

Davis Behavioral Health HIPAA Policies

Effective 4/14/03

Uses and Disclosures

Policy 1 Uses and Disclosures: For Treatment, Payment, and Health Care Operation

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the uses and disclosures of PHI from individuals with whom it has a direct treatment relationship.

Policy

Davis Behavioral Health will use and disclose PHI of clients for treatment, payment, and health care operations without obtaining explicit permission from those clients. However, Davis Behavioral Health will make our best effort to obtain a release of information from those clients in the areas of treatment and payment. We will not request an authorization to release information in the area of health care operations. Additionally, Davis Behavioral Health will make our best effort to obtain a written acknowledgement from each client that he/she has received a copy of our Privacy Notice prior to providing treatment.

Individuals seeking treatment have the right to request that Davis Behavioral Health restricts our uses and disclosures of their PHI for treatment, payment, and health care operations. Davis Behavioral Health is not obliged to agree to those restrictions, but, if we do, we must abide by them. Therefore, restrictions will not be granted without the express permission of the Privacy Officer who will evaluate an individual's request and determine:

1. If the restrictions are reasonable and
2. If it is possible to implement the restriction in our practice.

Should the request be granted, the Restriction Form will reflect the restrictions that have been allowed. See Policy 13 for complete information on Restrictions.

Davis Behavioral Health will, in all cases where a personal representative requests PHI on behalf of a client, consider the appropriateness of the request. In any case where Davis Behavioral Health elects not to treat a person as a legal representative, we will do so because:

1. Davis Behavioral Health has a reasonable belief that the individual has been or may be subjected to domestic violence, abuse, or neglect by such person; or

2. Davis Behavioral Health, in the exercise of professional judgment, decides that it is not in the best interest of the individual to treat the person as the client's legal representative. In any such case, it is the policy of Davis Behavioral Health to document that decision in the medical record and inform the Privacy Officer.

Uses and Disclosures

Policy 2 Uses and Disclosures: Authorizations

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the conditions for obtaining authorization, from individuals with whom it has a direct treatment relationship, for any use and/or disclosure of PHI that is not covered by the consent requirement or is not otherwise permitted or required under the Privacy Rule.

Policy

Davis Behavioral Health will obtain a signed authorization that meets the standards of the Privacy Rules from individuals prior to using or disclosing PHI in those situations in which authorizations are required under the Rule. A copy of the authorization form presently in use in the Agency is found at the end of this policy.

Individuals seeking treatment have the right to refuse to provide authorizations for use and disclosure of their PHI. Davis Behavioral Health may not refuse to treat individuals who withhold their authorization except in the following circumstances:

1. Treatment is research-related for the use or disclosure of PHI for such research; or
2. The authorization is for PHI to be created in the course of treatment for the purpose of disclosure to a third party.

Clients may revoke an authorization at any time. The revocation must be in writing. Any actions that Davis Behavioral Health has taken in reliance on a client's consent will not be affected by the revocation. Davis Behavioral Health is not required, for example, to retrieve PHI that we have disclosed prior to the revocation. Should any employee be informed verbally that an individual has revoked an authorization provided to another entity, that employee should immediately inform the Privacy Officer

Davis Behavioral Health may amend the authorization form presently in use as long as it is written in plain language and the following elements are present in the amended authorization form:

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 specific ID of the person(s), or class of persons, authorized to make the requested use or disclosure;
3. The name or other specific ID of the person(s), or class of persons, to whom Davis Behavioral Health 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 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 PHI for research, including for the creation and maintenance of a research database or research repository.
6. The signature of the individual and the date. If signed by a personal representative, a description of the authority of that person to act for the individual must be provided.

Required Statements in the Authorization Form

In addition to the core elements listed above, an authorization must contain statements that put the individual on notice of all of the following:

1. The individual’s right to revoke authorization in writing and either:
 - a. The exceptions to the right to revoke along with a description of how to revoke; or
 - b. A reference to the Privacy Notice if Davis Behavioral Health’s Notice contains the information in a. above.
2. Davis Behavioral Health may only condition treatment (or payment by Davis Behavioral Health if applicable) on obtaining a signed authorization when:
 - a. It is providing research-related treatment and the authorization provides for the use or disclosure of PHI for such research; or
 - b. It is providing treatment solely for the purpose of creating PHI for disclosure to a third party and the authorization is for the disclosure of PHI to that third party.
3. The potential for PHI disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected by the Privacy Rule.

An authorization that lacks any of these elements or statements is a defective authorization and will have no effect, therefore, Davis Behavioral Health requires that all of these elements or statements be in place in any authorization form version that may be developed in the future.

