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North Sound Behavioral Health Organization

Section 2500 – Privacy: Sale of Protected Health Information (PHI)

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

Cancels:

See Also:

Approved by: Executive Director

Responsible Staff: Privacy Officer

Executive Director's Signature:

Date: 3/6/2018

POLICY #2523.00

SUBJECT: SALE OF PROTECTED HEALTH INFORMATION (PHI)

PURPOSE

In compliance with Health Insurance Portability and Accountability Act (HIPAA), Part 2 and Washington law, this policy sets out requirements concerning receiving remuneration in exchange for PHI.

Capitalized terms have special meanings. Definitions under this policy include Individual, PHI, Research, Sale of PHI and Workforce. See Policy 2502.00: Definitions for Policies Governing PHI.

POLICY

It is not the practice of North Sound Behavioral Health Organization (North Sound BHO) to sell or purchase PHI. North Sound BHO 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 BHO will obtain a valid authorization by or on behalf of the Individual and will comply with other requirements mandated by federal and state law.

PROCEDURES

1. **Sale of PHI.** The Sale of PHI is a disclosure of PHI when North Sound BHO 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 Sale of PHI. North Sound BHO shall obtain a valid authorization by or on behalf of the Individual prior to the 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 BHO 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 BHO (or another Covered Entity) and for related due diligence.**
- 2.6 **To or by a Business Associate or Qualified Service Organization (QSO)** for activities undertaken on behalf of North Sound BHO and the only remuneration provided is by the Covered Entity to its Business Associate/QSO or by the Business Associate/QSO to its Subcontractor for the performance of their Business Associate/QSO 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 BHO 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; and**
 - 3.2 **Business Associate Agreements and/or Qualified Service Organization Agreements (QSOA).**

- 4. **Related Policies.** Other policies and procedures to review that are related to this policy include:
 - 4.1 **Policy 2501.00: Privacy and Confidentiality;**
 - 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; and**
 - 4.5 **Policy 2522.00: Uses and Disclosures of PHI.**

ATTACHMENTS

None