



Origination 4/13/2023
Last Approved 4/13/2023
Effective 4/13/2023
Last Revised 4/13/2023
Next Review 4/12/2024

Owner Samuel Shea:
GOBHI Sr. QI
Specialist/HIPAA
& Priv/Sec Officer
Area GOBHI Privacy
Applicability Greater Oregon
Behavioral
Health, Inc.
References HIPAA,
Privacy

GOBHI Privacy Policy & Procedure Handbook Policy

I. Policy Statement and Purpose

- A. Greater Oregon Behavioral Health Inc. (GOBHI) is committed to protecting personal and confidential information. This policy focuses on the use and governance of personal data to ensure that information is being collected, shared and used in appropriate ways as required by state and federal requirements.
- B. GOBHI and contractor workforce will follow the privacy policy and procedures outlined in the following sections:
 - 1. Privacy Definitions
 - 2. Uses and Disclosures of Protected Health Information
 - 3. Protection of Oral and Written PHI
 - 4. Use and Disclosures of PHI Requiring Authorization
 - 5. Use and Disclosures of PHI Requiring an Opportunity to Agree or Object
 - 6. Use and Disclosure of PHI for Treatment, Payment or Health Care Operations
 - 7. Access to Protected Health Information
 - 8. Amendment of PHI
 - 9. Notice of Privacy Practices
 - 10. Other Requirements for the Use and Disclosure of PHI
 - 11. Rights to Request Privacy Protection for PHI
 - 12. Accounting of Disclosures of PHI

13. Administrative Requirements
14. Business Associates
15. Designation of Privacy Officer
16. Training Workforce Members

II. Definitions

- A. **Business associate:** As defined by 45 C.F.R. §160.103, it includes:
1. A Health Information Organization, E-prescribing Gateway, or other person that provides data transmission services with respect to protected health information to a covered entity and that requires access on a routine basis to such protected health information.
 2. A person that offers a personal health record to one or more individuals on behalf of a covered entity.
 3. A subcontractor that creates, receives, maintains, or transmits protected health information on behalf of the business associate.
- B. **Designated record set:** As defined by 45 CFR 164.501, is a group of records maintained by or for a covered entity that is:
The medical records and billing records about individuals maintained by or for a covered health care provider;
the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or used, in whole or in part, by or for the covered entity to make decisions about individuals.
For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.
- C. **Contractor:** An individual or organization that has contracted with GOBHI to fulfill its obligations to provide a service on behalf of GOBHI.
- D. **Marketing:** As defined by 45 CRF 164.501, is to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.
1. It does not include communication made:
 - a. To provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the individual, only if any financial remuneration received by the covered entity in exchange for making the communication is reasonably related to the covered entity's cost of making the communication.
 - b. For the following treatment and health care operations purposes, except where the covered entity receives financial remuneration in exchange for making the communication:
 - i. For treatment of an individual by a health care provider, including case management or care coordination for the individual, or to

direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual;

(B) To describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, the covered entity making the communication, including communications about: the entities participating in a health care provider network or health plan network; replacement of, or enhancements to, a health plan; and health-related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits; or

(C) For case management or care coordination, contacting of individuals with information about treatment alternatives, and related functions to the extent these activities do not fall within the definition of treatment.

III. Procedure

A. Uses and Disclosures of Protected Health Information

1. Members of the GOBHI and Contractor workforce will use and disclose protected health information only as permitted by the Privacy Rule.

a. Permitted Uses and Disclosures.

i. GOBHI and Contractors are permitted to use or disclose protected health information as follows:

1. To the individual
2. For treatment, payment, or health care operations
3. Incident to a permitted or required use or disclosure
4. Except for uses and disclosures prohibited under 45 CFR §164.502(a)(5)(i), pursuant to and in compliance with a valid authorization
5. Pursuant to an agreement under, or as otherwise permitted by 45 CFR §164.510
6. As permitted by and in compliance with 45 CFR §164.512, 45 CFR §164.514(e), (f), or (g)

b. Required Disclosures.

i. GOBHI and Contractors will disclose protected health information:

1. To an individual, when requested under, and
2. When required by the Secretary to investigate or determine GOBHI or Contractor's compliance with the Privacy Rule.

c. Prohibited Disclosures.

not use or disclose protected health information in a manner that would violate the requirements of this policy, if done by the covered entity, except for the purposes specified under 45 CFR §164.504(e)(2)(i)(A) or (B) if such uses or disclosures are permitted by its contract or other arrangement.

- iv. A business associate is required to disclose protected health information:
 - 1. When required by the HHS Secretary to investigate or determine the business associate's compliance with this policy.
 - 2. To the covered entity, individual, or individual's designee, as necessary to satisfy a covered entity's obligations under 45 CFR §164.524(c)(2)(ii) and (3)(ii) with respect to an individual's request for an electronic copy of protected health information.
- v. A business associate may disclose protected health information to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit protected health information on its behalf, if the business associate obtains satisfactory assurances, in accordance with 45 CFR §164.504(e)(1)(i), that the subcontractor will appropriately safeguard the information.

g. Deceased Individuals

- i. GOBHI and Contractors will comply with the requirements of the Privacy Rule with respect to the protected health information of a deceased individual for a period of 50 years following the death of the individual.

h. Personal Representatives

- i. GOBHI and Contractors will, except as provided below in Section III. 1. h. i. 2., 3. and 5. below, treat a personal representative as the individual.

1. Adults and emancipated minors

- a. If under applicable law a person has authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care, GOBHI and Contractors shall treat such person as a personal representative, with respect to protected health information relevant to such personal representation.

2. Unemancipated minors

- a. If under applicable law a parent, guardian, or

other person acting in *loco parentis* has authority to act on behalf of an individual who is an unemancipated minor in making decisions related to health care, GOBHI and Contractors will treat such person as a personal representative, with respect to protected health information relevant to such personal representation, except that such person may not be a personal representative of an unemancipated minor, and the minor has the authority to act as an individual with respect to protected health information pertaining to a health care service, if:

- i. The minor consents to such health care service; no other consent to such health care service is required by law, regardless of whether the consent of another person has also been obtained, and the minor has not requested that such person be treated as the personal representative;
- ii. The minor may lawfully obtain such health care service without the consent of a parent, guardian, or other person acting in *loco parentis*, and the minor, a court, or another person authorized by law consents to such health care service; or
- iii. A parent, guardian, or other person acting in *loco parentis* assents to an agreement of confidentiality between a covered health care provider and the minor with respect to such health care service.

3. Notwithstanding the above:

- a. If, and to the extent permitted or required by an applicable provision of Oregon or other law, including applicable case law, GOBHI and Contractors may disclose, or provide access in accordance with 45 CFR §164.524 to, protected health information about an

COPY

person acting *in loco parentis*; unemancipated minor to a parent, guardian, or other

- b. If, and to the extent, prohibited by an applicable provision of Oregon or other law, including applicable case law, GOBHI and Contractors may not disclose, or provide access in accordance with 45 CFR §164.524 to, protected health information about an unemancipated minor to a parent, guardian, or other person acting *in loco parentis*; and
- c. Where the parent, guardian, or other person acting *in loco parentis*, is not the personal representative and where there is no applicable access provision under Oregon or other law, including case law, GOBHI or Contractor may provide or deny access under 45 CFR §164.524 to a parent, guardian, or other person acting *in loco parentis*, if such action is consistent with Oregon or other applicable law, provided that such decision must be made by a licensed health care professional, in the exercise of professional judgment.

4. Deceased individuals

- a. If under applicable law an executor, administrator, or other person has authority to act on behalf of a deceased individual or of the individual's estate, GOBHI and Contractors will treat such person as a personal representative, with respect to protected health information relevant to such personal representation.

