



**BALTIMORE CITY HEALTH DEPARTMENT (BCHD)
POLICIES AND PROCEDURES**



REGARDING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT – HIPAA

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1. Definitions

- a. HIPAA Definitions Apply. Unless otherwise noted, the terms used in these Policies and Procedures have the meanings provided in HIPAA.
- b. BCHD. Unless otherwise noted, BCHD means the components identified in § 2 of these Policies and Procedures.
- c. Commissioner. Commissioner means the Commissioner of the Baltimore City Health Department.
- d. HIPAA. HIPAA means the federal Health Insurance Portability and Accountability Act of 1996 and the federal regulations adopted pursuant to that act, all as amended from time to time.
- e. PHI. PHI means protected health information.

2. Designation of HIPAA Covered Components

- a. The Health Care Components. All components of the Baltimore City Health Department that provide direct patient care and perform covered functions under HIPAA are hereby designated as the Department's health care components:
 - i. School-Based Health Centers (not School Health Suites);
 - ii. Medical Assistance Transportation Program;
 - iii. AERS and Waiver Program;
 - iv. Infants and Toddlers Program;
 - v. Maternal and Infant Nursing Program;
 - vi. Adolescent and Reproductive Health Program including Family Planning Services and Healthy Teens and Young Adults clinic;
 - vii. Immunization
 - viii. Oral Health Services;
 - ix. STD/HIV/TB Clinical Services; and
 - x. Harm Reduction Programs, including Needle Exchange
- b. Additionally Covered Components. HIPAA also applies to those components of BCHD that provide management, administrative, or financial services for the Health Care Components to the extent that protected health information is disclosed to them and only to the extent that they perform functions covered by HIPAA.
- c. Health Care and Additional Covered Components. For ease of reference, the components described in a. and b. above are referred to as "Covered Components."
- d. Application of HIPAA to BCHD.
 - i. The requirements of HIPAA and these Policies and Procedures apply only to the Covered Components designated in § 2(a) & (b).
 - ii. Unless otherwise noted, references in these Policies and Procedures to "BCHD" apply only to the Covered Components.

3. BCHD is a Public Health Authority

- a. BCHD is a public health authority under HIPAA.
- b. BCHD may receive, report, and use PHI for any public health activities that are authorized or required by law (such as reporting vital statistics to government

agencies or conducting public health surveillance). HIPAA does not apply to these nonclinical public health activities.

- c. PHI outside the Covered Components of BCHD.
 - i. If a BCHD workforce member perform duties both for the Covered Components of BCHD as well as for other components, the workforce member may not use or disclose PHI from the Covered Components to noncovered components unless otherwise permitted by law, for example, required reporting of communicable diseases.
 - ii. The Covered Components may not disclose PHI to the noncovered components of BCHD unless otherwise permitted by law, for example, required reporting of communicable diseases. Otherwise, with regard to PHI, the Covered Components shall treat the noncovered components as if they were part of a separate organization.

4. Personnel Designations

- a. Privacy Official
 - i. The Commissioner shall designate a HIPAA Privacy Official.
 - ii. The Privacy Official shall develop and implement the policies and procedures that are necessary to achieve and maintain BCHD's HIPAA compliance.
- b. Contact Person
 - i. The Commissioner shall designate a HIPAA Contact Person.
 - ii. The Contact person shall:
 - 1. receive complaints regarding the use or disclosure of PHI;
 - 2. receive requests for information regarding BCHD's notice of privacy practices; and
 - 3. provide information regarding BCHD's notice of privacy practices.
- c. Additional Staff. The Commissioner may designate any additional persons to assist with the duties of the Privacy Official and the Contact Person.
- d. Commissioner's Discretion.
 - i. The Commissioner may designate the same individual, or different individuals, as the Privacy Official, and the Contact Person.
 - ii. The Commissioner may alter personnel designations at any time.

5. **Minimum Necessary Standard**

- a. **Scope.** The requirements of this § 5 do not apply to:
- iii. disclosures to or requests by a health care provider for treatment purposes;
 - iv. disclosures made to the individual;
 - v. uses or disclosures made pursuant to an authorization;
 - vi. disclosures made to the Secretary of the United States Department of Health and Human Services;
 - vii. uses or disclosures that are required by law; and
 - viii. uses or disclosures that are required for HIPAA compliance.
- b. **Minimum Necessary Standard.** Except as provided in subsection (a), whenever BCHD uses or discloses PHI or requests PHI from another covered entity, it shall make reasonable efforts to limit the PHI to minimum amount that is necessary to accomplish the intended purpose of the use, disclosure, or request.
- c. **Workforce Access to PHI.**
- i. The following categories of BCHD's workforce may need access to PHI to carry out their duties:

Students, trainees, casual, and temporary staff, and covered employees, and covered personnel that are involved in the provision of health care, or management, administration or financial service for the provision of health care.
 - ii. Each category of the workforce should have access to the minimum amount of PHI necessary to perform the job function.
- d. **Routine Disclosures.**
- i. For any type of disclosure that BCHD makes on a routine basis, the PHI disclosed will be limited to that which is reasonably necessary to achieve the purpose of the disclosure.
 - ii. The Privacy Official shall develop and implement standard protocols to ensure that routine and recurring disclosures are limited to the amount of PHI reasonably necessary to achieve the purpose of the disclosure.

