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## North Sound Behavioral Health Administrative Services Organization, LLC

Section 2500 – Privacy: Uses and Disclosure of Protected Health Information (PHI)

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

Approved by: Executive Director Date: 08/11/2020 Signature:

### POLICY # 2522.00

#### SUBJECT: USES AND DISCLOSURE OF PROTETED HEALTH INFORMATION (PHI)

#### PURPOSE

In compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Part 2, Washington law and any applicable Business Associate Agreements (BAAs) with Upstream Covered Entities, this policy sets out the permissible and required Uses and Disclosures of Protected Health Information (PHI), including Part 2 Information, Mental Health Information and Sexually Transmitted Disease (STD) information. These laws were intended to safeguard sensitive health data and permit Use and Disclosure of PHI only for appropriate purposes or with express authorization by or on behalf of the Individual.

Capitalized terms in this policy have specific meanings. Definitions under this policy include Authorized Representative, Business Associate, Business Associate Agreement (BAA), Disclosure or Disclose, Health Care Operations, Individual, Mental Health Information, Part 2 Information, Payment, PHI, Pre-Transition PHI, Required by Law, Research, STD, Subcontractor Business Associate, Transition Date, Treatment, Upstream Covered Entity, Use, Vulnerable Adult and Workforce. See 2502.00: Definitions for Policies Governing PHI.

#### POLICY

North Sound Behavioral Health-Administrative Services Organization (North Sound BH-ASO) recognizes the importance of and is committed to protecting the privacy of PHI, particularly of Part 2 Information, Mental Health Information and STD information, as well as the need for promoting a culture of compliance with its privacy obligations. North Sound BH-ASO will Use and Disclose PHI only as Required by Law or permitted by law in accordance with this and other policies, including Policy 2509.00: Minimum Necessary. To the extent that North Sound BH-ASO is acting as a Business Associate of an Upstream Covered Entity, North Sound BH-ASO will comply with the Use and Disclosure obligations of the applicable Business Associate Agreement (BAA).

#### PROCEDURE

1. **Segregation of PHI.** North Sound BH-ASO segregates Pre-Transition PHI from PHI North Sound BH-ASO creates, receives, maintains or transmits in its capacity as a Business Associate of Upstream Covered Entities.

For any Use or Disclosure of PHI, Workforce must determine whether or not the PHI is Pre-Transition PHI. For Pre-Transition PHI, the Uses and Disclosures must be required or permissible for a Covered Entity (North Sound BH-ASO's status before the Transition Date). For other PHI, Uses and Disclosures must be required or permissible pursuant to the applicable Business Associate Agreement (BAA) of the Upstream Covered Entity.

2. **Business Associate Agreement.** North Sound BH-ASO shall comply with its BAAs. Additionally, as a Business Associate, North Sound BH-ASO “steps into the shoes” of the Upstream Covered Entity and must not Use or Disclose PHI in a manner prohibited by HIPAA for the Upstream Covered Entity (except as specifically permitted for a Business Associate).
3. **Permissive Uses and Disclosures of PHI When a Written Authorization is Not Required.** The following Uses and Disclosures of PHI are permitted without obtaining authorization to the extent and in the manner provided by applicable law and North Sound BH-ASO policies and procedures.

**Note: Special rules for Uses and Disclosure apply to Part 2 Information, Mental Health Information and STD information. Workforce must clarify the permissiveness of any Use or Disclosure of Part 2 Information, Mental Health Information and STD information with the Privacy Officer.**

See also: Section 5 of this policy for Uses and Disclosures of Mental Health Information; Section 6 of this policy for Uses and Disclosures of Part 2 Information; and Section 7 of this policy for Uses and Disclosures of STD information.