5. Abuse, neglect, endangerment situations.

- a. Notwithstanding a State law, GOBHI and Contractors may elect not to treat a person as the personal representative of an individual if:
 - i. GOBHI or Contractor has a reasonable belief that:
 - 1. The individual has been or may be subjected to domestic violence, abuse, or neglect by

- such person; or
- 2. Treating such person as the personal representative could endanger the individual; and
- ii. GOBHI or Contractor, in the exercise of professional judgment, decides that it is not in the best interest of the individual to treat the person as the individual's personal representative.
- i. Confidential Communications. GOBHI and Contractors will comply with the applicable requirements of 45 CFR §164.522(b) in communicating protected health information.
- j. Uses and Disclosures Consistent with Notice. GOBHI and Contractors will use and disclose protected health information as described in their respective Notices of Privacy Practices.
 - i. Disclosures by Whistleblowers and Workforce Member Crime Victims.
 - 1. GOBHI and Contractors are not considered to have violated the requirements of the Privacy Rule if a member of their workforce or a business associate discloses protected health information, provided that:
 - a. The workforce member or business associate believes in good faith that GOBHI or Contractor has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services, or conditions provided by GOBHI or Contractor potentially endangers one or more patients, workers, or the public; and
 - b. The disclosure is to:
 - i. A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of GOBHI or Contractor or to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by GOBHI or Contractor; or

- ii. An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to the conduct described above.
- ii. GOBHI and Contractors are not considered to have violated the requirements of the Privacy Rule if a member of its workforce who is the victim of a criminal act discloses protected health information to a law enforcement official, provided that:
 - 1. The protected health information disclosed is about the suspected perpetrator of the criminal act; and
 - iii. The protected health information disclosed is limited to the information listed in 45 CFR §164.512(f)(2)(i).

k. Effectiveness Criteria

- i. Periodic monitoring and audits confirm compliance with this policy.

B. Protection of Oral and Written PHI

- 1. Members of the GOBHI and Contractor workforce shall avoid the oral communication of protected health information both within and outside of the GOBHI office, except with those individuals who need the PHI for behavioral health treatment, payment or operations, or other parties permitted by the Privacy Rule.
 - a. Written PHI should be secured when not being utilized by GOBHI and Contractor workforce members.
 - b. Care should be taken not to discuss PHI in a public setting within earshot of individuals who shouldn't have access to that information.
 - c. Within the office setting, we should not discuss PHI in such a way that it may be overheard by members of the GOBHI or Contractor staff or visitors who are not authorized to have access to that information.
 - d. Written PHI should not be left unattended on a worker's desk or displayed in such a way that it could be easily read by another workforce member.
 - e. Written PHI should be secured when the GOBHI or Contractor offices are closed.
 - f. Effectiveness Criteria
 - i. There are no reports of PHI being discussed in such a way that the conversation is overheard by individuals who do not need to know about it.

C. Use and Disclosures of PHI Requiring Authorization

- 1. GOBHI will ensure disclosures of PHI which require consumer authorization will only

be made after a consumer has authorized such disclosures in accordance with state and federal guidelines.

- a. Except as otherwise permitted or required by the Privacy Rule, GOBHI and Contractors may not use or disclose protected health information without an authorization that is valid under the Privacy Rule. When GOBHI and Contractors obtain or receive a valid authorization for its use or disclosure of protected health information, such use or disclosure must be consistent with such authorization.
- b. GOBHI and Contractors must obtain an authorization for any use or disclosure of psychotherapy notes, except:
 - i. To carry out the following treatment, payment, or health care operations:
 - ii. Use by the originator of the psychotherapy notes for treatment,
 - iii. Use or disclosure by GOBHI and Contractors for its own training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling; or
 - iv. Use or disclosure by GOBHI and Contractors to defend itself in a legal action or other proceeding brought by the individual; and
 - v. A use or disclosure that is required by 45 CFR §164.502(a)(2)(ii) or permitted by 45 CFR §164.512(a); 45 CFR §164.512(d) with respect to the oversight of the originator of the psychotherapy notes; 45 CFR §164.512(g)(1); or 45 CFR §164.512(j)(1)(i).
- c. Marketing.
 - i. GOBHI and Contractors must obtain an authorization for any use or disclosure of protected health information for marketing, except if the communication is in the form of:
 - 1. A face-to-face communication made by GOBHI and Contractors to an individual, or
 - 2. A promotional gift of nominal value provided by GOBHI and Contractors.
 - 3. If the marketing involves financial remuneration, as defined in paragraph (3) of the definition of marketing at 45 CFR §164.501, to GOBHI and Contractors from a third party, the authorization must state that such remuneration is involved.
- d. Sale of protected health information.
 - i. GOBHI and Contractors must obtain an authorization for any disclosure of protected health information which is a sale of protected health information, as defined in 45 CFR §164.501 in the Privacy Rule.

- ii. Such authorization must state that the disclosure will result in remuneration to GOBHI and Contractors.

e. Valid Authorizations.

i. Defective authorizations.

1. An authorization is not valid, if the document submitted has any of the following defects:
 - a. The expiration date has passed, or the expiration event is known by GOBHI and Contractors to have occurred,
 - b. The authorization has not been filled out completely,
 - c. The authorization is known by GOBHI and Contractors to have been revoked,
 - d. The authorization violates sections covered below in Sections: Compound authorizations (Section III. C. 1. f.) and Prohibition on conditioning of authorizations (Section III. C. 1. g.), if applicable,
 - e. Any material information in the authorization is known by GOBHI and Contractors to be false.

f. Compound authorizations.

- i. An authorization for use or disclosure of protected health information may not be combined with any other document to create a compound authorization, except as follows:
 1. An authorization for the use or disclosure of protected health information for a research study may be combined with any other type of written permission for the same or another research study. This exception includes combining an authorization for the use or disclosure of protected health information for a research study with another authorization for the same research study, with an authorization for the creation or maintenance of a research database or repository, or with consent to participate in research. Where a covered health care provider has conditioned the provision of research-related treatment on the provision of one of the authorizations, any compound authorization created under this paragraph must clearly differentiate between the conditioned and unconditioned components and provide the individual with an opportunity to opt in to the research activities described in the unconditioned authorization.

2. An authorization for a use or disclosure of psychotherapy notes may only be combined with another authorization for a use or disclosure of psychotherapy notes.
3. An authorization, other than an authorization for a use or disclosure of psychotherapy notes, may be combined with any other such authorization under this section, except when a covered entity has conditioned the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of one of the authorizations.

g. Prohibition on conditioning of authorizations.

- i. GOBHI and Contractors may not condition the provision to an individual of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of an authorization, except:
 1. GOBHI and Contractors may condition the provision of research-related treatment on provision of an authorization for the use or disclosure of protected health information for such research, and
 2. GOBHI and Contractors may condition the provision of health care that is solely for the purpose of creating protected health information for disclosure to a third party on provision of an authorization for the disclosure of the protected health information to such third party.

h. Revocation of authorizations

- i. An individual may revoke an authorization provided under this section at any time, provided that the revocation is in writing, except to the extent that GOBHI and Contractors has taken action in reliance thereon.

i. Documentation

- i. GOBHI and Contractors will document and retain any signed authorization

j. Core elements and requirements.

- i. A valid authorization under this section must contain at least the following elements:
 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, 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 GOBHI and Contractors 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, or elects not to, provide a statement of the purpose.
5. An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure. The statement "end of the research study," "none," or similar language is sufficient if the authorization is for a use or disclosure of protected health information for research, including for the creation and maintenance of a research database or research repository.
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.

k. Required statements.

- i. In addition to the core elements, the authorization must contain statements adequate to place the individual on notice of all of the following:
 1. The individual's right to revoke the authorization in writing, and the exceptions to the right to revoke and a description of how the individual may revoke the authorization.
 2. The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization, by stating either:
 - a. The covered entity may not condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization when the prohibition on conditioning of authorizations; or
 - b. The authorization when GOBHI and Contractors can condition treatment, enrollment in the health plan, or eligibility for

benefits on failure to obtain such authorization.

3. The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected by this subpart.

I. Plain language requirement

- i. The authorization must be written in plain language.

m. Copy to the individual.

- i. If a covered entity seeks an authorization from an individual for a use or disclosure of protected health information, GOBHI and Contractors must provide the individual with a copy of the signed authorization.

n. Effectiveness Criteria

- i. Periodic audits confirm compliance with these requirements.

D. Use and Disclosures of PHI Requiring an Opportunity to Agree or Object

1. GOBHI will ensure disclosures of PHI will only be made after a consumer has an opportunity to agree or object in accordance with state and federal guidelines.

a. Permitted disclosures.