- e. Non-routine Disclosures.
 - i. The Privacy Official shall review any request that BCHD receives for a PHI disclosure that is not routine.
 - ii. The Privacy Official shall consider the following criteria when determining whether to disclose PHI in response to a request for a non-routine PHI disclosure:
 - 1. whether HIPAA permits the disclosure;
 - 2. whether HIPAA requires the disclosure; and
 - 3. whether the amount of information requested is reasonably necessary to accomplish the purpose for which disclosure is sought.
- f. Routine Requests
 - i. For any request for PHI that BCHD makes on a routine basis, it shall limit the PHI requested to the minimum necessary to accomplish the purpose for which the request is made.
 - ii. The Privacy Official shall develop and implement standard protocols to ensure that BCHD's routine requests are limited to the amount of PHI that is the minimum necessary to accomplish the purposes for which the requests are made.
- g. Non-routine Requests
 - i. The Privacy Official shall review in advance any non-routine request for PHI that BCHD intends to make.
 - ii. The Privacy Official shall consider the following criteria when determining whether BCHD should make the non-routine request:
 - 1. whether HIPAA permits the request;
 - 2. whether HIPAA requires the request; and
 - 3. whether the amount of information requested is the minimum necessary to accomplish the purpose of the request.
- h. Uses and Disclosures of, and Requests for, an Entire Medical Record.

BCHD may not use, disclose, or request an entire medical record, except when the entire medical record is specifically justified as the minimum necessary to accomplish the purpose of the use, disclosure, or request.

- i. Reasonable Reliance. BCHD may reasonably rely that a request for a disclosure meets the minimum necessary standard when:
 - i. the information is requested by a public official who represents that the information requested is the minimum necessary for the stated purpose;
 - ii. the information is requested by another covered entity;
 - iii. the information is requested by a professional who is a member of BCHD's workforce or is a business associate of BCHD for the purpose of providing professional services to BCHD, if the professional represents that the information requested is the minimum necessary for the stated purpose; or
 - iv. documentation or representations that comply with the applicable requirements of 45 C.F.R. § 164.512(i) have been provided by a person requesting the information for research purposes.

6. Verification Requirements

- a. Scope. The requirements of this § 6 do not apply to any disclosure of PHI that is permitted under 45 C.F.R. § 164.510, such as disclosures for emergencies and disaster relief purposes.
- b. In general. Prior to any disclosure of PHI, BCHD must:
 - i. verify the identity of the person requesting PHI and the authority of such person to have access to PHI, if the identity or authority of such person is not already known by BCHD; and
 - ii. obtain any documentation, statements, or representations, whether oral or written, from the person requesting the PHI when such documentation, statement, or representation is a condition of the disclosure under HIPAA.
- c. Reasonable Reliance. If a disclosure is conditioned on particular documentation, statements, or representations from the person requesting the PHI, BCHD may reasonably rely on documentation, statements, or representations that, on their face, meet the applicable requirements.
- d. Identity and Authority of Public Officials.
 - i. BCHD may reasonably rely on any of the following to verify identity when the disclosure of PHI is to a public official or a person acting on behalf of the public official:
 1. if the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;

2. if the request is in writing, the request is on the appropriate government letterhead; or
 3. if the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official.
- ii. BCHD may reasonably rely on any of the following to verify authority when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:
 1. a written statement of the legal authority under which the information is requested, or, if a written statement would be impracticable, an oral statement of such legal authority; or
 2. if a request is made pursuant to legal process, a warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal.

7. Notice of Privacy Practices

- a. The Notice. BCHD has a notice of privacy practices (the "Notice").
- b. Compliance. BCHD shall comply with the Notice.
- c. Posting.
 - i. BCHD shall post the Notice on any BCHD website that provides information about BCHD's customer services or benefits.
 - ii. BCHD shall post the Notice at each of its physical service delivery sites.
- d. Copies of the Notice.
 - i. BCHD shall provide a copy of the Notice to each patient on the patient's first date of treatment or, in the case of emergency treatment, as soon as practicable after the treatment.
 - ii. Paper copies of the Notice shall be available at each physical service delivery site. At the site, a copy of the Notice shall be provided to any patient upon the patient's request.
 - iii. Upon request, BCHD shall provide to any person a paper copy of the Notice.