In any situation where the specificity of the request is inadequate to provide assurance that Davis Behavioral Health will disclose the correct information, the authorization should be considered defective.

In any situation where the relevant PHI will require extensive redaction, the individual will be given their entire record that he/she can redact prior to disclosure to the requestor of the information.

In any situation where Davis Behavioral Health has conflicts between two or more authorizations or other forms of legal permission in our possession for the same individual for the use and disclosure the same PHI, Davis Behavioral Health will attempt to obtain a new, conforming written authorization that resolves the conflict between the other documents. When a new authorization cannot be obtained, Davis Behavioral Health will rely upon the most restrictive form of permission in our possession.

Substance Abuse Providers

Federal regulations governing the confidentiality of substance abuse information (42 CFR, Part 2) are generally more restrictive than HIPAA and, therefore, Davis Behavioral Health will follow these regulatory requirements whenever the PHI of any client in a federally-assisted alcohol or drug abuse program is disclosed. In any of our federally-assisted alcohol or drug abuse programs, Davis Behavioral Health must always obtain specific authorization for each disclosure of client records or other information concerning a client unless one of the regulatory exceptions applies. See Policy 1, Uses and Disclosures (the section for Substance Abuse Providers). The authorization form (called a “consent” form in the substance abuse federal regulations) will meet the regulatory requirements incorporated in the Form attached to this Policy.

Davis Behavioral Health
Release of Information Authorization Form
AUTHORIZATION TO USE AND DISCLOSE HEALTH INFORMATION

SECTION A: USE OR DISCLOSURE OF HEALTH INFORMATION

By signing this Authorization, I authorize the use or disclosure of my individually-identifiable health information maintained by:

The Provider: Davis Behavioral Health:

Print Address

My health information may be disclosed under this Authorization to:

The Recipient [Person/Organization(s) receiving the information]:

Print Name

Print Address

Health information includes information collected from me or created by the Provider, or information received by the Provider from another health care provider, a health plan, my employer, or a health care clearinghouse. Health information may relate to my past, present or future physical or mental health or condition, the provision of my health care, or payment for my health care services.

Any provider that operates a federally-assisted alcohol or drug abuse program is prohibited from disclosing information about treatment for alcohol or drug abuse without my specific written authorization unless a disclosure is otherwise authorized by federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR, Part 2).

SECTION B: SCOPE OF USE OR DISCLOSURE

Check One:

Health information that may be used or disclosed through this Authorization is as follows:

- ☐ All health information about me, including my clinical records, created or received by the Provider. This information may include, if applicable: Information pertaining to the identity, diagnosis, prognosis or treatment for alcohol or drug abuse maintained by a federally-assisted alcohol or drug abuse program; or;
- ☐ All health information about me as described in the preceding checkbox, **excluding** the following:

- ☐ Specific health information **including only**:

Note: Describe the health information to be excluded or included in a specific and meaningful fashion.

SECTION C: PURPOSE OF THE USE OR DISCLOSURE

The purpose(s) of this Authorization is (are):

Check one:

- ☐ Specifically, the following purpose(s) :

; or

- ☐ This request for information to be used or disclosed has been initiated by the Client and the Client does not elect to disclose its purpose.

Note: This box may NOT be checked if the information to be used or disclosed pertains to alcohol or drug abuse identity, diagnosis, prognosis or treatment.

SECTION D: EXPIRATION

This Authorization expires in 90-days, unless otherwise noted here:

Insert applicable event or date – mm/dd/yy)

Note: If an expiration event is used, the event must relate to the Consumer or the purpose of the use or disclosure.

SECTION E: OTHER IMPORTANT INFORMATION

1. I understand that the Provider cannot guarantee that the Recipient will not re-disclose my health information to a third party. The Recipient may not be subject to federal laws governing privacy of health information. However, if the disclosure consists of treatment information about a consumer in a federally-assisted alcohol or drug abuse program, the Recipient is prohibited under federal law from making any further disclosure of such information unless further disclosure is expressly permitted by written consent of the consumer or as otherwise permitted under federal law governing Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR, Part 2).
2. I understand that I may refuse to sign this Authorization and that my refusal to sign will not affect my ability to obtain treatment (or payment, if applicable) from Davis Behavioral Health, except when I am (i) receiving research-related treatment or (ii) receiving health care solely for the purpose of creating information for disclosure to a third party. If either of these exceptions apply, my refusal to sign an authorization will result in my not obtaining treatment (or payment, if applicable) from Davis Behavioral Health.
3. I understand that I may revoke this Authorization in writing at any time, except that the revocation will not have any effect on any action taken by the Provider in reliance on this Authorization before written notice of revocation is received by the Provider. I further understand that that I must provide any notice of revocation in writing to the Privacy Office at Davis Behavioral Health. The address of the Privacy Office is 291 South 200 West, Farmington, UT 84025.
4. **This paragraph is only applicable to certain Authorizations to disclose health information for marketing purposes:** I understand that Davis Behavioral Health may, directly or indirectly, receive remuneration from a third party in connection with the marketing activities undertaken by Davis Behavioral Health.
5. Davis Behavioral Health hereby binds itself to safeguard the records and not re-disclose any medical records in violation of law.
6. I understand that if I am a drug and/or alcohol patient, that Davis Behavioral Health must obtain a specific authorization for each disclosure of my records except:
 - a. for internal program purposes;
 - b. for medical emergencies;
 - c. in response to court-ordered disclosure after I have had an opportunity to respond to the court;
 - d. when I have committed or threaten to commit a crime;
 - e. when the disclosure is for governmental audits or research purposes; or
 - f. when reporting is required under state law for child abuse.