- 3.1 **Treatment.** Workforce members may Use PHI, except Part 2 Information, for Treatment activities by North Sound BH-ASO.
  - 3.1.1 Workforce members may Use PHI, except Part 2 Information, for Treatment activities by North Sound BH-ASO. (Health Care Providers may Use PHI for their own Treatment purposes). This includes information related to Mental Health Information and STD information. Part 2 Programs may Use and communicate Part 2 Information within a Part 2 Program (or with an entity with direct administrative control of the Part 2 Program) in connection with Part 2 Program personnel’s duties that arise out of the provision of diagnosis, Treatment or referral for Treatment. See Policy 2502.00: Definitions for Policies Governing PHI (Definition of Treatment).
  - 3.1.2 Workforce members may Disclose PHI, except Part 2 Information, for Treatment purposes to a Health Care Provider. (Health Care Providers may Disclose PHI for Treatment purposes). This includes Mental Health Information and STD information, but not Part 2 Information.
  - 3.1.3 Uses or Disclosures for Treatment purposes are not subject to the minimum necessary requirements.
- 3.2 **Payment.** Workforce members may Use or Disclose PHI for Payment purposes of North Sound BH-ASO or another Health Care Provider or Covered Entity. If a Workforce member is unable to verify to whom PHI should be Disclosed for purposes of a different entity’s Payment, then the Workforce member will contact the Privacy Officer who will determine whether an authorization is required. This includes Uses and Disclosures for Mental Health Information and STD information. Part 2 Information may be Disclosed for Payment purposes as long as the Individual authorizes the Disclosure. Generally, for Part 2 Information, a Part 2 Program may Disclose Part 2 Information to North Sound BH-ASO, as the Business Associate of an Upstream Entity, for Payment purposes only in reliance on an authorization, which makes North Sound BH-ASO a lawful holder of Part 2 Information and, therefore, subject to certain Part 2 requirements. North Sound may permit a Subcontractor Business Associate to create, receive, maintain or transmit Part 2 Information for Payment purposes, as long as North Sound BH-ASO

has a signed and valid BAA in place that contains the expanded language required by Part 2. See Policy 2502.00: Subcontractor Business Associates (Down Stream).

3.3 **North Sound BH-ASO's Health Care Operations.** Workforce members may Use or Disclose PHI, including Mental Health Information, to carry out North Sound BH-ASO's Health Care Operations. When North Sound BH-ASO is acting as a lawful holder of Part 2 Information, meaning an Individual authorized North Sound BH-ASO to receive Part 2 Information, North Sound BH-ASO may permit a Subcontractor Business Associate to create, receive, maintain or transmit Part 2 Information for Health Care Operations purposes as long as North Sound BH-ASO has a signed and valid BAA in place that contains the expanded language required by Part 2. See Policy 2507.00: Subcontractor Business Associates (Downstream). Part 2 Information may be Disclosed for Health Care Operations, as long as the Individual consents to the Disclosure.

3.4 **Another Covered Entity's Health Care Operations.** Workforce members may Disclose PHI Information (including Mental Health Information), but not including Part 2 Information and STD information, to another Covered Entity for purposes of that Covered Entity's Health Care Operations, but only if the other Covered Entity has or had a relationship with the Individual, the PHI pertains to that relationship and the Disclosure is limited to:

- (a) Quality assessment and improvement activities;
- (b) Peer review;
- (c) Population health-based activities in connection with improving health care outcomes or reducing health care costs;
- (d) Health Plan case management or care coordination activities;
- (e) Training;
- (f) Accreditation;
- (g) Certification;
- (h) Licensing;
- (i) Credentialing; or
- (j) Health care fraud, waste and abuse compliance or detection.

For example, if a Health Plan is seeking PHI to perform data analysis to identify ways to reduce health care costs and requests PHI regarding a former member, North Sound BH-ASO may Disclose PHI from the period of time during which the Individual was a member of the Health Plan, to the extent the PHI is relevant to the Health Plan's analysis. Workforce members should not Disclose PHI for another Covered Entity's Health Care Operations without the Privacy Officer's approval.

3.5 **Organized Health Care Arrangement's Health Care Operations.** Workforce members may Use and Disclose PHI for any Health Care Operations of an Organized Health Care Arrangement to which North Sound BH-ASO belongs. Note: Part 2 Information and STD information may not be Disclosed for these purposes.

3.6 **Subcontractor Business Associates.** Workforce members may permit downstream Subcontractor Business Associates to create, receive, maintain or transmit PHI as part of certain services or functions for or on behalf of North Sound BH-ASO as long as North Sound BH-ASO has entered into appropriate contractual protections, usually in the form of a BAA with, if appropriate, expanded obligations related to Part 2 Information, as set forth in Policy 2507.00: Subcontractor Business Associates (Downstream). Any BAA must meet the minimum content

requirements. Disclosures must be limited to the terms set forth in the BAA and in accordance with Policy 2507.00: Subcontractor Business Associates (Downstream). Even if a BAA is in place, a Disclosure to a Subcontractor Business Associate still must be otherwise permissible under this policy, such as a Disclosure for Treatment, North Sound BH-ASO's Payment activities or Health Care Operations. North Sound BH-ASO will require that a Subcontractor Business Associate limit its creation, receipt, transmission or maintenance of PHI to the minimum necessary to carry out the permissible or required purposes. See Policy 2509.00: Minimum Necessary.