- e. Written Acknowledgement.
 - i. BCHD shall make a good faith effort to obtain the patient's written acknowledgement that the individual received the Notice.
 - ii. If acknowledgement is not obtained, BCHD shall document its attempts to obtain acknowledgement and the reason why acknowledgement was not obtained.
- f. Amendment of the Notice.
 - i. BCHD may amend the Notice at any time.
 - ii. The amended Notice will apply to all PHI that BCHD receives, creates, maintains, uses, or discloses.
 - iii. BCHD shall post, disseminate, and obtain acknowledgement of the amended Notice in compliance with subsections (c), (d), and (e) of this section.
- g. Documentation.
 - i. BCHD must retain:
 - 1. the Notice and any amended Notice issued by BCHD;
 - 2. patients' written acknowledgments; and
 - 3. documentation of BCHD's good faith efforts to obtain the written acknowledgments.
 - ii. The documents must be retained in accordance with § 15.

8. Authorization to Use or Disclose Protected Health Information

- a. Uses and Disclosures without the Individual's Authorization. BCHD may use or disclose PHI without the individual's authorization only as permitted under the Notice of Privacy Practices (the "Notice").
- b. Uses and Disclosures Subject to Authorization. If the Notice does not permit a use or disclosure without authorization, then BCHD must obtain the individual's authorization before it undertakes the use or disclosure.
- c. Marketing, Fundraising, or Sale of PHI. BCHD does not use PHI for the purposes of marketing, fundraising, or sale.
- d. Compliance with the Authorization. When BCHD uses or discloses PHI pursuant to an authorization, the use or disclosure must be consistent with the terms of that authorization.

e. Contents of the Authorization.

- i. The authorization must be in writing.
- ii. The authorization must include:
 1. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.
 2. The name or other specific identification of the person(s), or class of persons, at BCHD who are authorized to make the requested use or disclosure.
 3. The name or other specific identification of the person(s), or class of persons, to whom BCHD may make the requested use or disclosure.
 4. A description of each purpose of the requested use or disclosure. The statement “at the request of the individual” is a sufficient description of the purpose when an individual initiates the authorization and does not provide a statement of the purpose.
 5. An expiration date or an expiration event. The statement “end of the research study,” “none,” or similar language is sufficient if the authorization is for a use or disclosure of PHI for research.
 6. Signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of such representative’s authority to act for the individual must also be provided.
 7. A statement that the individual may revoke the authorization in writing at any time, but that the revocation will not be effective to the extent that BCHD already has used or disclosed the individual’s PHI in reliance on the authorization.
 8. A statement that BCHD may not condition treatment, payment, enrollment or eligibility for benefits on the authorization, except that:
 - a. BCHD is allowed to deny research-related treatment if the individual does not provide an authorization to use or disclose health information for the research; and
 - b. If BCHD is providing treatment solely for the purpose of disclosing health information to a third-party, then BCHD is allowed to deny the treatment if the individual does not give an authorization to provide the information to the third-party.

9. A statement of the potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer protected by HIPAA.
 - iii. The authorization must be written in plain language.
- f. Copy to the individual. BCHD must provide a copy of the signed authorization to the individual.
- g. Revocation of Authorization.
 - i. An individual may revoke an authorization in writing at any time.
 - ii. The revocation will not be effective to the extent that BCHD already has used or disclosed the individual's PHI in reliance on the authorization.
- h. Documentation. BCHD must document and retain any authorization or revocation in accordance with § 15.
- i. Special Provisions for Release of Immunization Records. If BCHD obtains and documents the agreement of an adult student or a parent or guardian of a minor student, then BCHD may release proof of immunization required by law to the student's school or prospective school.

9. Individual Requests for Additional Privacy Protection

- a. Restrictions on Uses and Disclosures.
 - i. Permissive
 1. An individual may request that BCHD restricts:
 - a. uses or disclosures of PHI about the individual to carry out treatment, payment, or health care operations; or
 - b. disclosures to the individual's family members, personal friends, or any other persons involved with the individual's health care or payment for health care.
 2. BCHD is not required to agree to the requested restriction.
 3. If BCHD agrees to the restriction, it may not use or disclose PHI in violation of the restriction, except that, if the individual who requested the restriction is in need of emergency treatment and the restricted PHI is needed to provide the emergency treatment, BCHD may use the restricted PHI, or may disclose the restricted PHI to another health care provider, to provide treatment to the individual but must request the other health care provider not to further use or disclose the information.
 4. BCHD may terminate its agreement to a restriction, if:

- a. The individual agrees to or requests the termination in writing;
 - b. The individual orally agrees to the termination and BCHD documents the oral agreement; or
5. BCHD informs the individual that it is terminating its agreement to a restriction, except that such termination is only effective with respect to PHI created or received after it has so informed the individual.
 - ii. Mandatory
 1. An individual may request that BCHD restrict use or disclosure of PHI about the individual to a health plan if:
 - a. The disclosure is for the purpose of payment or health care operations, and not required by law; and
 - b. the PHI is for a health care item or service for which the health plan is not paying.
 2. BCHD must agree to such a request.
- b. Confidential Communications.
 - i. Requests for Confidential Communications.
 1. An individual may request that BCHD uses alternative means or alternative locations to communicate with the individual about the individual's PHI.
 2. The individual must make the request in writing.
 - ii. BCHD will accommodate the request if:
 1. BCHD finds that the request is reasonable;
 2. the individual has made the request in writing;
 3. the individual has specified an alternative address or other method of contact; and
 4. the individual has agreed to cover the additional costs, if any, of complying with the request.
- c. Reason for the Request. BCHD may not require the individual to explain the reason for the individual's request for restrictions or confidential communications.
- d. Documentation. BCHD must retain all documentation required by this section in accordance with § 15.

10. Individual Access to Protected Health Information

- a. Request for Access.
 - i. An individual may request access to inspect and obtain a copy of any PHI about the individual that BCHD maintains in a designated record set.
 - ii. The individual must make the request in writing.
- b. Denial of Access Without Review. BCHD may deny the individual's request for access, without providing the individual an opportunity for review, in the following circumstances:
 - i. The requested PHI is:
 - 1. psychotherapy notes;
 - 2. information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding;
 - 3. subject to the Clinical Laboratory Improvements Amendments of 1988, 42 U.S.C. 263a, to the extent the provision of access to the individual would be prohibited by law; or
 - 4. exempt from the Clinical Laboratory Improvements Amendments of 1988, pursuant to 42 CFR 493.3(a)(2);
 - ii. The requested PHI was created in the course of on-going research, provided that the individual agreed to the denial of access when consenting to participate in the research that includes treatment, and provided that BCHD has informed the individual that the right of access will be reinstated upon completion of the research; or
 - iii. The requested PHI was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.
- c. Denial of Access with Review. BCHD may deny access, provided that the individual is given a right to have such denials reviewed, as required by subsection (d) of this section, in the following circumstances:
 - i. A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;
 - ii. The PHI refers to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to the other person; or

- iii. The request for access is made by the individual's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to the personal representative is reasonably likely to cause substantial harm to the individual or another person.

d. Review of Denial.

- i. If BCHD denies access under subsection (c) of this section, the individual may have the denial reviewed by a licensed health care professional who is designated by BCHD to act as a reviewing official and who did not participate in the original decision to deny.
- ii. BCHD must provide or deny access in accordance with the determination of the reviewing official.

e. Timing.

- i. Within 30 days after receiving the request for access, BCHD shall do one of the following:
 - 1. provide the access requested;
 - 2. provide the individual with a written denial; or
 - 3. if unable to provide access or to determine a denial within the 30 days, provide the individual a written statement of the reasons for the delay and the date by which it will complete its action on the request, which must be within 60 days after receipt of the request for access. No additional extension of time is permitted.

f. Manner of Access.

- i. BCHD must provide the individual access to the PHI in the form and format the individual requests if BCHD may readily provide the PHI in that form and format. If the PHI is not so readily producible, then BCHD shall produce the PHI in a readable hard copy or such other format to which it and the individual agree.
- ii. If the requested PHI is maintained electronically, then BCHD must provide the individual with access to the PHI in the electronic form and format the individual requests. If the PHI is not readily producible in that manner, then BCHD must provide the PHI in a readable electronic form and format on which it and the individual agree.

g. Fee The BCHD may charge a cost based fee set by the Privacy Officer for copies of PHI.

h. Documentation. All documentation required under this section must be retained in accordance with § 15.

11. Amendments to Protected Health Information

- a. Request for Amendment.
 - i. An individual may request that BCHD amend any PHI about the individual that BCHD maintains in a designated record set.
 - ii. The individual must make the request for an amendment in writing and must provide a reason to support the request.
- b. Timing of BCHD's Response. Within 60 days after receiving a request for amendment, BCHD must either:
 - i. issue a written denial under subsection (d) of this section;
 - ii. accept the amendment under subsection (f) of this section; or
 - iii. If unable to act on the amendment within the 60 days, provide the individual with a written statement of the reasons for the delay and the date by which the BCHD will complete its action on the request, which must be within 90 days of receipt of the request for amendment. No additional extension of time is permitted.
- c. Denial of Amendment. BCHD may deny a request for amendment, if it determines that the PHI or record that is the subject of the request:
 - i. was not created by BCHD, unless the individual provides a reasonable basis to believe that the originator of PHI is no longer available to act on the requested amendment;
 - ii. is not part of a designated record set;
 - iii. would not be available for inspection under 45 C.F.R. § 164.524; or
 - iv. is accurate and complete.
- d. Written Denial.
 - i. If BCHD denies the request for amendment, in whole or in part, it must provide the individual with a written denial.
 - ii. The denial must use plain language.
 - iii. The denial must contain:
 - 1. The basis for the denial;
 - 2. a statement that the individual may submit a written statement disagreeing with the denial;