Davis Behavioral Health Substance Abuse Redisclosure Notice **PROHIBITION ON REDISCLOSURE OF CONFIDENTIAL INFORMATION**

- This notice accompanies a disclosure of information concerning a consumer in an alcohol or drug abuse treatment program, made to you with the consent of such consumer.
- This information has been disclosed to you from records protected by federal confidentiality rules governing federally-assisted drug or alcohol abuse programs (42 C.F.R., Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 C.F.R., Part 2. A general authorization for the release of medical or other information is **not** sufficient for this purposes.
- The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse consumer.

I have read and understand the terms of this Authorization. I have had an opportunity to ask questions about the use or disclosure of my health information.

Client's signature: _____ Date of signature: _____

Print client's full name: _____

When client is not competent to give consent, the signature of a parent, guardian, or other authorized legal representative is required.

Signature of legal representative: _____ Date of signature : _____

Print legal representative's name: _____

Optional: Photo I.D. # of Signator _____ Witness: _____

Uses and Disclosures

Policy 3 Uses and Disclosures: Opportunity for the Individual to Agree or Object

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the conditions for providing clients with an opportunity, in advance of the use or disclosure of PHI for

- a. Involving other people in the individual's care, or
- b. For notification about a client's location, general condition, or death to agree to that particular use or disclosure, to prevent it, or to restrict it.

Policy

Davis Behavioral Health will verbally inform each individual, during the intake process, of their right to prevent or restrict Davis Behavioral Health from

- a. Disclosing PHI about them to persons involved in their care; and
- b. Notifying persons about their location, general condition, or death.

The HIPAA Privacy Rules allows for Davis Behavioral Health to maintain facility directories. However, Davis Behavioral Health does not maintain a facility directory at any of our units. If asked, we will not confirm orally, in writing, or through any other medium that an individual is our current or former client.

With regard to clients who are present and have the capacity to make decisions, PHI may only be disclosed to people involved in their care (meaning relatives, friends, or community support people), if we:

1. Notify the client in advance of the anticipated disclosure and obtain their agreement to disclose;
2. Provide the clients with the opportunity to object to disclosures of PHI and the client does not express an opinion; or
3. Can, in the exercise of our professional judgment, infer from the circumstances that the client does not object to the disclosure of PHI.

With regard to clients who are not present or who are incapacitated or in an emergency situation, Davis Behavioral Health will disclose the minimum necessary PHI to persons involved in the client's care:

- 1) If the client is not a ward of the state or does not have a Advance Directive, court-appointed guardian, or other fiduciary, and
- 2) If Davis Behavioral Health determines in the exercise of our professional judgment that it is in the client's best interest.

It will be our policy, when disclosing PHI to persons involved in the client's care, to limit disclosures to PHI about the current circumstance. In addition, should the care provider believe, in the exercise of his/her professional judgment, that a disclosure of PHI might cause the client serious harm, the care provider may withhold PHI from the person involved in their care. Care providers should use their professional judgment about the scope of the person's involvement in the client's care (both to the length of time of that person's involvement and to the depth of disclosure of PHI that is appropriate) in a particular circumstance.

In disaster situations, no individual agreement will be required prior to disclosure of PHI to federal, state, or local agencies involved in disaster relief activities. This policy also applies to any private disaster relief organization that is authorized by law or their charters to assist in disaster relief efforts.

Uses and Disclosures

Policy 4 Uses and Disclosures: No Permission Required

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rule of HIPAA's Administrative Simplification provisions, sets out, in this policy, the conditions for responding to requests for disclosure of PHI in compliance with law and limited to the relevant requirements of the law that do not require the initial authorization or prior consent of the client.