3.7 **Appointment Reminders, Treatment Alternatives and Health-Related Benefits and Services.**

Workforce members may Use or Disclose PHI as appropriate to remind Individuals of their appointments, to tell Individuals about alternative treatment therapies, providers or care settings and to tell Individuals about health-related products, benefits or services related to their Treatment or management or coordination of their care, as long as North Sound BH-ASO does not receive Financial Remuneration from a third-party whose item or service is being described. Any Use of automated calling or texting must be approved by the Privacy Officer to verify compliance with the Telephone Consumer Protection Act. North Sound BH-ASO, from time to time, may provide information to Health Care Providers with information concerning the Telephone Consumer Protection Act.

3.8 **Public Health.** Workforce members may Disclose PHI, including STD information and Mental Health Information, but not including Part 2 Information, to a health oversight agency for activities authorized by law, such as audits, investigations, inspections and licensure. Workforce members may Disclose PHI that is not Part 2 Information for public health activities that are authorized by law, but not Required by Law. These activities generally include Disclosures to:

3.8.1 A public health authority (such as the State Health Care Authority, State Department of Health, the Centers for Disease Control and Prevention, or the National Institutes of Health) or its contractors for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to: the reporting of disease, injury, vital events such as birth or death and the conduct of public health surveillance, public health investigations and public health interventions; or at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;

3.8.2 A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect (Section 3.11 of this policy);

3.8.3 To a person responsible for federal Food and Drug Administration (FDA) activities for purposes related to the quality, safety, or effectiveness of FDA-regulated products or activities; or to enable product recalls, repairs or replacements.

3.9 **Exposed Person.** Workforce members may Disclose PHI to persons who may have been exposed to a communicable disease or may be at risk of contracting or spreading a disease or condition. Workforce may Disclose STD information to persons who, because of their behavioral interaction with the infected Individual, have been placed at risk for acquisition of an STD, if North Sound BH-ASO believes the exposed person was unaware a risk of disease exposure existed and the Disclosure of the identity of the infected Individual is necessary.

Note: Part 2 Information may not be Disclosed for this purpose.

- 3.10 **Research.** Workforce members may Use and Disclose PHI for Research purposes as authorized by the Individual and to the extent allowed by federal and state law, including HIPAA and in accordance with Policy 2513.00: Research. This includes Part 2 Information, Mental Health Information and STD information. See Policy 2513.00: Research.
- 3.11 **Actual or Suspected Child Abuse or Neglect.** As stated above, Workforce members may and are strongly encouraged to, Disclose PHI as required for reports of child abuse or neglect. This includes all PHI, but see Section 6.7 of this policy, which identifies limitations imposed with regard to Part 2 Information. Note that only licensed Health Care Providers are mandatory reporters. See Policy 2502.00: Definitions for Policies Governing PHI (definition of Vulnerable Adult) and Policy 1009.00: Critical Incidents.
- 3.12 **Vulnerable Adult Abuse.** Workforce members may Disclose PHI as required for reports of Vulnerable Adult abuse, neglect or abandonment. Note: Part 2 Information, Mental Health Information and STD information may not be Disclosed for these purposes (unless otherwise permitted by this policy). To accomplish this Disclosure of PHI for these purposes, Disclosure may be provided on an anonymous basis. Health Care Providers are mandatory reporters. Vulnerable Adult abuse includes abuse of a person: (a) 60 years of age or older who has the functional, mental, or physical inability to care for himself or herself; (b) found incapacitated; (c) who has a developmental disability; (d) admitted to any facility; (e) receiving services from home health, hospice, or home care agencies; (f) receiving services from an individual provider; or (g) who self-directs his or her own care and receives services from a personal aide. See Policy 2502.00: Definitions for Policies Governing PHI (definition of Vulnerable Adult) and Policy 1009.00: Critical Incidents.
- 3.13 **Serious and Imminent Threat to Health and Safety.** Workforce members may and are strongly encouraged, to Use and Disclose PHI when they reasonably believe an Individual presents a serious and imminent threat to the health or safety of a person (including the Individual) or the public. Disclosures will be only to persons reasonably likely to help prevent the threat. This includes Mental Health Information; however, only licensed mental health professionals are considered mandatory reporters.

