



east bay community action program  
THE BRIDGE TO SELF-RELIANCE

## HIPAA POLICY AND NOTICE OF PRIVACY PRACTICES

### **Purpose:**

East Bay Community Action Program (EBCAP) provides a client with access to his/her protected health information ("PHI") and respects the right of the client to control certain disclosures of such information in accordance with procedures established to assure compliance with applicable laws.

### **Policy:**

Federal and state laws allow a client to have access to and to control, with some limitations, disclosures of his/her Protected Health Information (PHI). These same laws limit EBCAP's ability to deny such access and control. These laws also allow this access and control to be exercised by a client's authorized representative.

**Definitions:** The following definitions shall be used in interpreting and implementing this Policy and the Notice.

**"client"** means, for the purposes of access to PHI and control and accountings of disclosures of PHI under this Policy, the person served by EBCAP or his/her personal representative. For all other purposes, "client" means the person receiving services from EBCAP.

**"empowered by"** means authorized in a writing signed by the person receiving services (including, but not limited to an effective power of attorney for health care) or, when circumstances warrant, a documented oral authorization satisfactory to EBCAP's Health Information Staff.

**"HIPAA"** means the federal Health Insurance Portability and Accountability Act and its implementing regulations, as amended.

**"personal representative"** means a person who presents current and credible documentation of his/her authority to act for or on behalf of the client to EBCAP's Health Information Staff, which documentation allows the Health Information Staff to determine in good faith that the person is authorized to access client PHI as permitted by law.

**"protected health information" "PHI"** means information maintained by EBCAP in a health information record in hard copy or electronic format about a client that has or is associated with the client's name or other information which reasonably could be used to identify the client and includes information EBCAP has received from third parties and any information or documentation relied on by EBCAP to develop a diagnosis or treatment plan, excluding (a) psychotherapy notes as defined by HIPAA and (b) information compiled in reasonable anticipation of civil, criminal, or administrative action or proceeding.

**"services"** mean any clinical and/or administrative product or task within EBCAP's continuum of care. Examples include, but are not limited to: medical, dental, behavioral health, supportive/wrap-around services (WIC, vocational development, heating/energy, tax preparation, education, child care, etc.).

**"staff"** means all employees (management and non-management), contractors, students, interns, and volunteers involved in performing for or on behalf of EBCAP. Staff involvement is limited to a "need to know" basis as much as possible. Staff are trained in HIPAA upon hire, on an annual basis, and whenever the law and/or policy changes.

## **Legal Responsibilities**

EBCAP is required by law to maintain the privacy and security of Protected Health Information (PHI). PHI is any form of health information that personally identifies an individual and that relates to 1) an individual's past, present, or future physical or mental health condition, 2) the provision of health care to an individual, or 3) the past, present, or future payment for the provision of health care to an individual. EBCAP is required to provide an individual with this Notice about its privacy practices, its legal duties, and the individual's rights concerning PHI, and is required to follow the privacy practices described here while they are in effect.

## **How EBCAP May Use and/or Disclose a Client's PHI**

The following categories describe different ways EBCAP is permitted or required to use and/or disclose a client's protected health information with or without first asking for the client's permission or offering the client the opportunity to agree or object. Examples of the way EBCAP uses and/or discloses medical information include:

**Treatment** – EBCAP may use a client's PHI internally among EBCAP clinical staff to provide, coordinate, and/or manage a client's treatment or services. For external disclosures for treatment, except in emergencies, EBCAP will ask the client's permission.

**Payment** – EBCAP may use and/or disclose a client's PHI, without the client's written authorization, to obtain payment for services EBCAP provides the client. For example, diagnosis and dates of service may be provided to a client's insurance company for the purposes of processing a claim.