Policy

Davis Behavioral Health has appointed a Privacy Officer, who is responsible for processing all requests for disclosures of PHI from external authorities in compliance with law and limited to the relevant requirements of that law. We recognize that we are not compelled to make disclosures by the Privacy Rule, but that we may do so without fear of further penalty under the Privacy Rule.

Disclosures of PHI, without permission or consent of the client, may or will (depending on the law and duty to report) occur under the following circumstances.

Public Health Uses: Disclosures of PHI may be made by Davis Behavioral Health without individual authorization to:

- 1) A public health authority authorized to receive PHI for the purpose of preventing or controlling disease, injury, or disability;
- 2) A public health authority or any other appropriate authority authorized by law to receive reports and do investigations of child abuse or neglect;
- 3) A person subject to FDA jurisdiction (who is responsible for the quality, safety, or effectiveness activities of a particular product) to collect/report adverse events, product defects, or biological product deviations, to track FDA regulated products, to enable product recalls, repairs, or replacement/look backs, or to conduct post-marketing surveillance;
- 4) A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition and who was authorized by law to be notified (typically in the conduct of a public health investigation or intervention); or
- 5) An employer generally in those situations where there are work-related injuries or workplace medical surveillance. Agencies, who make disclosures to employers, must provide notice to individuals that they do.

Victims of Abuse, Neglect or Domestic Violence: (other than child abuse, see above) When Davis Behavioral Health reasonably believes an individual is a victim of abuse, neglect, or domestic violence, disclosures of PHI may be made without individual authorization to a legally appointed governmental authority when:

- 1) It is required by law and the disclosure complies with and is limited to the requirements of the law, and Davis Behavioral Health informs the individual (victim) that the report has been made;
- 2) The individual (victim) agrees to the disclosure; or
- 3) It is expressly authorized by statute or regulation and either
 - a. Davis Behavioral Health, in the exercise of its professional judgment, believes that disclosure is necessary to prevent serious harm to the individual or other potential victims; or
 - b. The individual is unable to agree due to incapacity and the official who is to receive the information represents that he/she does not intend to use the PHI against that individual, and that an immediate enforcement activity depends upon the PHI and would be materially and adversely affected by waiting for the individual to recover.

In each of these cases, the individual must be notified that the disclosure was made. There are two exceptions:

- a. If Davis Behavioral Health believes, in the exercise of its professional judgment, that informing the individual would place the individual at risk of serious harm or
- b. If the person to be informed, as a personal representative, is the one believed responsible for the abuse, neglect, or other injury and that it would not be in the individual's best interest as determined Davis Behavioral Health, exercising professional judgment, to inform the personal representative.

Health Oversight: Disclosures of PHI may be made by Davis Behavioral Health without individual authorization to health oversight agencies. Disclosures must be for the purpose of oversight of the health care system.

Judicial and Administrative Proceedings: Disclosures of PHI may be made by Davis Behavioral Health without individual authorization when the request for PHI is made through or pursuant to an order from a court or administrative tribunal, or in response to a subpoena or discovery request, or other lawful process, by a party to the proceeding. Any staff member receiving a subpoena must consult with the Privacy Officer or his designee, who will determine in consultation with legal counsel, the appropriateness of our response. In this process, Davis Behavioral Health must ensure that the client's privileged communication is protected and that the client has the opportunity to assert that privilege.

Prior to delivering the subpoenaed records, Davis Behavioral Health should review the record and identify and redact any "sensitive information", such as HIV status or other information limited by state law, unless they have obtained a specific authorization of the individual to disclose such information. If there is information regarding substance abuse, Davis Behavioral Health must comply with the policies and procedures below regarding substance abuse records.

Law Enforcement Purposes: Disclosures of PHI may be made by Davis Behavioral Health, without individual authorization, to law enforcement officers for law enforcement purposes when disclosure of the PHI is required by law or the PHI is made in compliance with:

- a. A court order or court-ordered warrant or a subpoena or summons issued by a judicial officer;
- b. A grand jury subpoena;
- c. A civil investigative demand, administrative subpoena or summons or similar process if the request meets certain conditions related to the nature of the information sought.

Davis Behavioral Health may also disclose limited identifying information in response to a request from law enforcement for the purpose of identifying a suspect, fugitive, material witness, or missing person, but only if the individual agrees to the disclosure or Davis Behavioral Health determines that the law enforcement purpose is to meet a serious danger to the individual or other persons.

Davis Behavioral Health may also disclose PHI about an individual who is a victim of a crime, without a court order or without being required to do so by law. However, Davis Behavioral Health may do so only if the disclosure has been requested by a law enforcement official and the victim agrees to the disclosure or, in the case of the victim's incapacity, the following occurs:

- a. The law enforcement official represents to Davis Behavioral Health that (i) the victim is not the subject of the investigation and (ii) an immediate law enforcement activity to meet a serious danger to the victim or others depends upon the disclosure; and
- b. Davis Behavioral Health determines, exercising professional judgment, that the disclosure is in the victim's best interest.