- i. GOBHI and Contractors may use or disclose protected health information, provided that the individual is informed in advance of the use or disclosure and has the opportunity to agree to or prohibit or restrict the use or disclosure, in accordance with the applicable requirements of the Privacy Rule.
- ii. The covered entity may orally inform the individual of and obtain the individual's oral agreement or objection to a use or disclosure permitted by GOBHI and Contractors.
- iii. GOBHI and Contractors may disclose to a family member, other relative, or a close personal friend of the individual, or any other person identified by the individual, the protected health information directly relevant to such person's involvement with the individual's care or payment related to the individual's health care.
- iv. GOBHI and Contractors may use or disclose protected health information to notify, or assist in the notification of (including identifying or locating), a family member, a personal representative of the individual, or another person responsible for the care of the individual of the individual's location, general condition, or death.

b. Uses and disclosures with the individual present.

- i. If the individual is present for, or otherwise available prior to, a

use or disclosure permitted by section II.A and has the capacity to make health care decisions, GOBHI and its Contractors may use or disclose the protected health information if they:

1. Obtain the individual's agreement,
 2. Provide the individual with the opportunity to object to the disclosure, and the individual does not express an objection, or
 3. Reasonably infer from the circumstances, based the exercise of professional judgment that the individual does not object to the disclosure.
- c. Limited uses and disclosures when the individual is not present.
- i. If the individual is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the individual's incapacity or an emergency circumstance, GOBHI and its Contractors may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the individual and, if so, disclose only the protected health information that is directly relevant to the person's involvement with the individual's health care or payment related to the individual's health care or needed for notification purposes.
- d. Uses and disclosures for disaster relief purposes.
- i. GOBHI and its Contractors may use or disclose protected health information to a public or private entity authorized by law or by its charter to assist in disaster relief efforts, for the purpose of coordinating with such entities the uses or disclosures permitted above. The requirements in this policy apply to such uses and disclosure to the extent that GOBHI and its Contractors, in the exercise of professional judgment, determine that the requirements do not interfere with the ability to respond to the emergency circumstances.
- e. Uses and disclosures when the individual is deceased.
- i. If the individual is deceased, GOBHI and Contractors may disclose to a family member, or other persons identified above who were involved in the individual's care or payment for health care prior to the individual's death, protected health information of the individual that is relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the individual that is known to GOBHI or its Contractors.
- f. GOBHI and its Contractors may use or disclose protected health information without the written authorization of the individual in the situations covered below. When GOBHI or Contractor is required to inform

the individual of, or when the individual may agree to a use or disclosure permitted by this policy, the protected health information and the individual's agreement may be given orally.

- i. Uses and disclosures required by law
- ii. Uses and disclosures for public health activities
- iii. Disclosures about victims of abuse, neglect or domestic violence
- iv. Uses and disclosures for health oversight activities
- v. Disclosures for judicial and administrative proceedings
- vi. Disclosures for law enforcement purposes
- vii. Uses and disclosures about decedents
- viii. Uses and disclosures for cadaveric organ, eye or tissue donation purposes
- ix. Uses and disclosures for research purposes
- x. Uses and disclosures to avert a serious threat to health or safety
- xi. Uses and disclosures for specialized functions described in 45 CFR 164.512(k)
- xii. Disclosures for workers' compensation
- g. Exceptions or limitations to the purposes listed above are included in 45 CFR 164.512.
- h. Effectiveness Criteria
 - i. Periodic monitoring reviews or retrospective audits confirm compliance with this policy.

E. Use and Disclosure of PHI for Treatment, Payment or Health Care Operations

1. GOBHI and Contractor may use or disclose protected health information for its own treatment, payment, or health care operations.
2. GOBHI and Contractor may disclose protected health information for treatment activities of a health care provider.
3. GOBHI and Contractor may disclose protected health information to another covered entity or a health care provider for the payment activities of the entity that receives the information.
4. GOBHI and Contractor may disclose protected health information to another covered entity for health care operations activities of the entity that receives the information, if each entity either has or had a relationship with the individual who is the subject of the protected health information being requested, the protected health information pertains to such relationship, and the disclosure for one of the purposes included in the definition of health care operations or for the purpose of health care fraud and abuse detection or compliance.
5. Effectiveness Criteria

- a. Periodic monitoring reviews or retrospective audits confirm compliance with this policy.

F. Access to Protected Health Information

1. Right to Access

- a. Except as otherwise provided in Sections: Timely action by the covered entity (Section III. F. 6.) and Provision of access (Section III. F. 7), an individual has a right of access to inspect and obtain a copy of protected health information about the individual in a designated record set, for as long as the protected health information is maintained in the designated record set, except for:
 - i. Psychotherapy notes; and
 - ii. Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.

2. Unreviewable grounds for denial

- a. GOBHI and Contractors may deny an individual access without providing the individual an opportunity for review, in the following circumstances:
 - i. The protected health information is excepted from the right of access by the section below: **Requests for access (Section III. F. 5.)**
 - ii. An individual's access to protected health information created or obtained by a covered health care provider in the course of research that includes treatment may be temporarily suspended for as long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to participate in the research that includes treatment, and the covered health care provider has informed the individual that the right of access will be reinstated upon completion of the research.
 - iii. An individual's access to protected health information that is contained in records that are subject to the Privacy Act, 5 U.S.C. 552a, may be denied, if the denial of access under the Privacy Act would meet the requirements of that law.
 - iv. An individual's access may be denied if the protected health information 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.

3. Reviewable grounds for denial

- a. GOBHI and Contractors may deny an individual access, provided that the individual is given a right to have such denials reviewed, as required by the section below: Denial of access (Section III. F. 8.), 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 protected health information makes reference 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 such 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 such personal representative is reasonably likely to cause substantial harm to the individual or another person.

4. Review of a denial of access

- a. If access is denied on a ground permitted under the section below: Provision of access (Section III. F. 7.) the individual has the right to have the denial reviewed by a licensed health care professional who is designated by the covered entity to act as a reviewing official and who did not participate in the original decision to deny. GOBHI and Contractors will provide or deny access in accordance with the determination of the reviewing official.

5. Requests for access

- a. Individual's request for access
 - i. GOBHI and Contractors will permit an individual to request access to inspect or to obtain a copy of the protected health information about the individual that is maintained in a designated record set. GOBHI and Contractors may require individuals to make requests for access in writing, provided that it informs individuals of such a requirement.

6. Timely action by the covered entity

- a. Except as provided in Section III. F. 6. b., GOBHI and Contractors will act on a request for access no later than 30 days after receipt of the request as follows.
 - i. If GOBHI and Contractors grant the request, in whole or in part, it will inform the individual of the acceptance of the request and provide the access requested, in accordance with the section below: Provision of access (Section III. F. 7.).
 - ii. If the covered entity denies the request, in whole or in part, it will provide the individual with a written denial, in accordance with the section below: Denial of access (Section III. F. 8).

- b. If the covered entity is unable to take an action required above within the time required by Section III.6. a., as applicable, GOBHI and Contractors may extend the time for such actions by no more than 30 days, provided that:
 - i. GOBHI and Contractors provide the individual with a written statement of the reasons for the delay and the date by which the covered entity will complete its action on the request; and
 - ii. GOBHI and Contractors may have only one such extension of time for action on a request for access.

7. Provision of access

- a. If GOBHI and Contractors provide an individual with access, in whole or in part, to protected health information, it will comply with the following requirements.
 - i. Providing the access requested
 - 1. GOBHI and Contractors will provide the access requested by individuals, including inspection or obtaining a copy, or both, of the protected health information about them in designated record sets. If the same protected health information that is the subject of a request for access is maintained in more than one designated record set or at more than one location, GOBHI and Contractors need only produce the protected health information once in response to a request for access.
 - ii. Form of access requested
 - 1. GOBHI and Contractors will provide the individual with access to the protected health information in the form and format requested by the individual, if it is readily producible in such form and format; or, if not, in a readable hard copy form or such other form and format as agreed to by the covered entity and the individual.
 - 2. Notwithstanding Section: Provision of access, Form of access requested (III. F. 7. a. ii.), if the protected health information that is the subject of a request for access is maintained in one or more designated record sets electronically and if the individual requests an electronic copy of such information, GOBHI and Contractors will provide the individual with access to the protected health information in the electronic form and format requested by the individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by GOBHI and Contractors and the individual.