**Health Care Operations** – Federal law, and to some lesser extent state law, allows EBCAP to use and/or disclose a client's confidential or protected health information for its healthcare operations/business activities without written permission in order to provide or arrange treatment services. EBCAP's healthcare operations may include, but are not limited to, such things as quality improvement activities, risk management efforts, compliance with billing rules, financial auditing, legal mandates (such as making reports to regulatory and accreditation bodies). These activities are essential for EBCAP to maintain its license and improve its services. EBCAP clinicians or staff may discuss a client's case among themselves or with other health care providers to determine an appropriate treatment recommendation or they may share some of the client's PHI to pharmacists or laboratories. In performing such operations, EBCAP may use consultants or contractors. In addition, EBCAP may also call a client by name in the waiting room when the client's care provider is ready to see him/her. EBCAP may contact a client to provide appointment reminders or information about treatment alternatives or other health-related benefits and services that may be of interest to the client. EBCAP endeavors to disclose only that information necessary to accomplish the specific healthcare operations' purpose. When feasible, EBCAP will not disclose a client's name or other identifying information.

**Business Associates** – There are some services provided in EBCAP's organization through contracts with business associates. Examples may include accreditation, practice management consulting, software support, etc. If these services are contracted, EBCAP may disclose client PHI to our business associate so that he/she can perform the job that EBCAP has contracted for; however, EBCAP requires the business associate to appropriately safeguard client information through a written contract.

**Fundraising** – In limited circumstances, EBCAP may use and/or disclose client demographic information to EBCAP fundraising staff to contact clients for its fundraising purposes. Clients have the right to opt out of these types of communications by notifying the Privacy Officer.

**Limited Disclosure for Research** – In most cases, EBCAP will not disclose for research purposes unless EBCAP first explains the research to a client and obtains client consent. If a client's information is used without his/her permission, EBCAP will ensure it is partially "de-identified" or "redacted" when possible.

Except for treatment purposes, EBCAP generally will limit the use and disclosure of PHI to the minimum necessary to satisfy a request.

Except when prohibited or limited by state law, EBCAP may use and/or disclose client PHI without the client's written authorization:

- To meet the requirements of law, including making required reports to regulatory bodies or to comply with workers' compensation laws
- To public health authorities, such as for the prevention of disease
- To government authorities including social services or protective services agencies for reporting child and elder abuse or neglect
- To health oversight agencies, such as for audits, investigations, inspections and other activities authorized by law
- To attorneys or the courts for judicial and administrative proceedings, pursuant to court orders or certain subpoenas
- To law enforcement for limited purposes
- To medical examiners and funeral directors as necessary to determine cause of death or to carry out duties with respect to the decedent
- To avert a serious threat to the health or safety of a person or the public
- To appropriate military command authorities under certain conditions
- To organ and tissue donation
- To National Security and Intelligence Agencies
- To Protective Services for the President and Others

**Other Permitted and Required Uses and Disclosures That May Be Made WITH a Client's Consent, Authorization, and/or Opportunity to Object:**

EBCAP may also use and/or disclose PHI as set forth below. Clients have the opportunity to agree or object to the use or disclosure of all or part of PHI in these instances. If the client is not present or able to agree or object to the use or disclosure of the PHI (such as in an emergency situation), then the client's clinician may, using professional judgment, determine what would serve the client's best interests.

**Research** – as noted in prior section

**Psychotherapy Notes** – Per 45 CFR 164.508(a)(2) Psychotherapy notes are treated differently from other mental health information, because they contain particularly sensitive information and because they are the personal notes of the therapist that typically are not required or useful for treatment, payment, or health care operation purposes, other than by the mental health professional who created the notes. Therefore, with few exceptions, the Privacy Rule requires a covered entity to obtain a patient's authorization prior to a disclosure of psychotherapy notes for any reason, including a disclosure for treatment purposes to a health care provider other than the originator of the notes. A notable exception exists for disclosures required by other law, such as for mandatory reporting of abuse, and mandatory "duty to warn" situations regarding threats of serious and imminent harm made by the patient.