Davis Behavioral Health may also disclose to law enforcement officials, PHI about an individual who has died for the purpose of alerting law enforcement to the death of the individual if Davis Behavioral Health suspects that the death may be the result of criminal conduct.

About Decedents: Disclosures of PHI, including psychotherapy notes, may be made by Davis Behavioral Health, without individual authorization, to the medical examiners for identification of a deceased person or to determine the cause of death provided that the chief medical examiner or his designee has deemed the PHI relevant to establishing the cause and manner of death. PHI may also be disclosed to funeral directors as necessary to carry out their legal duties.

Cadaveric Donation of Organs, Eyes, or Tissues: Disclosures of PHI may be made by Davis Behavioral Health, without individual authorization, to organ procurement and similar organizations.

Research Purposes: Disclosures of PHI may be made by Davis Behavioral Health, without individual authorization, as long as Davis Behavioral Health obtains:

1. Certain representations from the researcher;
2. Documentation identifying the IRB or privacy board and the date on which the alteration or waiver of authorization has been approved;
3. A statement that the IRB or privacy board has determined that the alteration or waiver, in whole or in part, of authorization satisfies the following criteria:
 - a. That the use or disclosure of PHI involves no more than a minimal risk to the privacy of individuals, based on, at least, the presence of the following elements:
 - 1) An adequate plan to protect the identifiers from improper use and disclosure;
 - 2) An adequate plan to destroy the identifiers at the earliest opportunity consistent with conduct of the research, unless there is a health or research justification for retaining the identifiers or such retention is otherwise required by law; and
 - 3) Adequate written assurances that the PHI will not be reused or disclosed to any other person or entity, except as required by law for oversight purposes or for other research that would be permitted under the Privacy Rule.
 - b. The research could not be conducted without the waiver or alteration; and
 - c. The research could not be conducted without access to and use of the PHI.

4. A brief description of the PHI that is determined to be necessary;
5. A statement that the alteration or waiver of authorization has been reviewed and approved under either normal or expedited review procedures, as follows:
 - a. An IRB must follow the requirement of the Common Rule;
 - b. A privacy board must review the proposed research at convened meetings at which a majority of members are present (at least one of whom is not affiliated with Davis Behavioral Health, the research sponsor, or related to any person who is affiliated with such entities);
 - c. With respect to a privacy board, an expedited review procedure can be used if the research involves no more than minimal risk to the privacy of individuals who are subject of the PHI for which use or disclosure is sought. The review and approval may be carried out by the chair of the privacy board or by a member designated by the chair; and
 - d. The documentation of the waiver or alteration must be signed by the chair or designated member.

To Avert a Serious Threat to Health or Safety: Disclosures of PHI may be made by Davis Behavioral Health, without individual authorization, when Davis Behavioral Health believes, in good faith, that PHI:

- a. Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and that the disclosure is to a person(s) reasonably able to prevent or lessen the threat, including the target of the threat; or
- b. Is necessary for law enforcement authorities to identify or apprehend an individual who has made a statement admitting participation in a past violent crime that Davis Behavioral Health reasonably believes may have caused serious physical harm or where the individual appears to have escaped from a correctional institution or lawful custody.

PHI may not be disclosed if it was learned in the course of treatment provided to affect the propensity to commit the crime, or counseling or therapy or through a request for such treatment, counseling, or therapy.

Specialized government functions: Disclosures of PHI may be made by Davis Behavioral Health, without individual authorization, to military authorities typically for the purpose of assuring proper execution of the military mission or for the purpose of determining eligibility for benefits. PHI may also be disclosed to authorized federal authorities for the conduct of lawful intelligence or other lawful national security activities authorized by the National Security Act.

Correctional institutions: Disclosures of PHI may be made by Davis Behavioral Health, without individual authorization, to a correctional institution, or an official having lawful custody of an inmate, if it is necessary for the provision of healthcare, for health and safety purposes, or for maintenance of good order of the correctional institution.

Workers' Compensation: Disclosures of PHI may be made by Davis Behavioral Health, without individual authorization, as authorized by and to the extent necessary to comply with the state's Workers' Compensation law.

