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North Sound Behavioral Health Administrative Services Organization, LLC

Section 2500 – Privacy: Verification of Identity and Authority

Authorizing Source: 45 CFR 164.528 (HIPAA); 42 CFR Part 2 (Part 2); RCW 70.02

Approved by: Executive Director Date: 4/12/2022 Signature:

POLICY # 2524.00

SUBJECT: VERIFICATION OF IDENTITY AND AUTHORITY

PURPOSE

In compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Part 2 and Washington law, this policy sets out requirements for verification of the identity of Individuals and the identity and authority of Authorized Representatives, Upstream Covered Entities or other persons.

Capitalized terms in this policy have specific meanings. Definitions under this policy include Authorized Representative, Disclosure or Disclose, Individual, Mental Health Information, Part 2 Information, Protected Health Information (PHI), Sexually Transmitted Disease (STD), Upstream Covered Entity, Use and Workforce. See the Policy 2502.00: Definitions for Policies Governing PHI.

POLICY

North Sound Behavioral Health Administrative Services Organization (North Sound BH-ASO) will take reasonable steps, act in good faith and exercise professional judgment to verify the identity and authority of any Individual, Authorized Representative, Upstream Covered Entity or person requesting or authorizing Use of, Disclosure of, or access to PHI or exercising any rights with respect to PHI (e.g., access, amendment, accountings, alternate communications or restrictions) if the identity or authority of the Individual, Authorized Representative, Upstream Covered Entity or person is not immediately known to North Sound BH-ASO. Workforce will comply with other North Sound BH-ASO policies, procedures and practices with respect to Using and Disclosing PHI and addressing Individuals' rights with respect to PHI, particularly as they pertain to Uses and Disclosures of sensitive information such as Part 2 Information, Mental Health Information and Sexually Transmitted Disease (STD) information. Please refer to North Sound BH-ASO's Policy 2520.00: Training of Workforce, training guidelines or see Privacy Officer for additional information.

PROCEDURE

1. Verification Requirements and Standards.

- 1.1 **Verification of Identity and Authority.** Workforce members will take reasonable steps and use professional judgment to verify the identity and authority of an Individual, Authorized Representative, Upstream Covered Entity or a person requesting access to, authorizing Use and Disclosure of or exercising any rights relating to PHI when the Individual's, Authorized Representative's or person's identity or authority is unknown or in doubt. Note: a person's identity may be known to North Sound BH-ASO, but that person's authority still may be uncertain. Workforce should document that identity and authority were verified or that the

identity and authority of the Individual, Authorized Representative, Upstream Covered Entity or other person were known to the Workforce member.

- 1.2 **Verification of Individual.** As a general rule, Workforce shall request, obtain and review the following information of the Individual:
 - 1.2.1 First and last name and middle initial;
 - 1.2.2 Date of birth;
 - 1.2.3 Address and other contact information; and
 - 1.2.4 Last four (4) digits of Social Security number.

- 1.3 **Verification of Identity and Authority.** As a general rule for verifying the identity and authority of a person other than the Individual, Workforce shall request the identity information of the Individual, as addressed in Section 1.2 of this policy and, as appropriate, the following information:
 - 1.3.1 Person's first and last name;
 - 1.3.2 Title of the person if acting on behalf of an entity, such as an Upstream Covered Entity;
 - 1.3.3 Authority of the person to be making the request, which may require appropriate documentation;
 - 1.3.4 Address and other contact information.

- 1.4 **Exercise of Reasonableness and Professional Judgment.** Reasonableness and professional judgment include:
 - 1.4.1 Using common sense;
 - 1.4.2 Being alert for telltale inconsistencies in a person's request for access or changes to PHI;
 - 1.4.3 Using a combination of common health care industry practice inquiries (e.g., asking for non-public information, such as last four digits of Social Security number, date of birth, information regarding past Treatment or Payment);
 - 1.4.4 Paying attention to details when questioning people and examining credentials or documents they present (for example, photo likeness and matching names and dates of birth); and
 - 1.4.5 In the event of doubt, checking with supervisors or others (such as the Privacy Officer).

- 1.5 **Timing.** Identity verification must occur prior to Disclosing any PHI or processing any request that may affect PHI.

2. **Examining Documents Used to Verify Identity or Authority.**

- 2.1 **Types of Documents.** The following documents may be used to verify the identity or authority of a person requesting PHI, according to the standards described below:
 - 2.1.1 **Government Issued Documents.** To determine identity, the following documents may be used (as long as the documents appear valid and not tampered with and the person matches the document):
 - (a) Driver's License;

- (b) Passport;
- (c) Government issued identity card.

2.1.2 Legal Documents Issued by a Court. Unless the circumstances suggest the document is a forgery or has been tampered with, a document of this type can be taken at face value based on what it says (that is, a document of this type is “self-authenticating”). Examples may include:

- (a) Court order;
- (b) Search warrant;
- (c) Arrest warrant;
- (d) Subpoena issued by a court (rather than signed by an attorney); or
- (e) Similar document bearing the signature of a judge, magistrate, or other judicial officer.

2.1.3 Legal Documents Not Issued by a Court and Not Signed by a Judge, Magistrate or Other Judicial Officer. These documents require examination by North Sound BH-ASO’s Privacy Officer or other designated Workforce member before they can be taken at face value (that is, these documents may be falsified and are not necessarily self-authenticating). For example, North Sound BH-ASO may have the right to object to a law firm demand or in court to the demands in this type of document. Law firms, health care subrogation providers and debt collectors often make demands of this nature; however, a demand alone is not enough to warrant Disclosure. Examples may include:

- (a) Certain subpoenas or litigation demands for production of documents, records or other items;
- (b) Court orders (e.g., qualified protective orders for PHI);
- (c) Powers of Attorney (for Health Care); and
- (d) Living wills.