**Marketing** – Marketing communications are those about a product or service that encourages a client to purchase or use the product or service. EBCAP must obtain the client's authorization before EBCAP uses and/or discloses client PHI for marketing with two exceptions. First, EBCAP may inform a client about products or services during face-to-face communication with the client, including providing related written materials to the client. Secondly, EBCAP may also provide clients promotional gifts of nominal value that encourage clients to purchase or use a product or service.

**Sale of Protected Health Information** – EBCAP will NOT sell client PHI to a third party without the client's prior authorization. The authorization must state that EBCAP will receive remuneration in exchange for the disclosure of the PHI.

Any other uses and/or disclosures not of the types described above will be made only with the client's written authorization. A client may cancel this authorization at any time by informing EBCAP in writing of his/her cancellation. Disclosures of PHI made before the client's written cancellation will not be affected by the cancellation.

## **Client Privacy Rights and How They May Be Exercised**

**Note: Requests made in exercising any of the rights listed below only apply to EBCAP. Clients must make similar requests separately to insurance companies and/or other health providers. Health plans may refuse to honor a request unless the client indicates that a disclosure could endanger the client.**

Clients have the **right to request a restriction** on how EBCAP uses and/or discloses PHI to carry out treatment, payment or health care operations. EBCAP is not required to agree to this request. If EBCAP does agree, the restriction will stay in place unless this PHI is needed to provide the client with emergency treatment. If so, EBCAP will ask the emergency treatment provider not to further use and/or disclose the information. Clients may cancel the restriction at any time. (Please ask the receptionist for a "Request for Restriction of Uses and Disclosures" form.)

Clients have the **right to receive confidential communications** of PHI. For example, a client may ask EBCAP to contact him/her at a different address or phone number. This request only applies to communications made by EBCAP to the client. The client is not required to give a reason for the request. EBCAP will agree to the request to the extent that it is reasonable for EBCAP to do so. (Please ask the receptionist for a "Request for Change in Communications" form.)

Clients have the **right to inspect and obtain a copy** of PHI about him/herself that may be used to make decisions about his/her care. Usually this includes medical and billing records, but does not include psychotherapy notes or information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative actions or proceedings. EBCAP may deny the client's request to inspect and copy in certain very limited circumstances. If a client is denied access to medical information, he/she may request that the denial be reviewed. The person conducting the review will not be the person who denied the client's original request. EBCAP will comply with the outcome of that review. Requests or access to and copies (electronic or paper) of medical information must be submitted in writing. There is no cost charged by the practice for copying or electronic format releases of PHI to be transferred to another physician or clinical practice. There will be a charge up to the maximum amount prescribed by governing law for patients requesting release of PHI for their own personal records. (Please ask the receptionist for a "Request for Medical Records" form.)

**Minors and Personal Representatives (Medical, Dental, Social Services)** – In most situations, parents, guardians, and/or others with legal responsibilities for minors may exercise their rights described in the Notice on behalf of the minor. However, there are situations where minors may themselves exercise the rights described in the Notice.

**Minors and Personal Representatives (Behavioral Health)** – Behavioral Health Services will release information to a person with legal custody/guardianship of the minor or to a third party when a person with legal custody/guardianship authorizes the release of the record or as otherwise required or permitted by law (for example in an emergency). Information released does NOT include information related to services received by the minor on his/her own consent when provision of such services is permitted by law unless the minor authorizes the release (for example: in the case of a minor seeking substance treatment).

Please note that if a parent is separated or divorced and has joint custody of the minor. Under a court order or separation agreement, the parent must abide by any provisions regarding notification of, or joint decisions on, treatment of the minor. In accordance with the law, the organization will release, without my written permission, information about the minor's treatment to the other person with legal custody.

Clients have the **right to amend** PHI about him/herself that are maintained by EBCAP if the client feels it is inaccurate or incomplete. EBCAP asks that the client to put the request in writing and provide a reason to support the amendment. If EBCAP denies all or part of the requested amendment, EBCAP will inform the client of the reason and the client has the right to disagree or file a complaint. (Please ask the receptionist for an "Amendment Request" form.)