For example, if an Individual tells his psychotherapist he has persistent images of harming his spouse, then the psychotherapist may: (a) notify the spouse; (b) call the Individual's psychiatrist or primary care physician to review medications and develop a plan for voluntary or involuntary hospitalization or other Treatment; (c) call 911, if emergency intervention is required; and/or (d) notify Law Enforcement Officials, if needed. Regulators are not likely to second guess a health professional's reasonable judgment about when an Individual seriously and imminently threatens the health or safety of the Individual or others.

Workforce members may Disclose Part 2 Information as detailed in Section 6.7 of this policy or to medical personnel who have a need for the information about an Individual for the purpose of treating a condition that poses an immediate threat to the health of any person and requires immediate medical intervention. See Section 7 of this policy for STD information.

### 3.14 **Coroners, Medical Examiners and Funeral Directors.**

- 3.14.1 Workforce members may Disclose PHI about an Individual, including Part 2 Information, Mental Health Information and STD information to a medical examiner or coroner for the purpose of identifying a deceased person, determining the cause of death, or other duties as authorized by law.

- 3.14.2 Workforce members may Disclose PHI not including Part 2 Information, Mental Health Information or STD information, about Individuals to funeral directors, consistent with applicable law, so they can perform their duties.
- 3.15 **Organ Tissue Donation.**
- 3.15.1 Workforce members may Disclose PHI, not including Part 2 Information and Mental Health Information, to organizations that handle organ procurement or organ, eye or tissue transplants or to an organ donation bank, as required and needed for organ, eye or tissue donation and transplants.
- 3.15.2 Workforce may Disclose STD information to a health facility or Health Care Provider that procures, processes, distributes or uses: (a) a human body part, tissue or blood from a deceased person with respect to medical information regarding that person; (b) semen, for the purpose of artificial insemination; or (c) blood specimens.
- 3.16 **Worker's Compensation.** Workforce members may Disclose PHI for workers' compensation purposes to the extent authorized by the worker's compensation law. Note: This provision does not apply to Part 2 Information, Mental Health Information or STD information.
- 3.17 **National Security.** Workforce members may Disclose PHI to authorized federal officials for intelligence, counterintelligence, special investigations and other national security activities authorized by the National Security Act and implementing authority and so they may protect the President or other authorized persons. Note: This provision does not apply to Part 2 Information, Mental Health Information or STD information.
- 3.18 **Military Personnel.** Workforce members may Disclose PHI about Armed Forces personnel and foreign military personnel for activities deemed necessary by appropriate military command authorities. Note: This provision does not apply to Part 2 Information, Mental Health Information or STD information.
- 3.19 **Inmates and Detainees.**
- 3.19.1 Workforce members may Disclose PHI, including Mental Health Information, regarding an inmate of a correctional institution to a correctional official, or regarding a person under custody of a Law Enforcement Official to that official as long as the correctional institution or Law Enforcement Official represents the PHI is necessary for:
- (a) The provision of Health Care to the Individual;
  - (b) The health and safety of the Individual, other inmates, officers, employees or persons responsible for transporting or transferring inmates;
  - (c) Law enforcement on the premises of the correctional institution; or
  - (d) The administration and maintenance of the safety, security and good order of the correctional institution.
- 3.19.2 North Sound BH-ASO may Disclose STD information with regard to inmates and detainees as follows:
- (a) Where the detainee underwent mandatory testing; or
  - (b) Where a correctional institution employee was substantially exposed to the detainee's STD.

### 3.20 **Victims of Domestic Violence.**

- 3.20.1 For Disclosures that are not Required by Law, Workforce members may Disclose PHI about an Individual reasonably believed to be the victim of domestic violence to a government authority authorized by law to receive reports in the following circumstances:
- (a) With the Individual's or the Individual's Authorized Representative's agreement (which may be given orally);
  - (b) If the Individual is incapacitated and a Workforce member obtains a representation from the recipient of the Disclosure the PHI will not be used against the Individual and an enforcement activity would be materially and adversely affected by awaiting the Individual's agreement.
  - (c) See also Sections 3.13, 6.7 and 7.4 of this policy for additional information.
- 3.20.2 The Workforce member will inform the Individual or the Individual's Authorized Representative the report has been made unless:
- (a) The Workforce member, in the exercise of professional judgment, believes informing the Individual or the Authorized Representative would place the Individual at risk of serious harm; or
  - (b) The Workforce member would be informing an Authorized Representative and the Workforce member reasonably believes the Authorized Representative is responsible for the abuse, neglect or other injury and informing the Authorized Representative would not be in the best interests of the Individual, as determined by the Workforce member in the exercise of professional judgment.