Substance Abuse Providers

Federal Regulations governing the confidentiality of substance abuse information (42 CFR, Part 2) are generally more restrictive than HIPAA and should be followed when PHI of any client in a federally-assisted alcohol or drug abuse (“substance abuse”) program is disclosed. The Federal Regulations prohibit the disclosure of records or other information concerning any client in a federally-assisted substance abuse program without the specific consent of the client, except:

- a. For internal program communication purposes. Under this exception, program staff may disclose information to other staff within the program, or to an entity having direct administrative control over that program, if the recipient needs the information in connection with the provision of substance abuse diagnosis, treatment or referral for treatment.
- b. For medical emergencies posing an immediate threat to health and requiring immediate medical intervention. Under this exception, disclosures may be made to public or private medical personnel to the extent necessary to meet a bona fide medical emergency of the client or any other person.
- c. In response to court-ordered disclosures where the court order has been issued in accordance with procedures specified by the Federal Regulations. Court-ordered disclosures must be limited to the information essential to fulfill the purpose of the order, and they must be restricted to those persons who need the information.

If the order is sought by law enforcement officials or prosecutors, there are five additional criteria that must be met:

- i. The crime must be extremely serious,
- ii. The records requested must be likely to have information of significance to the investigation or prosecution;
- iii. There is no other practical way to obtain the information;
- iv. The public interest in disclosure outweighs any actual or potential harm to the patient or the client-patient relationship and the ability of the program to provide services to other patients; and
- v. When law enforcement personnel seek the order, the program has had an opportunity to be represented by counsel.

A federally-assisted substance abuse program is prohibited from disclosing PHI about clients in response to subpoenas unless:

- i. The client has signed a proper consent form for the disclosure or
 - ii. A court has ordered the program to release the PHI after giving the client and the program an opportunity to be heard and after making a “good cause” determination.
- d. When a client has committed or threatened to commit a crime on the program premises or against program personnel. Under these circumstances the program may report the crime to a law enforcement agency or seek its assistance. The program may disclose the circumstances of the incident, including the suspect’s name, address, last known whereabouts, and the suspect’s status as a client at the program.
 - e. When the disclosure is for research purposes. Under this exception the program may release PHI to researchers the program director determines are qualified.

- f. When a government agency that funds or regulates the program, a third-party payor or a peer review organization requests access to program records. The auditor or evaluator must agree in writing that it will re-disclose identifying information only:
 - i. Back to the program;
 - ii. Pursuant to a court order to investigate or prosecute the program (not a client), or
 - iii. To a government agency that is overseeing a Medicare or Medicaid audit or evaluation.

Records may be removed only upon a promise in writing to safeguard the records, not to re-disclose the records in violation of law, and to destroy all client-identifying information when the audit or evaluation is completed.

- g. When the program is reporting under state law incidents of suspected child abuse and neglect to appropriate authorities.
- h. When the disclosure is to a “qualified service organization” (QSO). A QSO is a person or entity that provides services to the program.

If the program receives a request for disclosure of a client’s record that is not permitted under the Federal Regulations, the program must refuse to make the disclosure and must ensure that the refusal is accomplished in a way that does not reveal the individual has ever been diagnosed or treated for an alcohol or drug problem.

Any PHI disclosed without authorization of a client in a federally-assisted substance abuse program authorization, may only be made in consultation with the Privacy Officer.

Uses and Disclosures

Policy 5 Uses and Disclosures: Business Associates

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rule of HIPAA's Administrative Simplification provisions, sets out, in this policy, the nature of the third party relationships that will be considered to be Business Associates and the requirements for contracting with them.

Policy

Any vendor or independent contractor who proposes to do business with Davis Behavioral Health will be subjected to procedures that will determine if the vendor or subcontractor is a Business Associate. We will consider any vendor or independent contractor to be a Business Associate if they have the following characteristics:

1. they perform a function or activity on our behalf that involves the use or disclosure of PHI or provide any legal, actuarial, accounting, consulting, data aggregation or management, administrative, accreditation, or financial services to or for us;
2. they are not involved in the treatment of a client; and
3. they are not providing consumer-conducted financial transactions.

Any vendor or independent contractor (but not any member of our workforce) who qualifies as a Business Associate will be required to sign a Business Associate Agreement or an Agreement that includes Business Associate provisions. The Agreement will be attached to this policy (see page ____).

Amendments to the Business Associates Agreement may not be made without the approval of legal counsel.

Protection of our client's health information is important to us, therefore we require our employees to be sensitive to the behavior of our Business Associates and to report any conduct that appears inappropriate.

Form 1 – Business Associate Agreement – New Contracts

BUSINESS ASSOCIATE AGREEMENT
With [Full Legal Name of Business Associate]
Effective Date: [Insert Effective Date of this Agreement]

This **Business Associate and Chain of Trust Agreement** (the "Agreement") is made as of the Effective Date set forth above, by and between **Davis Behavioral Health, Inc.** ("Health Care Provider") with a principal office at **291 South 200 West, Farmington, UT 84025** and **[Insert full legal name of Business Associate]** ("Business Associate") with a principal office at **[Insert address of Business Associate]**.