3. GOBHI and Contractors may provide the individual with a summary of the protected health information requested, in lieu of providing access to the protected health information or may provide an explanation of the protected health information to which access has been provided, if:
 - a. The individual agrees in advance to such a summary or explanation; and
 - b. The individual agrees in advance to the fees imposed, if any, by the covered entity for such summary or explanation.

iii. Time and manner of access

1. GOBHI and Contractors will provide the access as requested by the individual in a timely manner, including arranging with the individual for a convenient time and place to inspect or obtain a copy of the protected health information, or mailing the copy of the protected health information at the individual's request. The covered entity may discuss the scope, format, and other aspects of the request for access with the individual as necessary to facilitate the timely provision of access.
2. If an individual's request for access directs the covered entity to transmit the copy of protected health information directly to another person designated by the individual, the covered entity will provide the copy to the person designated by the individual. The individual's request will be in writing, signed by the individual, and clearly identify the designated person and where to send the copy of protected health information.

iv. Fees

1. If the individual requests a copy of the protected health information or agrees to a summary or explanation of such information, GOBHI and Contractors may impose a reasonable, cost-based fee, provided that the fee includes only the cost of:
 - a. Labor for copying the protected health information requested by the individual, whether in paper or electronic form; Supplies for creating the paper copy or electronic media if the individual requests that the electronic copy be provided on portable media;

- b. Postage, when the individual has requested the copy, or the summary or explanation, be mailed; and
- c. Preparing an explanation or summary of the protected health information, if agreed to by the individual.

8. Denial of access

- a. If GOBHI or Contractors deny access, in whole or in part, to protected health information, it will comply with the following requirements.

- i. Making other information accessible.

- 1. GOBHI and Contractors will, to the extent possible, give the individual access to any other protected health information requested, after excluding the protected health information as to which the covered entity has a ground to deny access.

- ii. Denial

- 1. GOBHI and Contractors will provide a timely, written denial to the individual. The denial will be in plain language and contain:
 - a. The basis for the denial;
 - b. If applicable, a statement of the individual's review rights, including a description of how the individual may exercise such review rights; and
 - c. A description of how the individual may complain to the covered entity pursuant to the complaint procedures in § 164.530(d) or to the Secretary pursuant to the procedures in § 160.306. The description will include the name, or title, and telephone number of the contact person or office designated in § 164.530(a)(1)(ii).

- iii. Other responsibility

- 1. If GOBHI and Contractors does not maintain the protected health information that is the subject of the individual's request for access, and GOBHI and Contractors know where the requested information is maintained, GOBHI and Contractors will inform the individual where to direct the request for access.

- iv. Review of denial requested

- 1. If the individual has requested a review of a denial,

GOBHI and Contractors will designate a licensed health care professional, who was not directly involved in the denial to review the decision to deny access. GOBHI and Contractors will promptly refer a request for review to such designated reviewing official. The designated reviewing official will determine, within a reasonable period of time, whether or not to deny the access requested based on the standards in Section: Provision of access (III. F. 7.) GOBHI and Contractors will promptly provide written notice to the individual of the determination of the designated reviewing official and take other action as required by this section to carry out the designated reviewing official's determination.

9. Documentation

a. GOBHI and Contractors will document the following and retain the documentation:

- i. The designated record sets that are subject to access by individuals; and
- ii. The titles of the persons or offices responsible for receiving and processing requests for access by individuals.

10. Effectiveness Criteria

a. Audits of all access requests reflect compliance with this policy.

G. Amendment of PHI

1. Individuals have the right to have GOBHI or Contractor amend protected health information or a record about the individual in a designated record set for as long as the protected health information is maintained in the designated record set.

a. Denial of amendment.

i. GOBHI or Contractor may deny an individual's request for amendment, if it determines that the protected health information or record that is the subject of the request:

- 1. Was not created by GOBHI or Contractor, unless the individual provides a reasonable basis to believe that the originator of protected health information is no longer available to act on the requested amendment;
- 2. Is not part of the designated record set;
- 3. Would not be available for inspection under CFR §164.524; or
- 4. Is accurate and complete.

2. Requests for amendment and timely action.

a. Individual's request for amendment.

i. GOBHI or Contractor may require individuals to make requests for amendment in writing and to provide a reason to support a requested amendment, provided that it informs individuals in advance of such requirements.

ii. Timely action.

1. GOBHI or Contractor must act on the individual's request for an amendment no later than 60 days after receipt of such a request, as follows.

a. If GOBHI or Contractor grants the requested amendment, in whole or in part, it must take the actions required by below Sections: Accepting the amendment, Making the amendment & Informing the individual (III. G.3, a. i. & ii.).

b. If GOBHI or Contractor denies the requested amendment, in whole or in part, it must provide the individual with a written denial.

c. If GOBHI or Contractor is unable to act on the amendment within the time required by Section: Timely Action (III. G. 2.). GOBHI or Contractor may extend the time for such action by no more than 30 days, provided that:

i. GOBHI or Contractor, within the time limit set within this Section: Timely Action (III. G. 2.), provides the individual with a written statement of the reasons for the delay and the date by which GOBHI or Contractor will complete its action on the request; and

ii. GOBHI and Contractor may have only one such extension of time for action on a request for an amendment.

3. Accepting the amendment.

a. If GOBHI or Contractor accepts the requested amendment, in whole or in part, GOBHI or Contractor will comply with the following requirements.

i. Making the amendment.

a. GOBHI or Contractor must make the appropriate amendment to the protected health information or record that is the subject of the request for

amendment by, at a minimum, identifying the records in the designated record set that are affected by the amendment and appending or otherwise providing a link to the location of the amendment.

ii. Informing the individual.

- a. In accordance with Section: Requests for amendment and timely action (III. G. 2.), the individual will be informed in a timely manner that the amendment is accepted and GOBHI or Contractor will obtain the individual's agreement in order to notify the relevant persons with which the amendment needs to be shared in accordance with this Section: Accepting the amendment, Informing others (III. G. 3. a. iii.).

iii. Informing others.

- a. GOBHI or Contractor must make reasonable efforts to inform and provide the amendment within a reasonable time to:
 1. Persons identified by the individual as having received protected health information about the individual and needing the amendment; and
 2. Persons, including business associates, that GOBHI or Contractor knows have the protected health information that is the subject of the amendment and that may have relied, or could foresee-ably rely, on such information to the detriment of the individual.

4. Denying the amendment.

- a. If GOBHI or Contractor denies the requested amendment, in whole or in part, GOBHI or Contractor must comply with the following requirements.
 - i. Denial.
 1. GOBHI or Contractor must provide the individual with a timely, written denial, in accordance with section III.B. The denial must use plain language and contain:
 - a. The basis for the denial;
 - b. The individual's right to submit a written statement disagreeing with the denial and how the individual may file such a statement;
 - c. A statement that, if the individual does not submit a statement of disagreement, the

individual may request that GOBHI or Contractor provide the individual's request for amendment and the denial with any future disclosures of the protected health information that is the subject of the amendment; and

- d. A description of how the individual may complain to GOBHI or Contractor pursuant to the complaint procedures established in 45 CFR §164.530(d) or to the Secretary pursuant to the procedures established in 45 CFR §160.306. The description must include the name, or title, and telephone number of the contact person or office designated in 45 CFR §164.530(a)(1)(ii).

ii. Statement of disagreement.

1. GOBHI or Contractor will permit the individual to submit to GOBHI or Contractor a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. GOBHI or Contractor may reasonably limit the length of a statement of disagreement.

- iii. Rebuttal statement. GOBHI or Contractor may prepare a written rebuttal to the individual's statement of disagreement. Whenever such a rebuttal is prepared, GOBHI or Contractor will provide a copy to the individual who submitted the statement of disagreement.

iv. Record keeping.

1. GOBHI or Contractor will, as appropriate, identify the record or protected health information in the designated record set that is the subject of the disputed amendment and append or otherwise link the individual's request for an amendment, the denial of the request, the individual's statement of disagreement, if any, and GOBHI or Contractor's rebuttal, if any, to the designated record set.

v. Future disclosures.

