibited Uses and Disclosures of PHI. North Sound BH-ASO will **not**: (a) Use or Disclose PHI in a prohibited Sale of PHI; (b) Use or Disclose Genetic Information for underwriting purposes; or (c) Use or Disclose PHI involving Reproductive Health Care for any of the following activities - (i) to conduct a criminal, civil or administrative investigation into any Person for the mere act of seeking, obtaining, providing or facilitating Reproductive Health Care; (ii) to impose criminal, civil or administrative liability on any Person for the mere act of seeking, obtaining, providing or facilitating Reproductive Health Care; or (iii) to identify any Person for activities described in (i) or (ii).

6.2 Mandatory Uses and Disclosures of PHI. North Sound BH-ASO will Use and Disclose PHI when Required by Law.

6.3 Permitted Uses and Disclosures of PHI. North Sound BH-ASO may Use and Disclose PHI when permitted by HIPAA, Part 2, State Law and applicable BAAs and QSOAs as long as all the requirements for the Use or Disclosure are met. Permitted Uses and Disclosures of PHI include:

6.3.1 For Treatment, Payment and Health Care Operations;

6.3.2 To Persons involved in an Individual's care or Payment for that care or for notification purposes after providing the Individual with an opportunity to agree or object as Required by Law.

6.3.3 As otherwise permitted by law.

6.4 Minimum Necessary. When Using, Disclosing or requesting PHI, Workforce members will make reasonable efforts to limit the Use, Disclosure or request to the minimum necessary to accomplish the intended and permissible purpose of the Use, Disclosure or request, to the extent required by HIPAA, Part 2, State Law and applicable BAAs and QSOAs and in accordance with Policy 2509.00: Minimum Necessary. For example, it would be improper to Disclose an entire record if the recipient of the information needs only a single piece of information. A general guideline for Disclosure of confidential information is to Disclose only the minimum necessary and to only necessary recipients considering the purpose of the communication. Minimum necessary also applies to Workforce so that only Workforce members who have a job-related need to know may access, Use or Disclose PHI.

6.5 Authorization. For any Uses and Disclosures of PHI not specifically permitted by law or Required by Law, North Sound BH-ASO must obtain an authorization from the Individual or the Individual's Authorized Representative. See Policy 2521.00: Authorization.

7. Individual Rights.

7.1 Recognition of Rights.

7.1.1 With respect to Pre-Transition PHI, North Sound BH-ASO shall comply with a Covered Entity's obligations to provide the Individual rights as required under HIPAA, Part 2 and State Law.

7.1.2 In its capacity as a Business Associate, North Sound BH-ASO shall comply with its BAA and QSOA obligations to facilitate the provision of these rights on behalf of its Upstream Covered Entities.

7.2 Right of Individuals to Access PHI. Individuals have the right to request access to or a copy of PHI maintained in a Designated Record Set. Workforce members will process and respond to Individuals' and Upstream Covered Entities' requests for access in accordance with Policy 2514.00: Right to Access Protected Health Information (PHI).

7.3 Right of Individuals to Request to Amend or Correct PHI. Individuals have the right to request amendment or correction of PHI maintained in a Designated Record Set. Workforce members will process and respond to Individuals' and Upstream Covered Entities' requests for amendment in accordance with Policy 2515.00: Right to Amend Protected Health Information (PHI).

7.4 Right of Individuals to an Accounting of Disclosures. Individuals have the right to receive an accounting of certain disclosures of PHI. Workforce members will process and respond to

Individuals' and Upstream Covered Entities' requests for accountings of Disclosures in accordance with Policy 2516.00: Right to an Accounting of Disclosures.

- 7.5 Right of Individuals to Request Alternative Communications.** Individuals have the right to request transmission or communication of PHI by alternative means or to an alternative location. Workforce members will process and respond to Individuals' and Upstream Covered Entities' request for alternative communications in accordance with Policy 2517.00: Right to Alternative Communications.
- 7.6 Right of Individuals to Request Certain Privacy Restrictions.** Individuals have the right to request restrictions on certain Uses and Disclosures of PHI. Workforce members will process and respond to Individuals' and Upstream Covered Entities' requests for certain privacy restrictions in accordance with Policy 2518.00: Right to Request Restrictions on Uses and Disclosures of Protected Health Information (PHI).
- 7.7 Right of Individuals to Make Complaints.** Individuals have the right to make and file complaints. Workforce members will process and respond to complaints. See Section 9.4 of this policy.
- 7.8 Right of Individuals to Have Authorized Representatives Act on Their Behalf.** Individuals have the right to have Authorized Representatives act on their behalf under certain circumstances. See Policy 2514.00: Right to Access Protected Health Information (PHI); Policy 2515.00: Right to Amend Protected Health Information (PHI); Policy 2518.00: Right to Request Restrictions; Policy 2516.00: Right to an Accounting of Disclosures; Policy 2517.00: Right to Alternative Communication; and Policy 2521.00: Authorization for Use and Disclosure of Protected Health Information (PHI).
- 7.9 Right of Individuals to Receive the Notice of Privacy Practices.** Individuals have the right to receive a notice of privacy practices from certain Covered Entities. When it was a Covered Entity, North Sound BH-ASO had a notice of privacy practices, written in plain language, that provided Individuals with notice of North Sound BH-ASO's privacy practices as a Covered Entity in a manner consistent with HIPAA, Part 2, State Law and Policy 2510.00: Notice of Privacy Practices. North Sound BH-ASO no longer needs to provide its notice of privacy practices to Individuals since it is no longer a Covered Entity but will continue to post the notice of privacy practices on its website and to comply with its notice of privacy practices with respect to Pre-Transition PHI in its capacity as a former Covered Entity.