Whereas, Health Care Provider desires to disclose, and Business Associate desires to use, disclose, create, and/or receive, Individually Identifiable Health Information (i) on behalf of the Health Care Provider in the performance of certain functions or activities involving Individually Identifiable Health Information, or (ii) while providing certain designated services (including legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services) to or for the Health Care Provider;

Whereas, Health Care Provider and Business Associate wish to comply with the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §1320(d)) ("HIPAA") including without limitation the Standards for Privacy of Individually Identifiable Health Information (42 C.F.R., Part 160 and 164), the Standards for Electronic Transactions (45 C.F.R., Part 160 and 162) and the Security Standards (45 C.F.R., Part 142) (collectively, the "Standards") promulgated or to be promulgated by the Secretary of Health and Human Services (the "Secretary").

I. Definitions.

The following terms, as used in this Agreement, shall have the meanings set forth below:

- 1.1 **"Data Aggregation"** means, with respect to Protected Health Information created or received by Business Associate in its capacity as the business associate of Health Care Provider, the combining of such Protected Health Information by Business Associate with the Protected Health Information received by Business Associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.
- 1.2 **"Designated Record Set"** means a group of records maintained by or for Health Care Provider that is (i) the medical records and billing records about individuals maintained by or for Health Care Provider, (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for Health Care Provider to make decisions about individuals. As used in this Agreement, 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 the Health Care Provider.
- 1.3 **"Electronic Media"** means the mode of electronic transmissions. It includes the internet, extranet (using internet technology to link a business with information only accessible to collaborating parties), leased lines, dial-up lines, private networks, and those transmissions that are physically moved from one location to another using magnetic tape, disk, or compact disk media.
- 1.4 **"Individually Identifiable Health Information"** means information that is a subset of health information, including demographic information collected from an individual, and

(a) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and

(b) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (i) identifies the individual, or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

- 1.5 **"Protected Health Information" or "PHI"** means Individually Identifiable Health Information that is (a) transmitted by electronic media, (b) maintained in any medium constituting Electronic Media; or (c) transmitted or maintained in any other form or medium. "Protected Health Information" does not include (a) education records covered by the Family Educational Right and Privacy Act, as amended, 20 U.S.C. §1232g and (b) records described in 20 U.S.C. §1232g(a)(4)(B)(iv).

II. Obligations of Business Associate With Respect to PHI.

- 2.1 **Use and Disclosure of PHI.** Business Associate shall use and disclose PHI only as required to satisfy its obligations under this Agreement or as required by law and shall not otherwise use or disclose any PHI. Health Care Provider shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Standards for Individually Identifiable Health Information (hereinafter, the "Privacy Standards") if done by Health Care Provider **[Optional:** except with respect to uses and disclosures of PHI for data aggregation or management and administrative activities of Business Associate, as provided in Sections 2.12 and 2.13 of this Agreement, respectively].

2.2 Purposes and Limitations on Use or Disclosure of PHI.

- 2.2.1 **Purposes.** Except as otherwise provided in this Agreement, Business Associate may use or disclose PHI on behalf of, or to provide services to, Health Care Provider only for the following purposes, so long such use or disclosure of PHI would not violate the Privacy Standards if used or disclosed by the Health Care Provider:

[List specific purposes for Business Associate's use or disclosure of PHI] i.e., to conduct a survey and determine the accreditation status of Health Care Provider; to provide accounting services to Provider; to conduct research services using patient medical records for XYZ purposes, etc.

- 2.2.2 **Property Rights in PHI.** Business Associate hereby acknowledges that, as between Business Associate and Health Care Provider, all PHI shall be and remain the sole property of Health Care Provider, including any forms of PHI developed by Business Associate in the course of fulfilling its obligations under this Agreement.

- 2.2.3 **Minimum Necessary.** Business Associate further represents that, to the extent Business Associate requests Health Care Provider to disclose PHI to Business Associate, such request is only for the minimum necessary PHI for the accomplishment of Business Associate's purposes.

2.3 Safeguards and Security.

- 2.3.1 **Safeguards.** Business Associate agrees to use all appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement or as required by law.
- 2.3.2. **Security.** Business Associate shall establish security policies, processes and procedures in compliance with the Security Standards including without limitation administrative procedures, physical safeguards, technical security

services, and technical security mechanisms, in order to protect the integrity and confidentiality of PHI exchanged electronically. Business Associate acknowledges and agrees that the legal, technical or business requirements for security of PHI may change and that, at any time during the term of this Agreement, Health Care Provider shall have the right to require Business Associate to adopt new policies, processes and procedures, or to require modifications to existing policies, processes and procedures. Health Care Provider shall communicate in writing such new or altered requirements to Business Associate, and Business Associate agrees to promptly implement such requirements. Business Associate shall supply a written copy of its security policies and procedures to Health Care Provider upon the execution of this Agreement.