Clients have the **right to receive a list of PHI disclosures** made within six (6) years preceding a request and beginning after April 14, 2003. The list EBCAP is required to maintain is limited and does not include all disclosures. For example, it does not include disclosures made to carry out treatment, payment, and health care operations, or disclosures sent to, or authorized by the client. EBCAP will provide the accounting to the client in any 12-month

period without charge, upon the client's written request. The cost for subsequent requests for an accounting within the 12-month period will be up to the maximum amount prescribed by governing law. (Please ask the receptionist for a "Request for Medical Records or List of Disclosures" form.)

Clients have the **right to obtain a paper copy of this Notice** at any time by asking a receptionist at any of EBCAP's facilities.

Clients do **NOT have the right to request disclosure of records EBCAP obtained from a third party**, such as a hospital discharge, another health care provider, health care specialist, etc., that have been obtained through an authorized release of information. Should a client require copies of this particular information, the client must obtain the information from the originating source.

**Personal/Protected Health Information includes information about the client that is private and confidential. EBCAP is not responsible once this information is provided to client. Subsequently, the protection of this information against loss, theft, unauthorized reading, etc. becomes the responsibility of the client.**

### **Further Information or to File a Complaint**

**To register a complaint or concern with EBCAP officials, licensing/accreditation officials, and/or government officials, please see appropriate contact information below. EBCAP will NOT retaliate against any client for exercising his/her rights.**

#### ***EBCAP HEALTH CENTER:***

**PRIVACY OFFICER, EBFHC**, 100 Bullocks Point Avenue, East Providence, RI 02915; telephone: 401-437-0008

**Health Resource and Services Administration (HRSA):** Helpline: (877) 974 2742

**NHP/Beacon:** Compliance Officer, 910 Douglas Pike, Smithfield, RI 02917; hotline: (888) 579-1551; <http://www.mycompliancereport.com>; email: [compliance@nhpri.org](mailto:compliance@nhpri.org)

**National Committee for Quality Assurance (NCQA):** Customer Support: (888) 275-7585

**RI Department of Health (DOH) – Complaint Unit;** 401-222-5200

**US Department of Health and Human Services:** Office for Civil Rights, Government Center, J.F. Kennedy Federal Building, Room 1875, Boston, MA 02203, Customer Response Center (800) 368-1019; FAX (202) 619-3818, TDD (800) 537-7697; email: [ocmail@hhs.gov](mailto:ocmail@hhs.gov)

#### ***EBCAP BEHAVIORAL HEALTH SERVICES:***

**HUMAN RIGHTS OFFICER:** submit "Client Concern" Form obtained at any reception desk, and submit the completed form in a sealed envelope to Human Rights Officer/Behavioral Health, Adams Farley Counseling Center, 610 Wampanoag Trail, East Providence, RI 02915.

**RI Department of Behavioral Health, Developmental Disabilities, and Hospitals (BHDDH) – Office of Facilities and Program Standards and Licensure;** Barry Hall, 14 Harrington Road, Cranston, RI 02920; ph: (401) 462-0581; fax: (401) 462-0393

**The Joint Commission:** log onto [www.jointcommission.org/report\\_a\\_complaint.aspx](http://www.jointcommission.org/report_a_complaint.aspx) to obtain, complete, and submit a written concern.

**Mental Health Advocate of RI – John O. Pastore Campus,** 57 Howard Avenue 4<sup>th</sup> Floor, Cranston, RI 02920; ph: (800) 346-2282; fax: (401) 462-2008; TTY: (401) 462-6018

**US Department of Health and Human Services:** Office for Civil Rights, Government Center, J.F. Kennedy Federal Building, Room 1875, Boston, MA 02203, Customer Response Center (800) 368-1019; FAX (202) 619-3818, TDD (800) 537-7697; email: [ocmail@hhs.gov](mailto:ocmail@hhs.gov)

---

EBCAP reserves the right to make changes to the terms of this Notice and to make the new provisions effective for all PHI that it maintains. Clients may obtain a copy of the most recent version of this Notice at the reception desk.

---