3. a statement that, if the individual does not submit a statement of disagreement, the individual may request that BCHD provide the individual's request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment; and
 4. a description of how the individual may complain to BCHD or the Secretary of the United States Department of Health and Human Services.
- e. Right to Submit a Statement of Disagreement.
- i. If the request for amendment is denied, the individual may submit to BCHD a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement.
 - ii. BCHD may prepare a written rebuttal to the individual's statement of disagreement. BCHD must provide a copy of the rebuttal to the individual.
- f. Acceptance of Amendment. If BCHD accepts the requested amendment, in whole or in part, it must:
- i. identify the records in the designated record set that are affected by the amendment and append or otherwise provide a link to the location of the amendment;
 - ii. inform the individual that the amendment is accepted and obtain the individual's identification of and agreement to have BCHD notify the relevant persons with which the amendment needs to be shared;
 - iii. make reasonable efforts to inform and provide the amendment within a reasonable time to:
 1. persons identified by the individual as having received PHI about the individual and needing the amendment; and
 2. persons, including business associates, that BCHD knows have the PHI that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the individual.
- g. Recordkeeping of Disputed Amendments. If an amendment is disputed, BCHD must:
- i. identify the designated record set that is the subject of the dispute; and
 - ii. append or otherwise link the individual's request for an amendment, BCHD's denial of the request, the individual's statement of disagreement, if any, and BCHD's rebuttal, if any, to the designated record set.

- h. Future disclosures.
 - i. If a statement of disagreement has been submitted by the individual, BCHD must include the material appended in accordance with subsection (g) of this section, or, at BCHD's discretion, an accurate summary of any such information, with any subsequent disclosure of the PHI to which the disagreement relates.
 - ii. If the individual has not submitted a written statement of disagreement, BCHD must include the individual's request for amendment and BCHD's denial, or an accurate summary of such information, with any subsequent disclosure of the PHI, but only if the individual has requested such action.
 - iii. If a subsequent disclosure is made using a standard transaction under HIPAA that does not permit the additional material to be included with the disclosure, BCHD may separately transmit the material required by subsection (h) (i) or (ii) of this section, as applicable, to the recipient of the standard transaction.
- i. Actions on notices of amendment. If BCHD is informed by another covered entity of an amendment to an individual's PHI, it must amend the protected health information in designated record sets as provided by subsection (f) (i) of this section.
- j. Role of Privacy Official. The Privacy Official is responsible for:
 - i. receiving and processing requests for amendments by individuals; and
 - ii. retaining documentation regarding requests for amendments in accordance with § 15.

12. Accounting of Disclosures

- a. Request for an Accounting. An individual may request an accounting of disclosures of the individual's PHI that BCHD made during the six years prior to the date of the request.
- b. Materials Exempt from Accounting. BCHD is not required to include the following types of disclosures of PHI in the accounting:
 - i. disclosures that were made to carry out treatment, payment, or health care operations;
 - ii. disclosures made to the individual;
 - iii. disclosures that were made pursuant to the individual's authorization;
 - iv. disclosures made to persons involved in the individual's care or for other notification purposes permitted under HIPAA;

- v. disclosures made for national security or intelligence purposes;
- vi. disclosures made to correctional institutions or law enforcement officials;
- vii. disclosures made as part of a limited data set in accordance with HIPAA;
or
- viii. disclosures that occurred prior to BCHD's HIPAA compliance date.

c. Contents of the Accounting.

- i. Except as provided in subsection (b) and (d) of this section, BCHD must provide the individual with a written accounting of disclosures of the individual's PHI that occurred during the six years prior to the date of the request for an accounting.
- ii. The accounting must include disclosures to or by business associates of BCHD.
- iii. Except as provided in subsection (c)(iv) and (v), the accounting must include, for each disclosure:
 - 1. The date of the disclosure;
 - 2. The name of the entity or person who received the PHI and, if known, the address of such entity or person;
 - 3. A brief description of the PHI disclosed; and
 - 4. A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure.
- iv. If, during the period covered by the accounting, BCHD has made multiple disclosures of PHI to the same person or entity for a single purpose, either at the request of the Secretary of the United States Department of Health and Human Services, or under 45 C.F.R. § 164.512, the accounting may, with respect to such multiple disclosures, provide:
 - 1. the information required by subsection (c)(iii) of this section for the first disclosure during the accounting period;
 - 2. the frequency, periodicity, or number of the disclosures made during the accounting period; and
 - 3. the date of the last such disclosure during the accounting period.
- v. If, during the period covered by the accounting, BCHD has made disclosures of PHI for a particular research purpose in accordance with HIPAA for 50 or more individuals, the accounting may, with respect to

such disclosures for which the PHI about the individual may have been included, provide:

1. the name of the protocol or other research activity;
 2. a description, in plain language, of the research protocol or other research activity, including the purpose of the research and the criteria for selecting particular records;
 3. a brief description of the type of PHI that was disclosed;
 4. the date or period of time during which such disclosures occurred, or may have occurred, including the date of the last such disclosure during the accounting period;
 5. the name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
 6. a statement that the PHI of the individual may or may not have been disclosed for a particular protocol or other research activity.
- vi. If BCHD provides an accounting for research disclosures, in accordance with subsection (c) (v) of this section, and if it is reasonably likely that the PHI of the individual was disclosed for such research protocol or activity, BCHD shall, at the request of the individual, assist in contacting the entity that sponsored the research and the researcher.

d. Timing

- i. Within 60 days after receipt of a request for an accounting, BCHD must:
 1. provide the individual with the accounting requested; or
 2. if BCHD is unable to provide the accounting within 60 days, provide the individual with a written statement of the reasons for the delay and the date by which BCHD will provide the accounting which must be within 90 days of receipt of the request for an accounting. No additional extension of time is permitted.

e. Charge for Accounting.

- i. BCHD must provide the first accounting to an individual in any 12 month period without charge.
- ii. BCHD may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same individual within the 12 month period, provided that BCHD informs the individual in advance of the fee and provides the individual with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the

fee.

- f. Documentation. BCHD must document and retain the following items in accordance with § 15:
 - i. The information required to be included in an accounting under subsection (c) of this section; and
 - ii. The accounting that is provided to the individual.
- g. Temporary Suspension of Right to Accounting.
 - i. BCHD must temporarily suspend an individual's right to receive an accounting of any disclosures made to a health oversight agency or law enforcement official if the agency or official provides BCHD with a written statement that:
 - 1. represents that the accounting would be reasonably likely to impede the agency's or official's activities; and
 - 2. specifies the time for which the suspension is required.
 - ii. If the agency or official states orally that the accounting would be reasonably likely to impede the agency's or official's activities, then BCHD must:
 - 1. document the statement, including the identity of the agency or official making the statement;
 - 2. temporarily suspend the individual's right to an accounting of disclosures subject to the statement; and
- h. limit the temporary suspension to no longer than 30 days from the date of the oral statement, unless a written statement is submitted by the official or agency during that time.
- i. Role of Privacy Official. The Privacy Official is responsible for receiving and processing individuals' requests for accountings.

13. Breach – Notification of Unauthorized Disclosure

- a. BCHD must notify a patient without unreasonable delay and in no case more than 60 days of any breach of that patient's PHI if the PHI is not encrypted, unusable, unreadable, or indecipherable.
- b. When a member of the BCHD workforce becomes aware of the unauthorized acquisition, access, use or disclosure of such PHI, he/she shall immediately notify his/her supervisor or the Privacy Officer.
- c. A violation of the minimum necessary standard described in §5 may constitute a breach.
- d. The Privacy Officer shall investigate the matter. If a breach, as defined in 45 CFR 164.402, has occurred, the Privacy Officer shall notify the patient in writing

of the breach, giving a brief description of what happened, the date of breach, the date of discovery, the type of PHI involved, what the patient should do to protect him/herself from potential harm, what BCHD is doing to investigate/mitigate/and protect against future breaches, and contact information for the BCHD person who the patient should contact for additional information

- e. The Privacy Officer shall send the patient the notice by first class mail to the patient's last known address, or, if the patient has agreed, by electronic mail.
- f. If a patient is deceased or his/her whereabouts is unknown, the Privacy Officer shall comply with the alternative notice provisions in 45 CFR 164.404 (d).
- g. The Privacy Officer shall work with the Law Department to comply with the extensive HIPAA requirements for any breach involving more than one patient.
- h. BCHD shall maintain documentation of breaches and notify the Secretary of HHS as required by 45 CFR 164.408.

14. Complaints Regarding Protected Health Information

- a. Right to file a complaint. Any person who believes that BCHD has violated the requirements of HIPAA or these Policies and Procedures may file a written complaint with:

- i. BCHD; or
- ii. the Secretary of the United States Department of Health and Human Services.

- b. Complaint Process.

- i. Any complaint filed with BCHD must include:
 - 1. the complainant's name, address, and telephone number;
 - 2. the date of the complaint; and
 - 3. the complainant's allegations regarding how BCHD violated HIPAA or these Policies and Procedures.
- ii. The complaint may be delivered to the Privacy Officer for the BCHD program or to:

Baltimore City Health Department
Attn: Michael Fried
1001 E. Fayette Street
Baltimore, MD 21202

- c. Investigation of Complaint.

- i. The Privacy Official shall promptly investigate the allegations contained in the complaint.
- ii. The Privacy Official shall report his or her findings to the Commissioner.