- 3.21 **Law Enforcement Activities.** Workforce members may Disclose PHI to Law Enforcement Officials in certain circumstances. Workforce will contact the Privacy Officer in these situations.
- 3.22 **Incidental Uses and Disclosures.** Certain incidental Disclosures of PHI that may occur as a by-product of permitted Uses and Disclosures are permissible, as long as Workforce members have applied reasonable safeguards and implemented the minimum necessary standard (see Policy 2509.00: Minimum Necessary) to protect Individuals' privacy. To be permissible, there must be a permissible underlying Use or Disclosure. For example, if a Workforce member answers an Individual's question speaking at a reasonable volume (the permissible underlying Disclosure) and this results in another person overhearing PHI, then the Disclosure to the other person would be a permissible incidental Disclosure. In contrast, if a communication of PHI is misdirected to the wrong person, then this would not be a permissible incidental Disclosure. Note: This does not apply to Part 2 Information or STD information.
- 3.23 **De-Identified Data.** Workforce members may De-Identify PHI and may Use or Disclose De-Identified Data in accordance with Policy 2503.00: De-Identification and Limited Data Set.
- 3.24 **Limited Data Sets.** Workforce members may create Limited Data Sets and may Use or Disclose a Limited Data Set for purposes of Research, public health or Health Care Operations if the recipient executes a Data Use Agreement, in accordance with Policy 2503.00: De-Identification and Limited Data Sets. This does not apply to Part 2 Information, Mental Health Information and STD information.

- 3.25 **Other Permissible Uses and Disclosures.** Workforce members otherwise may Use and Disclose PHI only as allowed by federal law and State Law and applicable North Sound BH-ASO policies, procedures, practices and processes.
4. **Mandatory Uses and Disclosures of PHI without Individual Authorization.** As required by federal or State Law, PHI may be Used or Disclosed by Workforce members as follows:
- 4.1 **HIPAA Compliance.** Workforce members will Disclose PHI to the Secretary of the Department of Health and Human Services as required to ascertain compliance with HIPAA requirements. The Privacy Officer must approve any Disclosure of PHI for this purpose.
- 4.2 **Court Orders and Warrants.** Workforce members will Disclose PHI pursuant to and in compliance with a lawful court order, court-ordered warrant or similar instrument. This includes Mental Health Information and STD information. See Section 6.3 of this policy with regard to Part 2 Information. The Privacy Officer must approve any Disclosure for this purpose.
- 4.3 **Sex Offenders.** Workforce members will Disclose PHI in court-ordered reports of positive blood test results for HIV or other STDs regarding persons charged with sex offenses to the persons whose need for the information is the basis for the order.
- 4.4 **Public Health Activities.** Workforce members will Disclose PHI as Required by Law to public health authorities, such as the Centers for Disease Control and Prevention and the National Institutes of Health. The Privacy Officer must approve any Disclosure for this purpose.
5. **Mental Health.** Washington law imposes tighter restrictions on the Disclosure of Mental Health Information. Workforce members shall verify they Disclose Mental Health Information only when permitted by law or North Sound BH-ASO policy. Mental Health Information may be Disclosed without an authorization only:
- 5.1 **Designated Communications.** In communications between qualified mental health professionals, in the provision of services or appropriate referrals or in the course of guardianship proceedings if provided to a professional person:
- 5.1.1 Employed by the facility;
- 5.1.2 Who has medical responsibility for the Individual's care;
- 5.1.3 Who is providing mental health services;
- 5.1.4 Who is employed by a state or local correctional facility where the person is confined or supervised; or
- 5.1.5 Who is providing evaluation, Treatment or follow-up services for the criminally insane.
- 5.2 **Special Needs.** When the communications involve the special needs of an Individual and the necessary circumstances giving rise to those needs and the Disclosure is made by a facility providing services to the operator of a facility in which the Individual resides or will reside.
- 5.3 **Designated by the Individual.** When the Individual or the Individual's Authorized Representative designates persons to whom the Mental Health Information or records may be Disclosed, or if the Individual is a minor, when his or her parents make the designation. See also Policy 2511.00: Opportunity to Agree or Object.
- 5.4 **Attorney.** To the attorney of a detained person.
- 5.5 **Prosecuting Attorneys.** To a prosecuting attorney when the Individual is subject to detention, involuntary outpatient evaluations or arrest.