2.2 Document Evaluation.

2.2.1 Governmental Letters. Letters issued by a government agency for identification or to state authority must be on the appropriate agency letterhead, dated and signed.

2.2.2 Non-Governmental Sources. Letters issued by non-governmental sources for identification or to state authority should be referred to North Sound BH-ASO’s Privacy Officer or other designated Workforce member for further verification.

3. **Family and Friends.** HIPAA does not require North Sound BH-ASO to share information with family or friends, unless they are an Authorized Representative. Family members and close friends of an Individual may not have formal documentation evidencing their relationship to the Individual. Workforce members will apply the following standards with respect to persons who represent themselves to be family and friends of an Individual. See Policy 2511.00: Opportunity to Agree or Object for applicability to Disclosures of Part 2 Information, Mental Health Information or STD information.

- 3.1 **Individual Present and Has Capacity.** When the Individual is present and has the capacity to act, it is sufficient for verification and authorization purposes if the Individual consents, or otherwise indicates the Individual does not object, to the Disclosure of the information to the person prior to a Disclosure to the person for involvement in the Individual's care or payment for care.
- 3.2 **Individual Not Present or Lacks Capacity.** When the Individual is not present or lacks the capacity to act, verification of the identity and authority of a person requesting PHI must be accomplished through the exercise of professional judgment, consistent with this policy. For example, it may be reasonable to ask to see the person's identification and/or for a copy of the authorization form.

4. **Authorized Representatives.**

- 4.1 **Verify Identity.** If the identity of the Authorized Representative requires verification and the Authorized Representative is a family member or friend, follow Section 3 of this policy for family and friends.
- 4.2 **Verify Authority.** Absent exigent circumstances, the authority of an Authorized Representative must be stated in an official legal document, such as court orders, durable powers of attorney, a health care directive, living will, proof of guardianship, adoption papers or birth certificates. Persons acting under a Power of Attorney must have a document evidencing the Power of Attorney and the relevance of the person's authority to act on the Individual's behalf with regard to health care decisions. If no documentation is offered and there is uncertainty about a person's authority, then Workforce members should refer the person to the Privacy Officer.

5. **Law Enforcement Official and Other Public Officials.** Disclosures to Law Enforcement Official and other public officials will be made only as permitted by law or Required by Law and as permitted by North Sound BH-ASO's policies. Identity and authority will be verified according to the following standards:

- 5.1 **Official Letterhead.** Written requests from Law Enforcement Officials or other public officials must be on official letterhead with the appropriate seal.
- 5.2 **Government Contractors.** Requests from government contractors on behalf of public officials must be accompanied by documentation regarding the contractor's authority (for example, a written statement from the public official or a copy of the government contract).
- 5.3 **Verification of Identity.** The identity of Law Enforcement Officials or other public officials should be verified by examining official identification credentials (usually an officially issued card). Note: a uniform or badge alone or in combination with one another, is insufficient for verification of identity or authority except in emergency situations when time is critical and the total circumstances make it reasonable to infer the identity of a Law Enforcement or other public officials.
- 5.4 **Verification of Authority.** The authority of the public official can be verified by examining the justification offered by the Law Enforcement Official or public official under the circumstances.
- 5.5 **Justification for Request.**
 - 5.5.1 Oral justification may be reasonable under some circumstances (for example, a search for a suspect who may need medical help).
 - 5.5.2 Written justification may be reasonably required when:

- (a) Time is available for the public official to produce a written statement of authority (whether or not there is an emergency);
- (b) The official's request is out-of-the-ordinary; or
- (c) Circumstances raise doubts about the request or demand.

6. **Disaster Relief Agencies.**

6.1 **Emergencies.** In emergency situations, Workforce members should consider the totality of the circumstances using reasonableness and professional judgment standards in evaluating requests by disaster relief agencies.

6.2 **Non-Emergencies.** In non-emergency situations, Workforce members should consult with North Sound BH-ASO's Privacy Officer or other designated Workforce member to evaluate requests by disaster relief agencies.

7. **Individual Authorization.** If Individual authorization is required for a Use or Disclosure, then the Workforce member will take the steps outlined in Policy 2522.00: Uses and Disclosures of PHI and Policy 2521.00: Authorization. The person must be named in the authorization as the person to whom PHI is to be Disclosed (e.g., the recipient). The above guidelines should be used to verify the person's identity and authority. See Policy 2522.00: Uses and Disclosure of PHI and Policy 2521.00: Authorization for Use and Disclosure of PHI.

8. **Documentation.** Documentation relating to Verification shall be retained at least six (6) years and shall include the following:

8.1 **Relevant policies and procedures.**

8.2 **Requests by Individuals and relating to an Individual's rights with respect to PHI.**

8.3 **Copies of the identifying and authenticating documentation.**

9. **Related Policies.** See also the following policies for additional information:

9.1 **Policy 2501.00: Privacy and Confidentiality of PHI.**

9.2 **Policy 2502.00: Definitions for Policies Governing PHI.**

9.3 **Policy 2511.00: Opportunity to Agree or Object.**

9.4 **Policy 2514.00: Right to Access PHI.**

9.5 **Policy 2515.00: Right to Amend PHI.**

9.6 **Policy 2516.00: Right to Accounting of Disclosures.**

9.7 **Policy 2517.00: Right to Alternative Communications.**

9.8 **Policy 2518.00: Right to Request Restrictions on Uses and Disclosures of PHI.**

9.9 **Policy 2520.00: Training of Workforce.**

9.10 **Policy 2521.00: Authorization.**

9.11 **Policy 2522.00: Uses and Disclosures of PHI.**

ATTACHMENTS

None