- d. Corrective Action.
 - i. If, as a result of the investigation, the Commissioner determines that a violation of these Policies and Procedures or HIPAA has occurred, then the Commissioner, in his or her sole discretion, shall pursue appropriate corrective action, which may include, but is not limited to:
 - 1. the sanction, discipline, or termination of BCHD personnel;
 - 2. amendments to these Policies and Procedures;
 - 3. referral of individuals for criminal prosecution or professional discipline; and
 - 4. contractual remedies or contractual termination.
 - ii. BCHD must mitigate, to the extent practicable, any harmful effect that is known to BCHD of a use or disclosure of PHI that was made in violation of these Policies or Procedures or HIPAA.
- e. Documentation.
 - i. BCHD must document any complaint that it receives and the disposition of the complaint.
 - ii. BCHD must retain such documentation in accordance with § 15.

15. Documentation Requirements

- a. Policies and Procedures. BCHD must maintain its HIPAA Policies and Procedures in written or electronic form.
- b. Written Communications. If a communication is required to be in writing under HIPAA, BCHD must retain a paper or electronic copy of that writing.
- c. Actions under HIPAA. If an action, activity, or designation is required by HIPAA to be documented, BCHD must maintain a written or electronic record of such action, activity, or designation.
- d. Retention Period. Whenever BCHD is required to retain a document under these Policies and Procedures or HIPAA, it must retain the document for 6 years from the date of the document's creation or the date when it last was in effect, whichever is later.

16. Workforce Training and Discipline

- a. Standard. BCHD must train all members of its workforce on these Policies and Procedures, as necessary and appropriate for the members of the workforce to carry out their function within BCHD.
- b. Timing. The training must be provided:

- i. to each new member of the workforce within a reasonable period of time after the person joins the workforce; and
 - ii. to each member of BCHD's workforce whose functions are affected by a material change in these Policies and Procedures, within a reasonable period of time after the material change becomes effective.
- c. Training Certificate BCHD must ensure that a copy of the training certificate is provided for Human Resources.
- d. Discipline. BCHD shall take appropriate sanctions against members of the workforce who do not comply with this policy or with HIPAA requirements.
- e. Documentation.
- i. BCHD must document that the training or discipline has occurred.
 - ii. BCHD must retain such documentation in accordance with § 15.

17. Non-Retaliation Requirement. BCHD may not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against:

- a. any individual for the exercise by the individual of any right under HIPAA, or for participation by the individual in any process established by HIPAA, including the filing of a complaint; or
- b. any individual or other person for:
 - i. filing of a complaint with the Secretary of the United States Department of Health and Human Services;
 - ii. testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing under HIPAA; or
 - iii. opposing any practice made unlawful by HIPAA, provided that the individual or person has a good faith belief that the practice is unlawful, and the manner of the opposition is reasonable and does not involve a disclosure of PHI in violation of HIPAA.

18. Waiver of rights. BCHD may not require individuals to waive their rights under HIPAA as a condition of the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits.

19. Business Associate Agreements

- a. A business associate is any person or entity who:
 - i. on behalf of BCHD, creates, receives, maintains, or transmits PHI, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, patient safety, billing, and benefit management; or

ii. performs one of the following services for BCHD and, as a part of that service, receives PHI from BCHD or from a business associate of BCHD:

1. legal services;
2. accounting services;
3. actuarial services;
4. consulting services;
5. data aggregation services;
6. information technology services;
7. management services;
8. administrative services;
9. accreditation services; or
10. financial services.

b. A member of BCHD is not a business associate.

c. BCHD must enter into a business associate agreement with each business associate.

d. A business associate agreement is not necessary to transmit electronic PHI to another health care provider concerning the treatment of an individual.

e. The business associate agreement must establish the permitted and required uses and disclosures of such information by the business associate.

f. The business associate agreement must provide that the business associate will:

i. Implement safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of BCHD in accordance with its agreement with BCHD and 45 C.F.R. Part 164;

ii. Ensure that any agent to whom it provides PHI agrees to implement reasonable and appropriate safeguards;

iii. Enter a business associate agreement with any subcontractor to whom it provides PHI to ensure that the subcontractor agrees to implement safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the BCHD PHI that it creates, receives,

- maintains, or transmits under the same restrictions and conditions that apply to the business associate;
- iv. Report to BCHD any use or disclosure of PHI not authorized by the agreement, including breaches, as required by 45 CFR 164.410 of which it becomes aware;
 - v. Authorize termination by BCHD if BCHD determines that the business associate has violated a material term of the agreement; and
 - vi. Comply with 45 CFR 164.504.
- g. If the business associate is another governmental entity, a business associate agreement is unnecessary if either:
- i. BCHD and the entity enter into a memorandum of understanding that meets the objectives of 45 CFR 164.314 and 504; or
 - ii. Other law (including BCHD regulations or the other entity's regulations) contains requirements that meet the objectives of this section.
- h. BCHD must document and retain all business associate agreements in accordance with § 14.
- i. If a member of the workforce becomes aware of a violation of a business associate agreement, he or she should report the violation immediately to the HIPAA Privacy Officer.
- j. If BCHD becomes aware of a material breach of a business associate agreement, it must take reasonable steps to cure the violation. If such steps are unsuccessful, it must take appropriate steps to:
- i. Terminate the contract; or
 - ii. If termination is not feasible, report the problem to the Secretary of the United States Department of Health and Human Services.