- 5.6 **Commitment.** For persons involved in the Individual’s commitment following dismissal of sex, violent or felony harassment offenses.
  - 5.7 **Deceased Individual.** To the Individual’s next of kin, personal representative, guardian or conservator upon the Individual’s death.
  - 5.8 **Government Agencies.** To qualified staff members of the Washington State Department of Social and Health Services (DSHS), the directors of regional support networks, resource management services responsible for serving the Individual or service providers designated by resource management services as necessary to determine the progress and adequacy of Treatment and to determine whether the Individual should be transferred to a less restrictive or more appropriate treatment modality or facility.
  - 5.9 **Coordination of Care.** To DSHS as necessary to coordinate Treatment for mental illness, developmental disabilities, alcoholism or drug abuse of Individuals who are under the supervision of DSHS.
  - 5.10 **Involuntary Commitment.** To the Individual’s Authorized Representative to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals or other actions relating to detention, admission, commitment or Individual's rights.
  - 5.11 **Advocacy Agencies.** To staff members of the protection and advocacy agency or to staff members of a private, non-profit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities.
6. **Part 2 Information.** Federal regulations governing the confidentiality of Part 2 Information generally are more restrictive than HIPAA and should be followed when any Part 2 Information is requested for Use or Disclosure. A fundamental concept of protecting Part 2 Information is not identifying the Individual as having a diagnosis or having received Treatment concerning substance use disorder (SUD). Part 2 applies to Part 2 Programs. North Sound BH-ASO is not a Part 2 Program. Individuals routinely authorize Part 2 Programs to Disclose Part 2 Information to North Sound BH-ASO or to an Upstream Covered Entity for Payment, Health Care Operations and other purposes. As a result, North Sound BH-ASO is a lawful holder of Part 2 Information, subject to various Part 2 requirements. Therefore, North Sound BH-ASO will comply with Part 2, as applicable. Workforce members must obtain a specific authorization for each Disclosure of Part 2 Information concerning an Individual, EXCEPT:
- 6.1 **Internal Program Communication.** Workforce members may Disclose Part 2 Information to other Workforce members or to an entity having direct administrative control over North Sound BH-ASO, if the recipient needs the information in connection with the provision of substance abuse disorder diagnosis, Treatment or referral for Treatment.
  - 6.2 **Medical Emergencies.** Workforce members may Disclose Part 2 Information to medical personnel who have a need for the Part 2 Information about an Individual for the purpose of treating a condition that poses an immediate threat to the health of any person and requires immediate medical intervention. Workforce members may Disclose Part 2 Information only to medical personnel and must limit the amount of Part 2 Information to that which is necessary to treat the emergency medical condition. Immediately following the Disclosure, Workforce members must document the following in the Individual’s records:
    - 6.2.1 The name and affiliation of the medical personnel to whom Disclosure was made;
    - 6.2.2 The name of the person making the Disclosure;
    - 6.2.3 The date and time of the Disclosure; and

- 6.2.4 The nature of the emergency.
- 6.3 **Court Order.** Before a court may issue an order authorizing Disclosure of Part 2 Information, North Sound BH-ASO and any Individual whose records are sought must be given notice of the request for the court order and an opportunity to make an oral or written statement to the court. Before issuing the order, the court also must find there is “good cause” for the Disclosure. Court-ordered Disclosures must be limited to the Part 2 Information essential to fulfill the purpose of the order and must be restricted to those persons who need the Part 2 Information. Typically, court orders will state they are “protective orders,” “qualified protective orders” or “orders under seal.” Workforce shall obtain the advance approval of the Privacy Officer before Disclosing Part 2 Information for these purposes. If the order is sought by an authorized Law Enforcement Official or prosecuting attorney, then the following criteria must be met:
  - 6.3.1 The crime must be serious (e.g., an act causing or threatening to cause death or injury);
  - 6.3.2 The records requested must be likely to have information of significance to the investigation or prosecution;
  - 6.3.3 There is no other practical way to obtain the Part 2 Information;
  - 6.3.4 The public interest in Disclosure outweighs any actual or potential harm to the Individual or the ability of the Part 2 Program to provide services to other persons; and
  - 6.3.5 When law enforcement personnel seek the order, the Part 2 Program has had an opportunity to be represented by counsel.
- 6.4 **Subpoenas.** Workforce members are prohibited from Disclosing PHI about Individuals in response to subpoenas unless:
  - 6.4.1 The Individual has signed a valid authorization for the Disclosure of the PHI, specifically including Part 2 Information; or
  - 6.4.2 A court has ordered North Sound BH-ASO to Disclose the PHI after giving the Individual and North Sound BH-ASO an opportunity to be heard and after making a “good cause” determination. Workforce shall obtain the advance approval of the Privacy Officer before Disclosing Part 2 Information for these purposes.
- 6.5 **Crime on Premises.** Workforce members may Disclose limited information to Law Enforcement Officials when a crime has been committed on the premises of a Part 2 Program or against Part 2 Program personnel. These Disclosures must be directly related to crimes and threats to commit crimes on North Sound BH-ASO premises or against North Sound BH-ASO Workforce and must be limited to the circumstances of the incident and the Individual’s status, name, address and last known whereabouts. Workforce shall obtain the advance approval of the Privacy Officer before Disclosing Part 2 Information for these purposes.
- 6.6 **Research Purposes.** Under this exception, Workforce may Disclose Part 2 Information to researchers the Privacy Officer determines are qualified. A qualified researcher must have adequate training and experience in the area of research to be conducted and must have a protocol that ensures Part 2 Information will be securely stored and not re-Disclosed in violation of law. Workforce shall obtain the advance approval of the Privacy Officer before Disclosing Part 2 Information for these purposes. See the Policy 2513.00: Research for additional information.

