

Effective Date: 7/1/2019

Review Date: 7/30/2019

Revised Date:

North Sound Behavioral Health Administrative Services Organization, LLC

Section 2500 – Privacy: Sale 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: 7/30/2019 Signature:

POLICY # 2523.00

SUBJECT: SALE OF PROTECTED 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 requirements concerning receiving remuneration in exchange for PHI.

Capitalized terms have special meanings. Definitions under this policy include Individual, Protected Health Information (PHI), Payment, Research, Required by Law, Sale of PHI, Use, Treatment and Workforce. See Policy 2502.00: Definitions for Policies Governing PHI.

POLICY

It is not the practice of North Sound Behavioral Health Administrative Services Organization (North Sound BH-ASO) to sell or purchase PHI. North Sound BH-ASO is committed to compliance with HIPAA, Part 2 and Washington law. To the extent any Use or Disclosure of PHI involves the Sale of PHI to a third-party, North Sound BH-ASO will obtain a valid authorization by or on behalf of the Individual and will comply with other requirements mandated by federal and state law.

PROCEDURE

1. **Sale of PHI.** The Sale of PHI is a Disclosure of PHI when North Sound BH-ASO directly or indirectly receives direct or indirect remuneration or anything of value, from or on behalf of the recipient of the PHI in exchange for the PHI. Note: remuneration includes financial and nonfinancial benefits. The Privacy Officer must be notified prior to and approve any arrangement that is or may appear to be a Sale of PHI. North Sound BH-ASO shall obtain a valid authorization by or on behalf of the Individual prior to a Sale of PHI relating to that Individual.
2. **Exceptions.** The Sale of PHI does not include a Disclosure of PHI:
 - 2.1 **For public health purposes.**
 - 2.2 **For Research purposes**, when the only remuneration received by the North Sound BH-ASO is a reasonable cost-based fee to cover the cost to prepare and transmit the PHI for the Research purposes.
 - 2.3 **For Treatment purposes.**
 - 2.4 **For Payment purposes.**
 - 2.5 **For the sale, transfer, merger or consolidation of all or part of North Sound BH-ASO (or another Covered Entity) and for related due diligence.**

- 2.6 **To or by a Business Associate** for activities undertaken on behalf of North Sound BH-ASO and the only remuneration provided is by the Covered Entity to its Business Associate or by the Business Associate to its Subcontractor for the performance of their Business Associate activities.
- 2.7 **To an Individual for access to PHI or to receive an accounting of disclosures.**
- 2.8 **As Required by Law.**
- 2.9 **Pursuant to a valid authorization** by or on behalf of the Individual.
- 2.10 **For any other purpose permitted by** and in accordance with **HIPAA** Privacy Rule requirements, when the only remuneration received by North Sound BH-ASO is a reasonable, cost-based fee to cover the cost to prepare and transmit the PHI for that purpose or a fee otherwise expressly permitted by other law.

[Note: Care should be taken so that any otherwise permissible communications may not suggest the Individual has a Substance Use Disorder (SUD), mental health issue or Sexually Transmitted Disease (STD)].

3. **Documentation.** Documentation related to the Sale of PHI will be retained for at least six (6) years and shall include:
 - 3.1 **Transaction documents.**
 - 3.2 **Subcontractor Business Associate Agreements (Downstream).**
4. **Related Policies.** Other policies and procedures to review that are related to this policy include:
 - 4.1 **Policy 2501.00: Privacy and Confidentiality of PHI.**
 - 4.2 **Policy 2502.00: Definitions for Policies Governing PHI.**
 - 4.3 **Policy 2514.00: Right to Access PHI.**
 - 4.4 **Policy 2516.00: Right to Accounting of Disclosures.**
 - 4.5 **Policy 2522.00: Uses and Disclosures of PHI.**

ATTACHMENTS

None