1. If a statement of disagreement has been submitted by the individual, GOBHI or Contractor must include the material appended in accordance with Section: Denying the amendment, Recording keeping (III. G. 4. iv.), or, at the election of GOBHI or Contractor, an accurate summary of any such information, with any subsequent disclosure of the protected health

information to which the disagreement relates.

2. If the individual has not submitted a written statement of disagreement, GOBHI or Contractor will include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the protected health information only if the individual has requested such action in accordance with Section: Denying the amendment, Denial (III. G. 4. a. i.).
 3. When a subsequent disclosure described in Section: III. G. 4. a. v. 1. or 2. is made using a standard transaction that does not permit the additional material to be included with the disclosure, GOBHI or Contractor may separately transmit the material required by Section: III. G. 4. a. v. 1. or 2., as applicable, to the recipient of the standard transaction.
5. Actions on notices of amendment.
- a. When informed by another covered entity of an amendment to an individual's protected health information, GOBHI or Contractor will amend the protected health information in designated record sets as provided by Section: Denying the amendment, Denial (III. G. 4. a. i.).
6. Documentation.
- a. GOBHI or Contractor will document the titles of the persons or offices responsible for receiving and processing requests for amendments by individuals and retain the documentation as required by 45 CFR §164.530(j).
7. Effectiveness Criteria:
- a. Audits of requests for amendments to protected health information confirm compliance.

H. Notice of Privacy Practices

1. GOBHI consumers have a right to adequate notice of the uses and disclosures of their protected health information by GOBHI and its Contractors, of the consumers rights, and the legal duties of GOBHI with respect to protected health information.
2. If GOBHI or Contractor has a direct treatment relationship with an individual, it must:
 - a. Provide the notice:
 - i. No later than the date of the first service delivery, including service delivered electronically, to such individual after the compliance date for the covered health care provider; or
 - ii. In an emergency treatment situation, as soon as reasonably practicable after the emergency treatment situation.
3. Except in an emergency treatment situation, make a good faith effort to obtain a

written acknowledgment of receipt of the notice, and if not obtained, document its good faith efforts to obtain such acknowledgment and the reason why the acknowledgment was not obtained;

4. If GOBHI or Contractor maintains a physical service delivery site, it will:
 - a. Have the notice available at the service delivery site for individuals to request to take with them; and
 - b. Post the notice in a clear and prominent location where it is reasonable to expect individuals seeking service from the covered health care provider to be able to read the notice; and
 - c. Whenever the notice is revised, make the notice available upon request on or after the effective date of the revision.
5. GOBHI and Contractor may provide its notice to a consumer by e-mail, if the individual agrees to electronic notice and such agreement has not been withdrawn.
 - a. If GOBHI or Contractor knows that the e-mail transmission has failed, a paper copy of the notice must be provided to the individual
 - b. If the first service delivery to an individual is delivered electronically, GOBHI and Contractor will provide electronic notice automatically and contemporaneously in response to the Member's first request for service.
 - c. The consumer who is the recipient of electronic notice retains the right to obtain a paper copy of the notice from GOBHI or Contractor upon request.
6. To implement a change in its notice, GOBHI and Contractor will:
 - a. Ensure that a policy or procedure, as revised to reflect a change in GOBHI's or Contractor's privacy practice as stated in its notice, complies with the standards, requirements, and implementation specifications of the Privacy Rule;
 - b. Document the policy or procedure; and
 - c. Revise the notice to state the changed practice and make the revised notice available. GOBHI and Contractor may not implement a change to a policy or procedure prior to the effective date of the revised notice.
- I. The Notices of Privacy Practices (NPP) will be written in plain language and will contain the elements required by 45 CFR §164.520. (See Exhibit A)
- J. GOBHI and Contractors will prominently post its NPP on its website and make it available electronically.
The NPP will be distributed to GOBHI consumers at enrollment and annually thereafter.
- K. Effectiveness Criteria
 1. The Notices of Privacy Practices for GOBHI and its Contractors is current and are posted on its website.
- L. Other Requirements for the Use and Disclosure of PHI
 1. De-identification of protected health information.

- a. Health information that does not identify an individual, and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual, is not individually identifiable health information.
2. Requirements for de-identification of protected health information.
- a. GOBHI and Contractors may determine that health information is not individually identifiable health information only if:
 - i. A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable, applying such principles and methods, determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is a subject of the information; and
 - 1. Documents the methods and results of the analysis that justify such determination; or
 - 2. The following identifiers of the individual or of relatives, employers, or household members of the individual, are removed:
 - a. Names;
 - b. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census, the geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and the initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.
 - c. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;
 - d. Telephone numbers;

COPY

- e. Fax numbers;
- f. Electronic mail addresses;
- g. Social security numbers;
- h. Medical record numbers;
- i. Health plan beneficiary numbers;
Account numbers;
- j. Certificate/license numbers;
Vehicle identifiers and serial numbers,
including license plate numbers;
- k. Device identifiers and serial numbers;
- l. Web Universal Resource Locators (URLs);
- m. Internet Protocol (IP) address numbers;
- n. Biometric identifiers, including finger and
voice prints;
- o. Full face photographic images and any
comparable images; and
- p. Any other unique identifying number,
characteristic, or code; and

3. GOBHI and Contractors do not have actual knowledge that the information could be used alone or in combination with other information to identify an individual who is a subject of the information.

3. Re-identification.

- a. GOBHI and Contractors may assign a code or other means of record identification to allow information de-identified under this section to be re-identified by the covered entity, provided that:
 - i. The code or other means of record identification is not derived from or related to information about the individual and is not otherwise capable of being translated so as to identify the individual; and
 - ii. The covered entity does not use or disclose the code or other means of record identification for any other purpose and does not disclose the mechanism for re-identification.

4. Minimum necessary requirements.

- a. GOBHI and Contractors shall identify:
 - i. Those persons or classes of persons, as appropriate, in its workforce who need access to protected health information to carry out their duties; and
 - ii. For each such person or class of persons, the category or

categories of protected health information to which access is needed and any conditions appropriate to such access.

- b. GOBHI and Contractors will make reasonable efforts to limit the access of such persons or classes to protected health information.
- c. Minimum necessary disclosures of protected health information. For any type of disclosure that it makes on a routine and recurring basis, GOBHI and Contractors will implement policies and procedures (which may be standard protocols) that limit the protected health information disclosed to the amount reasonably necessary to achieve the purpose of the disclosure. For all other disclosures, GOBHI and Contractors will:
 - i. Develop criteria designed to limit the protected health information disclosed to the information reasonably necessary to accomplish the purpose for which disclosure is sought; and
 - ii. Review requests for disclosure on an individual basis in accordance with such criteria.
- d. GOBHI and Contractors may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when:
 - i. Making disclosures to public officials that are permitted under 45 CFR §164.512, if the public official represents that the information requested is the minimum necessary for the stated purpose(s);
 - ii. The information is requested by another covered entity;
 - iii. The information is requested by a professional who is a member of its workforce or is a business associate of GOBHI and Contractors for the purpose of providing professional services to GOBHI and Contractors, if the professional represents that the information requested is the minimum necessary for the stated purpose(s); or
 - iv. Documentation or representations that comply with the applicable requirements of 45 CFR §164.512(i) have been provided by a person requesting the information for research purposes.
- e. Minimum necessary requests for protected health information.
 - i. GOBHI and Contractors will limit any request for protected health information to that which is reasonably necessary to accomplish the purpose for which the request is made, when requesting such information from other covered entities.
 - 1. For a request that is made on a routine and recurring basis, GOBHI and Contractors will implement policies and procedures that limit the protected health information requested to the amount reasonably

necessary to accomplish the purpose for which the request is made.

2. For all other requests, GOBHI and Contractors will:

- a. Develop criteria designed to limit the request for protected health information to the information reasonably necessary to accomplish the purpose for which the request is made; and
- b. Review requests for disclosure on an individual basis in accordance with such criteria.

f. Other content requirement.