8. Reporting.

- 8.1 Reporting as a Business Associate.** As required by the applicable BAA, North Sound BH-ASO will report to the applicable Upstream Covered Entity the events listed below. The timing of the report will be consistent with North Sound BH-ASO's legal obligations, any timing requirements in the BAA and the level of risk reasonably likely to be presented by the event. The applicable BAA may impose additional reporting requirements. See also North Sound BH-ASO's Policy 2525: Breach Notification and Reporting to Upstream Covered Entities. The following events will trigger reporting to the Upstream Covered Entity under the BAA:

- 8.1.1 Any Use or Disclosure of the Upstream Covered Entity's PHI not permitted or provided for in the BAA of which North Sound BH-ASO becomes aware.
- 8.1.2 Any Security Incident as required by the BAA. Not all Security Incidents may need to be reported. North Sound BH-ASO will verify the requirements of the applicable BAA. See Policy 2505: Definitions for Policies Governing Protected Health Information (PHI) (definition of Security Incident).
- 8.1.3 Any Breach of Unsecured PHI. See Policy 2502: Definitions for Policies Governing Protected Health Information (PHI) (definitions of Breach and Unsecured PHI) and Policy 2525: Breach Notification and Reporting to Upstream Covered Entities.
- 8.2 Notification as a Former Covered Entity.** North Sound BH-ASO will provide notification of a Breach of Unsecured PHI to: Individuals; the Department of Health and Human Services; and, possibly, the media in its role as a former Covered Entity. See Policy 2525: Breach Notification and Reporting to Upstream Covered Entities.
- 8.3 Other Reporting Obligations.** North Sound BH-ASO also will provide notifications as Required by Law including State Law.

9. Administration.

- 9.1 Workforce Training.** North Sound BH-ASO has implemented, and the Privacy Officer will maintain, a mandatory privacy training program for the Workforce. This privacy training program will: (a) emphasize this policy and North Sound BH-ASO's other privacy policies, procedures and practices; (b) address North Sound BH-ASO's obligations under its BAAs and QSOAs; (c) be tailored to reflect the various functions of Workforce members; and (d) be structured and delivered in a manner that facilitates compliance with applicable federal law and State Law, including HIPAA, Part 2 and State Law. See also Policy 2520.00: Training of the Workforce.
- 9.2 Safeguards.** The Security Officer, with assistance from the Privacy Officer, has implemented and will maintain reasonable and appropriate administrative, technical and physical safeguards to protect the privacy of PHI and to protect against impermissible Uses and Disclosures of PHI, in compliance with applicable federal law and State Law, including HIPAA, Part 2, State Law and applicable BAAs. See also Policy 2519.00: Safeguarding of Protected Health Information (PHI), as well as North Sound BH-ASO's security policies, procedures and practices.
- 9.3 Mitigation.** North Sound BH-ASO, to the extent practicable, will mitigate known harmful effects resulting from an impermissible Use or Disclosure of PHI by North Sound BH-ASO or its Subcontractor Business Associates that may occur. See Policy 2525: Breach Notification and Other Reporting to Upstream Covered Entities.
- 9.4 Privacy Complaint Process.**
 - 9.4.1 Individuals may file complaints or raise questions and concerns with the Privacy Officer.