## 6.7 Audits.

- 6.7.1 Workforce shall obtain the advance approval of the Privacy Officer before Disclosing Part 2 Information for audit purposes and will follow protocol set out by the Privacy Officer with respect to the audit.
- 6.7.2 As long as Part 2 Information is not downloaded, copied or removed from the premises or forwarded electronically to another electronic system or device, Workforce members and Part 2 Programs may Disclose Part 2 Information in the course of record review on the premises to a government agency that funds or regulates a Part 2 Program, or other lawful holder, or a third-party payor, or a quality improvement organization (or its designated contractors) that request access to the records of a Part 2 Program or lawful holder.
- 6.7.3 Part 2 Information may be copied or removed from the premises or downloaded or forwarded electronically to another electronic system or device in the course of record review on the premises to a government agency that funds or regulates a Part 2 Program, or other lawful holder, or a third-party payor, or a quality improvement organization (or its designated contractors) that request access to the records of a Part 2 Program or lawful holder only if the auditor agrees in writing to: maintain and destroy the Part 2 Information in a manner consistent with Part 2; retain Part 2 Information in compliance with record retention laws; and comply with the Part 2 restrictions on Use and Disclosure of Part 2 Information.
- 6.7.4 Part 2 Information may be Disclosed to a person or entity for the purpose of conducting a Medicare, Medicaid or CHIP audit or evaluation.
- 6.7.5 The auditor or evaluator must agree in writing it will re-Disclose Part 2 Information only back to the Part 2 Program and will Use Part 2 Information only to carry out an audit or evaluation purpose, pursuant to a court order or to investigate or prosecute criminal or other activities.

6.8 **Abuse and Threats to Health and Safety.** Workforce members may, and are encouraged to, Disclose Part 2 Information when the Part 2 Program is reporting under State Law incidents of suspected child abuse and neglect to appropriate authorities. In this case, North Sound BH-ASO may make only an initial report; North Sound BH-ASO may not respond to follow-up requests for information or to subpoenas, unless the Individual has signed an authorization or a court has issued an order that complies with the Part 2 Rule (See Section 6.3 above). Additionally, North Sound BH-ASO may report Part 2 Information to relevant authorities concerning the abuse of Vulnerable Adults on an anonymous basis if it determines it is important to report elder abuse, disabled person abuse or a threat to someone's health or safety. Health Care Providers are mandatory reporters.

6.9 **Review of Part 2 Disclosures.** Any PHI Disclosed without the consent and/or authorization of an Individual in a Part 2 Program may be made only in consultation with the Privacy Officer. If North Sound BH-ASO receives a request for Disclosure of an Individual's record that is not permitted under Part 2, then North Sound BH-ASO will refuse to make the Disclosure and will make the refusal in a way that does not reveal or identify the Individual has ever been diagnosed or treated for substance use disorder.