- i. For all uses, disclosures, or requests to which the requirements in Section: Minimum necessary requirements (III. L. 4.) apply, GOBHI and Contractors may not use, disclose or request an entire health record, except when the entire health record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.

5. Verification requirements.

a. Prior to any disclosure permitted by this policy,

b. GOBHI and Contractors will:

- i. Except with respect to disclosures under 45 CFR §164.510, verify the identity of a person requesting protected health information and the authority of any such person to have access to protected health information, if the identity or any such authority of such person is not known to GOBHI and Contractors; and
- ii. Obtain any documentation, statements, or representations, whether oral or written, from the person requesting the protected health information when such documentation, statement, or representation is a condition of the disclosure.

c. Conditions on disclosure.

- i. If a disclosure is conditioned on particular documentation, statements, or representations from the person requesting the protected health information, GOBHI and Contractors may rely, if such reliance is reasonable under the circumstances, on documentation, statements, or representations that, on their face, meet the applicable requirements.
- ii. The conditions in 45 CFR §164.512(f)(1)(ii)(C) may be satisfied by an administrative subpoena or similar process or by a separate written statement that, on its face, demonstrates that the applicable requirements have been met.

- iii. The documentation required by 45 CFR §164.512(i)(2) may be satisfied by one or more written statements, provided that each is appropriately dated and signed in accordance with 45 CFR §164.512(i)(2)(i) and (v).
- d. Identity of public officials.
 - i. GOBHI and Contractors may rely, if such reliance is reasonable under the circumstances, on any of the following to verify identity when the disclosure of protected health information 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.
- e. Authority of public officials.
 - i. GOBHI and Contractors may rely, if such reliance is reasonable under the circumstances, 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
 2. A request made pursuant to legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.
- f. Exercise of professional judgment.
 - i. The verification requirements of this paragraph are met if GOBHI and Contractors relies on the exercise of professional judgment in making a use or disclosure in accordance with 45 CFR §164.510 or acts on a good faith belief in making a disclosure in accordance with 45 CFR §164.512(j).

6. GOBHI and Contractors does not use or disclose limited data sets or engage in fundraising.
7. Effectiveness Criteria
 - a. Periodic audits confirm compliance with these requirements.

M. Rights to Request Privacy Protection for PHI

1. Right of an individual to request restriction of uses and disclosures.
 - a. GOBHI and Contractor shall permit an individual to request the restriction of uses or disclosures of protected health information about the individual to carry out treatment, payment, or health care operations and other disclosures permitted under 45 CFR §164.510(b).
 - b. GOBHI and Contractor are not required to agree to a restriction.
 - c. If GOBHI or Contractor agrees to a restriction under this Section: Right of an individual to request restriction of uses and disclosures (III. M. 1. a.), it may not use or disclose protected health information in violation of such restriction, except that, if the individual who requested the restriction is in need of emergency treatment and the restricted protected health information is needed to provide the emergency treatment, GOBHI or Contractor may use the restricted protected health information, or may disclose such information to a health care provider, to provide such treatment to the individual.
 - d. If restricted protected health information is disclosed to a health care provider for emergency treatment, GOBHI or Contractor shall request that such health care provider not further use or disclose the information.
 - e. GOBHI will agree to the request of an individual to restrict disclosure of protected health information about the individual if:
 - i. The disclosure is for the purpose of carrying out payment or health care operations and is not otherwise required by law; and
 - ii. The protected health information pertains solely to a health care item or service for which the individual, or person other than the health plan on behalf of the individual, has paid GOBHI in full.
2. Terminating a restriction.
 - a. GOBHI or Contractor may terminate its agreement to a restriction if:
 - i. The individual agrees to or requests the termination in writing;
 - ii. The individual orally agrees to the termination and the oral agreement is documented; or
 - iii. The individual is informed that GOBHI or Contractor is terminating its agreement to a restriction, except that such termination is only effective with respect to protected health information created or received after it has so informed the individual.

3. Documentation.
 - a. If GOBHI or Contractor agrees to a restriction, it must be documented in accordance with 45 CFR §[164.530\(j\)](#).
4. Confidential communications requirements.
 - a. GOBHI and Contractor will permit individuals to request and must accommodate reasonable requests by individuals to receive communications of protected health information from GOBHI or Contractor by alternative means or at alternative locations. GOBHI will permit individuals to request and will accommodate reasonable requests by individuals to receive communications of protected health information from GOBHI's health plan by alternative means or at alternative locations, if the individual clearly states that the disclosure of all or part of that information could endanger the individual.
5. Conditions on providing confidential communications.
 - a. GOBHI and Contractor may require the individual to make a request for a confidential communication in writing.
 - i. GOBHI and Contractor may condition the provision of a reasonable accommodation on:
 1. When appropriate, information as to how payment, if any, will be handled; and
 2. Specification of an alternative address or other method of contact.
 - ii. GOBHI and Contractor may not require an explanation from the individual as to the basis for the request as a condition of providing communications on a confidential basis.
6. Individuals may request restrictions on the use or disclosure of their protected health information orally or in writing.
7. All such requests will be documented, along with the reason for agreeing to or denying them.
8. Effectiveness Criteria
 - a. All requests for privacy restrictions responses by GOBHI and Contractor are documented.

N. Accounting of Disclosures of PHI

1. A Member has the right to receive an accounting of disclosures of protected health information made by GOBHI or Contractor in the six years prior to the date on which the accounting is requested, except for disclosures:
 - a. To carry out treatment, payment and health care operations as provided in 45 CFR §[164.506](#);
 - b. To individuals of protected health information about them as provided in 45 CFR §[164.502](#);

- c. Incident to a use or disclosure otherwise permitted or required by this policy, as provided in 45 CFR §[164.502](#);
 - d. Pursuant to an authorization as provided in 45 CFR §[164.508](#);
 - e. For national security or intelligence purposes as provided in 45 CFR §[164.512\(k\)\(2\)](#);
 - f. To correctional institutions or law enforcement officials as provided in 45 CFR §[164.512\(k\)\(5\)](#).
2. Right to an accounting of disclosures of protected health information.
- a. GOBHI or Contractor will temporarily suspend an individual's right to receive an accounting of disclosures to a health oversight agency or law enforcement official, as provided in 45 CFR §[164.512\(d\) or \(f\)](#), respectively, for the time specified by such agency or official, if such agency or official provides GOBHI or Contractor with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities and specifying the time for which such a suspension is required.
 - b. If the official statement in Section: Accounting of Disclosures of PHI (III. N. 1. a.) is made orally, GOBHI or Contractor will:
 - i. Document the statement, including the identity of the agency or official making the statement;
 - ii. Temporarily suspend the individual's right to an accounting of disclosures subject to the statement; and
 - iii. Limit the temporary suspension to no longer than 30 days from the date of the oral statement, unless a written statement is submitted during that time.
 - c. An individual may request an accounting of disclosures for a period of time less than six years from the date of the request.

3. Content of the accounting

- a. The individual will be provided with a written accounting that meets the following requirements.
 - i. Except as otherwise provided by Procedure A the accounting will include disclosures of protected health information that occurred during the six years (or such shorter time period at the request of the individual as provided in Section: Accounting of Disclosures of PHI (III. N. 1. c.) prior to the date of the request for an accounting, including disclosures to or by business associates of GOBHI or Contractor.
 - ii. Except as otherwise provided by Section: Content of the accounting (III. N. 3. a. ii.) or Section: Content of the accounting (III. N. 3. a. iii.), the accounting will include for each disclosure:
 - 1. The date of the disclosure;

2. The name of the entity or person who received the protected health information and, if known, the address of such entity or person;
 3. A brief description of the protected health information disclosed; and
 4. A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure or, in lieu of such statement, a copy of a written request for a disclosure under 45 CFR [§164.502\(a\)\(2\)\(ii\)](#) or 45 CFR [§164.512](#), if any.
- iii. If, during the period covered by the accounting, GOBHI or Contractor has made multiple disclosures of protected health information to the same person or entity for a single purpose under 45 CFR [§164.502\(a\)\(2\)\(ii\)](#) or [164.512](#), the accounting may, with respect to such multiple disclosures, provide:
1. The information required by Section: Content of the accounting (III. N. 3.a. ii.) 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.
- iv. If, during the period covered by the accounting, GOBHI or Contractor has made [disclosures of protected health information](#) for a particular [research](#) purpose in accordance with 45 CFR [§164.512\(i\)](#) for 50 or more individuals, the accounting may, with respect to such [disclosures](#) for which the [protected health information](#) 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 [protected health information](#) 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 protected health information of the individual may or may not have been disclosed for a particular protocol or other research activity.

v. If GOBHI or Contractor provides an accounting for research disclosures, and if it is reasonably likely that the protected health information of the individual was disclosed for such research protocol or activity, GOBHI or Contractor will, at the request of the individual, assist in contacting the entity that sponsored the research and the researcher.

