

Partners In Recovery

POLICY AND
STANDARDS

Applicable Arizona Department of Health Services Behavioral Health Rule(s):

R9-20-211 *Client Records* and R9-21-209 *Records*

Policy Name: Unauthorized Uses and Disclosures of Protected Health Information

Policy Number: REC - 0005

H.M. Gilbert Jr., Executive Director, PIR

Date

Cross Reference(s)

Uses and Disclosures of PHI, Minimum Necessary Uses and Disclosures of PHI; Oral and Written Transmission of PHI; Employee Disclosures

Policy Statement

Partners In Recovery Direct Care Clinics (DCC) take responsibility for investigating and responding to, and mitigating the effects of, unauthorized uses and disclosures of protected health information (PHI) by employees and business associates. DCC take appropriate actions against its employees and business associates who fail to comply with Partners In Recovery policies and the guidelines set forth in the HIPAA regulations.

Purpose

To outline the process to be used in investigating and mitigating the impact of potential unauthorized uses and disclosures of PHI by DCC employees and business associates. This document also describes how DCC applies sanctions against employees and business associates who violate the HIPAA standards for Use and Disclosures of PHI.

Scope

Partners In Recovery Direct Care Clinics.

Key Terms

Should the reader need to inquire as to the definition of a term used in this policy, the Partners In Recovery Key Term Glossary can be found in the back of the Policy and Procedure Manual.

Standards

- I. Employee Reporting
 - A. Each DCC employee is expected to promptly report any perceived or alleged unauthorized use or disclosure of PHI of which the employee becomes aware. These include any use or disclosure of PHI that is not consistent with Partners In Recovery privacy policies. This also includes any unauthorized use or disclosure made by a business associate of DCC.
 - B. Reporting should be made on the same business day that the unauthorized use or disclosure is discovered to one of the following:
 - 1. The employee's immediate manager or the manager's supervisor;
 - 2. The local or clinic Privacy Contact(CPC);
 - 3. The Partners In Recovery Chief Compliance Officers (CCO); or
 - 4. The HIPAA Regional Compliance Director (HIPAA RCD).
- II. Supervisor Reporting

Supervisors who become aware of an unauthorized use or disclosure of PHI are required to report the disclosure on the same business day to the CPC.

III. Local / Clinic Privacy Contact (CPC) Reporting

- A. The CPC discusses the incident with the supervisor and, as needed, the employee who discovered the breach.
- B. Based on the information provided, the CPC reports the disclosure on the same business day to the Local Compliance Contact (LPC) using the *Disclosure of PHI* form.
- C. The CPC leads local efforts to investigate the breach in support of the Local Compliance Contact.
- D. The CPC coordinates efforts with local staff and affected departments to develop a remediation plan. The remediation plan contains, at a minimum, the following:
 - 1. A description of the disclosure that occurred;
 - 2. The cause(s) of the unauthorized disclosure;
 - 3. A remedial action plan; and
 - 4. The CPC's contact information in the event the LPO has questions.
- E. The CPC files the unauthorized disclosure in the consumers medical record.

IV. DCC employees cooperate with all investigations sponsored by the Corporate Compliance Department.

V. Role of the Chief Compliance Officer

- A. The CCO, in consultation with the Corporate Legal Department if appropriate, directs all investigations of known or suspected unauthorized uses and disclosures of PHI by DCC employees and business associates.
- B. Upon receipt of a report of a known or suspected violation, the CCO, through his or her designees, directs a thorough investigation, which may include but is not limited to the following:
 - 1. Reviewing documents;
 - 2. Interviewing appropriate individuals;
 - 3. Reviewing policies and procedures; and
 - 4. Collaborating with internal department leadership including Human Resources, Security, Legal Department, and other areas as deemed appropriate.
- C. The CCO may request, as appropriate, a legal review of the matter by the Corporate Legal Department or outside legal counsel.
- D. The CCO or his/her designee consults with an employee's supervisor and the appropriate CPC in conducting an investigation, when appropriate.

VI. Mitigation

- A. DCC mitigates, to the extent practicable, the harmful effects that are known to DCC of a use or disclosure of PHI in violation of Partners In Recovery policies and procedures and the requirements set forth in 45 CFR Parts 160 and 164 of the HIPAA regulations.
- B. The mitigation process occurs as a direct result of the internal investigation process described in Section VI.
 - 1. DCC rely on the expeditious response of employees, supervisors, and the LPOs in limiting the harm associated with unauthorized uses and disclosures.
 - 2. The CCO coordinates efforts with the Compliance, Security, and Legal departments, and the CPC, as well as the department(s) involved in the unauthorized disclosure, to develop measures that minimize the negative impact of the disclosure.

VII. Sanctions

- A. DCC apply appropriate sanctions against employees who fail to comply with policies and the related HIPAA regulations.
- B. Upon completion of the investigation, the CCO determines whether any provision of the HIPAA regulations, Partners In Recovery standards of conduct, Compliance Handbook, and/or policies and procedures was violated.
- C. If a violation has occurred, the CCO in consultation with the Human Resources Department and the appropriate business owner recommend appropriate disciplinary or other action as warranted under the circumstances. If satisfactory agreement cannot be reached between the reviewing parties, the Corporate Compliance committee renders the final decision.
- D. DCC reserves the right to sanction employees responsible for the unauthorized disclosure of PHI. Actions may include requiring the development of a corrective action plan to remedy the issue for the individual(s) involved and the department(s) involved or affected. For severe violations, DCC may choose to terminate the employment of the individual(s) involved.

VIII. DCC do not retaliate against employees who report potential or actual violations.

IX. All statements, documents, or communications supporting any action or activity identified in this policy are documented for purposes of demonstrating HIPAA compliance.

Associated Partners In Recovery Direct Care Clinic Forms & Attachments

Disclosure of PHI Report Form

Disclosure Descriptions

Unauthorized Use and Disclosure Workflow

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