7. **STD Information.** PHI related to an Individual's STD is highly confidential and generally requires Individual authorization. STD means a bacterial, viral, fungal or parasitic disease determined by the

State, based on recommendations of the Centers for Disease Control and other nationally recognized medical authorities to be sexually transmitted, to be a threat to the public health and welfare and to be a disease for which a legitimate public interest will be served by providing for regulation and treatment. AIDS, HIV infection, chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), trachomitis, genital human papilloma virus infection and syphilis have been designated as STDs. Workforce members may Disclose PHI related to STD without an Individual's authorization if the Disclosure is to:

- 7.1 **Authorized Representative.** The Individual's Authorized Representative with the exception of an Authorized Representative of a minor who is fourteen (14) years of age or over and otherwise competent.
  - 7.2 **Public Health.** A state or federal public health official.
  - 7.3 **Organ and Tissue Donation.** A health facility or health care provider that procures, processes, distributes, or uses: (a) a human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (b) semen for the purpose of artificial insemination; or (c) blood specimens.
  - 7.4 **Exposed Person.** Persons who because of their behavioral interaction with the infected Individual have been placed at risk for acquisition of an STD, if North Sound BH-ASO believes the exposed person was unaware a risk of disease exposure existed and the Disclosure of the identity of the infected person is necessary.
  - 7.5 **Exposed Official.** A Law Enforcement Official, firefighter, Health Care Provider, health care facility staff person, department of correction's staff person, jail staff person or other persons defined by State Law who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, if a state or local public health officer performs the test.
  - 7.6 **Government Agency.** A DSHS worker, a child placing agency worker or guardian ad litem who is responsible for making or reviewing placement or case-planning decisions or recommendations to the court regarding a child, who is less than fourteen (14) years of age, has an STD and is in the custody of DSHS or a licensed child placing agency. This PHI also may be received by a person responsible for providing residential care for the child when DSHS or a licensed child placing agency determines it is necessary for the provision of childcare services.
8. **Other Mandatory Disclosures.** Workforce members will Disclose PHI as may be Required by Law, but only to the extent Required by Law. The Privacy Officer must approve any Disclosures Required by Law.
  9. **Pursuant to a Written Authorization.** When an authorization (also called a consent, release of information or ROI) is required for Use or Disclosure of PHI, Workforce members will Use and Disclose PHI only pursuant to a valid, written authorization, in a manner consistent with federal and state law, including HIPAA. Generally, an authorization is required for Uses and Disclosures for: (a) Research (subject to the exceptions); (b) Psychotherapy Notes; (c) Sale of PHI (subject to the exceptions); (d) Marketing (subject to the exceptions; and (e) purposes not otherwise permitted by law or Required by Law. Most Uses and Disclosures of Part 2 Information, Mental Health Information and STD information also will require an authorization. See Policy 2521.00: Authorization.
  10. **Uses and Disclosures for which Individuals Will Be Given the Opportunity to Object.** Workforce members may Use and Disclosure PHI for the purposes listed below, as long as the Individual has been given the opportunity to object and has not done so, in accordance with Policy: 2511.00: Opportunity to Agree or Object. Note: Uses and Disclosures for these purposes may not be permitted for Part 2

Information, Mental Health Information, or STD information. See Policy: 2511.00: Opportunity to Agree or Object.

- 10.1 **Persons involved in Individual's care;**
- 10.2 **Notification; and**
- 10.3 **Disaster relief purposes.**

- 11. **Minimum Necessary.** Workforce shall comply with Policy 2509.00: Minimum Necessary. In most situations, Workforce may Use and Disclose only the minimum PHI necessary for the permitted or required purpose. Even when the minimum necessary requirements do not apply, Workforce should attempt to limit the PHI being Used and Disclosed as long as consistent with the Individual's best interests. See Policy 2509.00: Minimum Necessary.
- 12. **Verification of Identity and Authority.** Workforce shall verify the identity and authority of any person requesting the Use or Disclosure of PHI as provided in Policy 2524.00: Verification of Identity and Authority.
- 13. **Documentation.** Documentation relating to any Use and Disclosure shall be retained at least six (6) years. Retention requirements include:
  - 13.1 **Policies, procedures and processes for Uses and Disclosures.**
  - 13.2 **Authorizations.**
- 14. **Other policies and procedures to review that are related to this policy:**
  - 14.1 **Policy 2501.00: Privacy and Confidentiality of Phi.**
  - 14.2 **Policy 2502.00: Definitions for Policies Governing PHI.**
  - 14.3 **Policy 2503.00: De-Identified Data and Limited Data Sets.**
  - 14.4 **Policy 2508.00: Marketing.**
  - 14.5 **Policy 2509.00: Minimum Necessary.**
  - 14.7 **Policy 2511.00: Opportunity to Agree or Object.**
  - 14.8 **Policy 2513.00: Research.**
  - 14.9 **Policy 2521.00: Authorization for Use and Disclosure of PHI.**
  - 14.10 **Policy 2523.00: Sale of PHI.**
  - 14.11 **Policy 2524.00: Verification of Identity and Authority.**

#### **ATTACHMENTS**

None