20. Administrative, Physical, and Technical Safeguards

- a. Each Covered Component shall adopt appropriate administrative, physical, and technical safeguards to protect the privacy and security of PHI and submit the policy describing those safeguards to the Privacy Officer for approval. The Privacy Officer shall review, approve or amend the policy as needed.
- b. Each Covered Component shall implement its approved policy on administrative, physical, and technical safeguards. Periodically, each BCHD shall review and amend its safeguards policy if changes are needed. Each Covered Component shall also periodically assess the actual implementation of the safeguards policy to determine compliance with the policy and shall provide such additional training, discipline, or other measures to improve compliance.

- c. Minimum Standards -- Each policy on administrative, physical, and technical safeguards shall address:
- i. Workforce Access -- Only members of the workforce who need access to PHI to perform their duties shall have access to PHI, e.g., access to keys to locked areas, passwords, etc.
 - ii. Disposal of PHI – PHI on hard copy media must be shredded or otherwise made unreadable and unable to be reconstructed before disposal. PHI on electronic media must be cleared, destroyed, or purged so that it cannot be reconstructed as required by NIST Special Publication 800-88 at <http://www.csrc.nist.gov/>
 - iii. Electronic PHI – PHI shall be created, maintained, stored, transported, and destroyed only on secure systems BUT PHI shall not be transmitted by unsecured email, e.g., standard City email, unless the PHI is encrypted or otherwise secure.
 - iv. Removal of PHI - No PHI shall be removed from the premises of a Covered Component except as necessary in limited circumstances, e.g., to provide direct care for the patient identified in the PHI. If removed, PHI must be kept secure.
 - v. Transmission of PHI – by Fax and electronic means
 - vi. Patient Care – Patient care and interviews shall be conducted in private areas.

BALTIMORE CITY HEALTH DEPARTMENT (BCHD) POLICIES AND PROCEDURES

REGARDING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT -- HIPAA

GENERAL GUIDELINES

1. All BCHD staff, volunteers, etc. of BCHD units identified in the NPP may access, use, and distribute the Protected Health Information (PHI) of BCHD patients only in accordance with this policy.
2. BCHD staff, volunteers, etc. of BCHD units identified in the NPP may access, use, and distribute BCHD patient PHI only as needed to perform his/her job.
3. Any BCHD staff, volunteer, etc. of BCHD units identified in the NPP shall immediately notify his/her supervisor if he/she becomes aware of access, use, or disclosure of BCHD patient PHI in violation of this policy.
4. The manager of each BCHD unit identified in the NPP is responsible for overseeing and documenting the HIPAA compliance training of the unit's staff.
5. The manager of each BCHD identified in the NPP shall designate one person to be responsible for:
 - a. Patient access to PHI
 - b. Patient amendments to PHI
 - c. Patient requests for restrictions
 - d. Patient requests for accounting of disclosures
 - e. All other disclosures of PHI to third parties except disclosures to the patient's outside health care provider
 - f. Response to patient complaints about BCHD compliance with HIPAA.

SUMMARY
PATIENT AUTHORIZATIONS AND COPIES OF PATIENT PHI

1. Authorization -- A patient may authorize BCHD to release his/her PHI to others. This authorization should either be in the form attached or have the following elements found in the BCHD authorization:

- | | |
|------------------------------|---|
| a. What to release | A specific description of the information to be disclosed |
| b. Who may release | A statement that BCHD or the relevant program is to release it. |
| c. Who to release to | The name or other specific identification of who the PHI should be disclosed to (may be general such as “my lawyers”) |
| d. Why release | Why the release is requested, such as “at the request of the patient” |
| e. Expiration | An expiration date or an expiration event, not to exceed 1 year |
| f. Signature | Patient’s signature and date |
| g. Revocation | A statement that the individual may revoke the authorization in writing at any time, but that the revocation will not be effective to the extent that BCHD already has used or disclosed the individual’s PHI in reliance on the authorization. |
| h. Not condition treatment | A statement of that BCHD may not condition treatment, payment, enrollment or eligibility for benefits on the authorization |
| i. Re-release of information | A statement of the potential for information disclosed pursuant to the authorization to be redisclosed by the recipient and no longer protected by HIPAA. |

2. Charging for Copies

BCHD may charge only by the page and for actual postage. No standard preparation fee is permitted. The charge per page is fifty cents.