- 9.4.2 Workforce members may file complaints or raise questions and concerns with the Privacy Officer.
- 9.4.3 The Privacy Officer is responsible for reviewing each complaint, investigating the complaint as appropriate and attempting to come to an appropriate resolution of the complaint. The resolution will depend on the particular facts and circumstances of the complaint. Examples of complaint resolution include, but are not limited to, those described below.
- (a) Educating the Individual or Workforce member filing the complaint about North Sound BH-ASO's privacy, security and/or Breach notification policies, procedures and practices or about the requirements of HIPAA, Part 2 and State Law.
 - (b) Implementing changes to North Sound BH-ASO's privacy, security or Breach notification policies, procedures or practices.
 - (c) Providing additional training for Workforce members on North Sound BH-ASO's privacy, security or Breach notification policies, procedures or practices or on HIPAA, Part 2 or State Law.
 - (d) Imposing sanctions on Workforce members who act in a manner inconsistent with North Sound BH-ASO's privacy, security or Breach notifications policies, procedures and practices, HIPAA, Part 2 or State Law.
 - (e) Determining whether (and what) mitigation actions are appropriate and implementing appropriate corrective action and mitigation actions.
 - (f) Issuing new communication and training materials to Workforce.
 - (g) Not taking further actions because the event did not rise to a level that was impermissible under North Sound BH-ASO's privacy, security, or Breach notification policies, procedures and practices, or HIPAA, Part 2 or State Law.
- 9.4.4 After North Sound BH-ASO has addressed a privacy complaint, North Sound BH-ASO will inform the Individual or Workforce member who filed the complaint that the complaint was duly investigated, the general findings of the investigation and the disposition of the complaint. The complaint and its disposition will be documented.
- 9.4.5 North Sound BH-ASO recognizes Individuals have the right to file complaints with the Department of Health and Human Services.
- 9.5 Prohibition of Intimidation or Retaliatory Acts.** Neither North Sound BH-ASO nor any member of its Workforce may intimidate, threaten, coerce, discriminate against or take any retaliatory action of any kind against an Individual for lodging a good faith complaint or otherwise exercising the Individual's privacy rights provided by HIPAA, Part 2 or State Law.
- 9.6 Privacy Rights May Not Be Waived.** Neither North Sound BH-ASO nor any member of its Workforce may require an Individual to waive the Individual's privacy rights under HIPAA, Part 2 or State Law as a condition of Treatment, Payment, enrollment in any health plan, eligibility for direct care or eligibility for health benefits.

9.7 Sanctions for Members of the Workforce.

- 9.7.1 North Sound BH-ASO leadership, in consultation with the Privacy Officer, are responsible for developing, implementing and consistently imposing sanctions and disciplinary actions, up to and including termination of employment or other relationship with North Sound BH-ASO, against members of the Workforce who fail to comply with this policy or other privacy policies, procedures and practices.
- 9.7.2 Failure to comply with any North Sound BH-ASO privacy policies, procedures and practices will constitute grounds for immediate disciplinary action up to and including termination of employment, service or association with North Sound BH-ASO. An inappropriate or indiscriminate acquisition, access, review, Use, Disclosure or transmission of PHI, including, but not limited to, actions that might constitute a Breach of Unsecured PHI (as provided under HIPAA) and/or a breach of the security of the system (as provided under State Law), may result in immediate disciplinary action up to and including termination of employment, service or association North Sound BH-ASO.
- 9.7.3 Disciplinary actions will be taken in a manner consistent with North Sound BH-ASO disciplinary process.
- 9.7.4 As required by federal law, any sanctions applied to any member of the Workforce will be documented, including in the Workforce member's file.

9.8 Policies, Procedures, Practices and Other Documentation. North Sound BH-ASO leadership has and will continue to develop, adopt and implement the policies, procedures, practices, processes and tracking systems as may be necessary to effectuate this policy in compliance with applicable federal and state law, including HIPAA, Part 2 and State Law. North Sound BH-ASO, from time to time, will review and update these policies, procedures, practices and tracking systems to reflect changes in law and in circumstances. To the extent that any requirements in this policy or other privacy-related policies, procedures, practices and tracking systems impose obligations beyond that which is Required by Law, those requirements will be deemed aspirational in nature.

- 10. Verification of Identity and Authority.** Workforce members will take reasonable steps and use professional judgment to verify the identity and authority of any Individual, Authorized Representative or other Person with respect to any access, Use or Disclosure of PHI or exercise of any right relating to PHI, if the identity or authority is not known to North Sound BH-ASO, in accordance with Policy 2524.00: Verification of Identity and Authority.
- 11. Workforce Oath of Confidentiality.** All North Sound BH-ASO Workforce members are required to sign an Oath of Confidentiality statement on or shortly after their starting date and on approximately an annual basis. This statement will affirm, in part, that the Workforce members will not make unauthorized uses or disclosures of any PHI and will take reasonable actions to safeguard PHI.

12. **Questions and Concerns.** Workforce members should bring any questions and concerns about the privacy and confidentiality policies, procedures or practices at North Sound BH-ASO to the Privacy Officer.
13. **Reporting of Suspected Impermissible Actions or Omissions.** Workforce members should inform the Privacy Officer of any actual or suspected breaches of any of North Sound BH-ASO's policies, procedures or practices or any other concerns relating to North Sound BH-ASO's obligations as a Business Associate, the privacy and confidentiality of PHI, Individual rights related to PHI or privacy administrative obligations.
14. **Documentation.** Documentation will be retained for at least six (6) years from the time that the document last was in effect. Retention requirements include, but are not limited to:
 - 14.1 Designating letters for the Privacy Officer and Security Officer.
 - 14.2 This policy and related privacy policies, procedures and practices.
 - 14.3 Documentation of sanctions.
 - 14.4 Documentation concerning complaints.
 - 14.5 Authorizations.
 - 14.6 Documentation concerning exercising of Individual rights.
 - 14.7 Notice of privacy practices.
 - 14.8 Other documentation required by North Sound BH-ASO's privacy policies, procedures and practices.

For additional information regarding documentation, see Policy 2506.00: Documentation.

15. **Related Policies.** All North Sound BH-ASO privacy policies are related to this policy and should be reviewed and followed.

ATTACHMENTS

None