4. Provision of the accounting

a. GOBHI or Contractor will act on the individual's request for an accounting, no later than 60 days after receipt of such a request, as follows.

i. GOBHI or Contractor will provide the individual with the accounting requested; or

ii. If GOBHI or Contractor is unable to provide the accounting 60 days after receipt of such a request, GOBHI or Contractor may extend the time to provide the accounting by no more than 30 days, provided that:

1. GOBHI or Contractor provides the individual with a written statement of the reasons for the delay and the date by which GOBHI or Contractor will provide the accounting; and

2. GOBHI or Contractor may have only one such extension of time for action on a request for an accounting.

iii. GOBHI or Contractor will provide the first accounting to an individual in any 12-month period without charge. GOBHI or Contractor 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 GOBHI or Contractor 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.

5. Documentation

a. GOBHI or Contractor will document the following and retain the documentation as required by 45 CFR §164.530(j):

i. The information required to be included in an accounting under section III.B for disclosures of protected health information that are subject to an accounting under Section: Right to an accounting of disclosures of protected health information (III. N.

2.);

- ii. The written accounting that is provided to the individual under this section; and
- iii. The titles of the persons or offices responsible for receiving and processing requests for an accounting by individuals.

6. Effectiveness Criteria

- a. Audits of GOBHI or Contractor's accounting of disclosures of protected health information confirm compliance.

O. Administrative Requirements

- 1. To describe the administrative requirements contained in the Privacy Rule that are not addressed in other GOBHI policies.

2. Safeguards

- a. GOBHI and Contractors will have in place appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information.
 - i. GOBHI and Contractors will reasonably safeguard protected health information from any intentional or unintentional use or disclosure that is in violation of the Privacy Rule.
 - ii. GOBHI and Contractors will reasonably safeguard protected health information to limit incidental uses or disclosures made pursuant to an otherwise permitted or required use or disclosure.

3. Complaints to GOBHI or Contractor

- a. GOBHI and Contractors will provide a process for individuals to make complaints concerning their policies and procedures.
- b. Documentation of complaints
 - i. GOBHI and Contractors will document all complaints received, and their disposition, if any.

4. Sanctions

- a. GOBHI and Contractors will have, apply and document appropriate sanctions against members of their workforce who fail to comply with their privacy policies and procedures, or the requirements of the Privacy Rule. This standard does not apply to a member of GOBHI's or Contractor's workforce with respect to actions that are covered by and that meet the conditions of 45 CFR §[164.502\(j\)](#) or Section: Refraining from intimidating or retaliatory acts (III. O. 6).

5. Mitigation

- a. GOBHI and Contractor will mitigate, to the extent practicable, any harmful effect that is known to GOBHI or Contractor of a use or disclosure of

protected health information in violation of its policies and procedures or its business associate.

6. Refraining from intimidating or retaliatory acts.

a. GOBHI and Contractor will:

- i. Not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for the exercise by the individual of any right established, or for participation in any process provided for, by the Privacy Rule, including the filing of a complaint under this section; and
- ii. Refrain from intimidation and retaliation as provided in 45 CFR § 160.316.

7. Waiver of rights

- a. GOBHI and Contractor may not require individuals to waive their rights under the Privacy Rule as a condition of the provision of treatment, payment, enrollment in a health plan or eligibility for benefits under the Oregon Health Plan.

8. Policies and procedures

- a. GOBHI and Contractors will implement policies and procedures with respect to protected health information that are designed to comply with the standards, implementation specifications, or other requirements of the Privacy Rule. The policies and procedures will be reasonably designed, taking into account the size and the type of activities that relate to protected health information undertaken by GOBHI or Contractor, to ensure such compliance.

9. Changes to policies and procedures

- a. GOBHI and Contractor will change its policies and procedures as necessary and appropriate to comply with changes in the law, including the standards, requirements, and implementation specifications of the Privacy Rule.
- b. When GOBHI or Contractor changes a privacy practice that is stated in the notice described in 45 CFR §[164.520](#), and makes corresponding changes to its policies and procedures, it may make the changes effective for protected health information that it created or received prior to the effective date of the notice revision, if GOBHI or Contractor has, in accordance with 45 CFR §[164.520\(b\)\(1\)\(v\)\(C\)](#), included in the notice a statement reserving its right to make such a change in its privacy practices; or
- c. GOBHI or Contractor may make any other changes to policies and procedures at any time, provided that the changes are documented.

10. Changes in law. Whenever there is a change in law that necessitates a change to GOBHI's or Contractor's policies or procedures, GOBHI will promptly document and

implement the revised policy or procedure. If the change in law materially affects the content of the notice required by 45 CFR §[164.520](#), GOBHI will promptly make the appropriate revisions to the notice in accordance with 45 CFR §[164.520\(b\)\(3\)](#). Nothing in this section may be used by GOBHI to excuse a failure to comply with the law.

11. Changes to privacy practices stated in the notice.

a. To implement a change, GOBHI or Contractor will:

- i. Ensure that the policy or procedure, as revised to reflect a change in GOBHI or Contractor's privacy practice as [stated](#) in its notice, complies with the standards, requirements, and [implementation specifications](#) in the Privacy Rule;
- ii. Document the policy or procedure, as revised; and
- iii. Revise the notice as required by 45 CFR § [164.520\(b\)\(3\)](#) to [state](#) the changed practice and make the revised notice available as required by 45 CFR §[164.520\(c\)](#). GOBHI or Contractor may not implement a change to a policy or procedure prior to the effective date of the revised notice.

b. If GOBHI or Contractor has not reserved its right under 45 CFR § [164.520\(b\)\(1\)\(v\)\(C\)](#) to change a privacy practice that is [stated](#) in the notice, GOBHI or Contractor is bound by the privacy practices as [stated](#) in the notice with respect to [protected health information](#) created or received while such notice is in effect. GOBHI or Contractor may change a privacy practice that is [stated](#) in the notice, and the related policies and procedures, without having reserved the right to do so, provided that:

- i. Such change meets the [implementation specifications](#) in Section: Changes to privacy practices stated in the notice (III. O. 11. a. i.-iii.); and
- ii. Such change is effective only with respect to [protected health information](#) created or received after the effective date of the notice.

12. Implementation specification:

a. Changes to other policies or procedures.

- i. A [covered entity](#) may change, at any time, a policy or procedure that does not materially affect the content of the notice required by 45 CFR §[164.520](#), provided that:
 1. The policy or procedure, as revised, complies with the standards, requirements, and [implementation specifications](#) of this subpart; and
 2. Prior to the effective date of the change, the policy or procedure, as revised, is documented.

13. Documentation

- a. GOBHI and Contractor will:
 - i. Maintain the policies and procedures provided for in this policy in written or electronic form;
 - ii. If a communication is required to be in writing, maintain such writing, or an electronic copy, as documentation;
 - iii. If an action, activity, or designation is required to be documented, maintain a written or electronic record of such action, activity, or designation; and
 - iv. Maintain documentation sufficient to meet its burden of proof under 45 CFR §164.414(b).

14. Retention period

- a. GOBHI will retain the documentation required by this policy for six years from the date of its creation or the date when it last was in effect, whichever is later.

15. Compliance Criteria:

- a. Audits confirm compliance with these administrative requirements.

P. Business Associates

1. GOBHI and Contractors will establish and maintain business and working relationships with Business Associates that are in full compliance with all HIPAA requirements and standards, including those requirements and standards amended by the HITECH Act and the HIPAA "Omnibus" Final Rule.
2. GOBHI and their Contractors will memorialize their relationships with business associates in a contract that, at a minimum, meets the requirements of 45 CFR §164.502(e)(2) through 45 CFR §164.502(e)(4), as applicable.
3. Effectiveness Criteria:
 - a. A review of existing business associate agreements confirm compliance.

Q. Designation of Privacy Officer

1. GOBHI and Contractor's chief executive officers will appoint a privacy officer who is responsible for the development and implementation of the organization's privacy policies, for receiving complaints regarding an individual's protected health information and for providing information about GOBHI's Notice of Privacy Practices.

R. Training Workforce Members

1. GOBHI and Contractors will train members of their workforce concerning their policies and procedures regarding the privacy of protected health Information, as necessary and appropriate for them to carry out their specific functions in accordance with Oregon and federal law.
2. New Workforce Members.
 - a. GOBHI and Contractors will train an individual who joins the workforce

concerning its privacy policies and procedures including how to identify and report instances of impermissible use and disclosure, as part of the individual's orientation within a reasonable period of time after the date that the individual joins the workforce.

3. Changes in Policies and Procedures Regarding Protected Health Information.

- a. GOBHI and Contractors will train each workforce member whose functions are affected by a material change in its privacy policies and procedures within a reasonable amount of time after the effective date of the change.

4. Documentation.

- a. GOBHI and Contractors will document the date and content of each training session, as well as the workforce members who attended each training session. Privacy training will be documented in Relias and GOBHI will make it available for inspection by regulatory authorities, as appropriate.

5. Effectiveness Criteria

- a. Periodic audits confirm that workforce training is provided and documented as required.

- S. At GOBHI, we acknowledge and address the historical and ongoing injustices and discrimination faced by individuals based on age, color, disability, gender, gender identity, language, national origin, race, religion, and sexual orientation. We firmly believe that the diverse cultures, ethnicities, backgrounds, and experiences of our staff and the individuals we serve are invaluable assets in shaping and improving our policies and procedures for the advancement of diversity, equity, and inclusion (DEI) practices in our daily work.

IV. Related Policies & Procedures, Forms and References

45 CFR [§160.306](#)

45 CFR §160.316

45 CFR §164.414(b).

45 CFR §164.501

45 CFR §164.502

45 CFR §164.502(a)(2)(ii)

45 CFR §164.502(a)(5)(i)

45 CFR §164.502(e)(2) through 45 CFR §164.502(e)(4)

45 CFR §164.502(j)

45 CFR §164.504(e)

45 CFR §164.504(e)(1)(i)
45 CFR §164.504(e)(2)(i)(A) or (B)
45 CFR §164.506
45 CFR §164.508
45 CFR §164.508(a)(4)
45 CFR §164.510
45 CFR §164.510(b)
45 CFR §164.512
45 CFR §164.512(a);
45 CFR §164.512(d) (f)
45 CFR §164.512(f)(1)(ii)(C)
45 CFR 164.512(f)(2)(i)
45 CFR §164.512(g)(1)
45 CFR §164.512(i)
45 CFR §164.512(i)(2)
45 CFR §164.512(i)(2)(i) and (v)
45 CFR §164.512(j)(1)(i)
45 CFR §164.512(j)
45 CFR §164.512(k)
45 CFR §164.512(k)(2)
45 CFR §164.512(k)(5)
45 CFR §164.514(e), (f), or (g)
45 CFR §164.520
45 CFR §164.520(b)(1)(v)(C)
45 CFR § 164.520(b)(3)
45 CFR §164.520(c)
45 CFR §164.522(a)
45 CFR §164.522(b)
45 CFR §164.524



45 CFR §164.524(c)(2)(ii) and (3)(ii)

45 CFR [§164.530\(a\)\(1\)\(ii\)](#)

45 CFR §164.530(d)

45 CFR §164.530(j)

V. Affected Departments

NA

VI. Appendix

- A. *Required elements.* The covered entity must provide a notice that is written in plain language and that contains the elements required by this paragraph.
1. *Header.* The notice must contain the following statement as a header or otherwise prominently displayed: "THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY."
 2. *Uses and disclosures.* The notice must contain:
 - a. A description, including at least one example, of the types of uses and disclosures that the covered entity is permitted to make for each of the following purposes: treatment, payment, and health care operations.
 - b. A description of each of the other purposes for which the covered entity is permitted or required to use or disclose protected health information without the individual's written authorization.
 - c. If a use or disclosure for any purpose described in paragraphs (b)(1)(ii)(A) or (B) of this section is prohibited or materially limited by other applicable law, the description of such use or disclosure must reflect the more stringent law as defined in 45 CFR 160.202.
 - d. For each purpose described in paragraph (b)(1)(ii)(A) or (B) of this section, the description must include sufficient detail to place the individual on notice of the uses and disclosures that are permitted or required by other applicable law.
 - e. A statement that other uses and disclosures will be made only with the individual's written authorization and that the individual may revoke such authorization as provided by 45 CFR [164.508\(b\)\(5\)](#).
 - f. A statement that if an individual has paid for services out-of-pocket, in full, and the individual requests that the healthcare provider not disclose PHI related solely to those services to a health plan, the healthcare provider must accommodate the individual's request, except where the healthcare provider is required by law to make a disclosure (45 C.F.R. §164.520(b)(1)(iv)(A)).
 - g. A statement that uses and disclosures of PHI for marketing purposes and

the sale of PHI require an individual's written authorization.

3. *Separate statements for certain uses or disclosures.* If the covered entity intends to engage in any of the following activities, the description required by paragraph (b)(1)(ii)(A) of this section must include a separate statement, as applicable, that:
 - a. The covered entity may contact the individual to provide appointment reminders or information about treatment alternatives or other health-related benefits and services that may be of interest to the individual;
 - b. The covered entity may contact the individual to raise funds for the covered entity; or
4. *Individual rights.* The notice must contain a statement of the individual's rights with respect to protected health information and a brief description of how the individual may exercise these rights, as follows:
 - a. The right to request restrictions on certain uses and disclosures of protected health information as provided by 45 CFR [164.522\(a\)](#), including a statement that the covered entity is not required to agree to a requested restriction;
 - b. The right to receive confidential communications of protected health information as provided by 45 CFR [164.522\(b\)](#), as applicable;
 - c. The right to inspect and copy protected health information as provided by 45 CFR [164.524](#);
 - d. The right to amend protected health information as provided by 45 CFR [164.526](#);
 - e. The right to receive an accounting of disclosures of protected health information as provided by 45 CFR [164.528](#); and
 - f. The right of an individual, including an individual who has agreed to receive the notice electronically, to obtain a paper copy of the notice from the covered entity upon request.
5. *Covered entity's duties.* The notice must contain:
 - a. A statement that the covered entity is required by law to maintain the privacy of protected health information and to provide individuals with notice of its legal duties and privacy practices with respect to protected health information;
 - b. A statement that the covered entity is required to abide by the terms of the notice currently in effect; and
 - c. For the covered entity to apply a change in a privacy practice that is described in the notice to protected health information that the covered entity created or received prior to issuing a revised notice, in accordance with 45 CFR [164.530\(i\)\(2\)\(ii\)](#), a statement that it reserves the right to change the terms of its notice and to make the new notice provisions effective for all protected health information that it maintains. The statement must also describe how it will provide individuals with a revised

notice.

- d. A statement that the covered entity is required to notify the patient of any breach of his or her unsecured PHI.
6. *Complaints.* The notice must contain a statement that individuals may complain to the covered entity and to the Secretary if they believe their privacy rights have been violated, a brief description of how the individual may file a complaint with the covered entity, and a statement that the individual will not be retaliated against for filing a complaint.
7. *Contact.* The notice must contain the name, or title, and telephone number of a person or office to contact for further information as required by 45 CFR [164.530\(a\)\(1\)\(ii\)](#).
8. *Effective date.* The notice must contain the date on which the notice is first in effect, which may not be earlier than the date on which the notice is printed or otherwise published.

Approval Signatures

Step Description

Approver

Date

Policy Owner

Samuel Shea: GOBHI Sr. QI
Specialist/HIPAA & Priv/Sec
Officer

4/13/2023

Applicability

GOBHI