2.4 Reporting Disclosures of PHI: Mitigation. Business Associate shall report any use or disclosure in violation of this Agreement within two business days of learning of such violation by Business Associate or its officers, directors, employees, contractors or other agents or by any third party to which Business Associate has disclosed PHI. Business Associate agrees to mitigate promptly at the direction of Health Care Provider any harmful effect of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement. Health Care Provider may, at its sole discretion, access records of Business Associate, direct an investigation of a use or disclosure by Business Associate, and determine the appropriate method of mitigation; Business Associate agrees to cooperate fully with Health Care Provider in any such investigation or mitigation.

2.5 Employees, Subcontractors, and Agents. Business Associate hereby represents and warrants that its employees and agents will be specifically advised of, and shall comply in all respects with, the terms and conditions of this Agreement. Business Associate shall obtain and maintain, in full force and effect, a binding contract with each of its agents including without limitation subcontractors who will have access to PHI and whose PHI is received from, or created or received by, Business Associate on behalf of the Health Care Provider. Business Associate shall further ensure that any such agent agrees in such contract to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI.

2.6 Accounting of Disclosures.

2.6.1 Accounting by Business Associate. Business Associate agrees to document any disclosures of PHI made by Business Associate, as well as other information related to such disclosures, as would be required for Health Care Provider to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Business Associate also agrees to provide Health Care Provider, in a time and manner designated by Health Provider, information collected in accordance with this section of the Agreement, to permit Health Care Provider to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528.

2.6.2 Recordkeeping. Business Associate agrees to implement an adequate record keeping process to enable it to comply with the requirements of this section of the Agreement.

2.7 Privacy Practices. Business Associate hereby acknowledges and agrees that Health Care Provider has provided it with a copy of its Notice of Privacy Practices. Business Associate agrees to comply with the practices identified in the Notice of Privacy Practices, to the extent that such practices would apply to Health Care Provider if it were performing Business Associate's functions, and will utilize as appropriate Health Care Provider's form documents. Health Care Provider hereby reserves the right to change the applicable privacy practices and related documents at any time. To the extent that such

changes affect the duties and obligations of Business Associate under this Agreement, Business Associate will implement such changes within 10 days of receipt of notice of the change.

- 2.8 **Revocation or Modification of Consumer Permission.** Health Care Provider shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.
- 2.9 **Consumer Restrictions on Uses and Disclosures.** Health Care Provider shall notify Business Associate of any restriction to the use or disclosure of PHI that Davis Behavioral Health has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- 2.10 **Availability of Books and Records.** Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, created, or received by Business Associate (on behalf of Health Care Provider) available to Health Care Provider, or at the request of Health Care Provider to the Secretary, in a time and manner designated by the Health Care Provider or the Secretary, for purposes of the Secretary determining Health Care Provider's compliance with the Privacy Standards. The provisions of this section shall survive termination of this Agreement.
- 2.11 **Notice of Request for PHI.** Business Associate agrees to notify Health Care Provider within two business days of receipt of any request, subpoena or other legal process to obtain PHI or an accounting of PHI. Health Care Provider in its discretion shall determine whether Business Associate may disclose PHI pursuant to such request, subpoena, or other legal process. Business Associate agrees to cooperate fully with Health Care Provider in any legal challenge initiated by Health Care Provider in response to such request, subpoena, or other legal process. The provisions of this section shall survive the termination of this Agreement.

[Optional: Include the following section only if you intend Business Associate to be able to use PHI in its own management or administration functions.]

2.12 Proper Management and Administration of Business Associate.

- 2.12.1 **Permissible Uses.** Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- 2.12.2 **Permissible Disclosures.** Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are required by law, or that Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

[Optional: Include the following section only if you intend Business Associate to perform Data Aggregation functions.]

- 2.13 **Data Aggregation.** Except as other limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Health Care Provider as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

[Optional: Include the following section only if Business Associate will receive PHI in Designated Record Sets.]

- 2.14 **Access to Records in a Designated Record Set.** At the request of Health Care Provider and in the time and manner designated by Health Care Provider, Business Associate agrees to provide access to PHI in a Designated Record Set to Health Care Provider (and its employees and agents) or, as directed by Health Care Provider, to an individual in order to meet the requirements under 45 C.F.R. § 164.524.

[Optional: Include the following section only if Business Associate will receive PHI in Designated Record Sets.]

- 2.15 **Amendment of Records in a Designated Record Set.** At the request of Health Care Provider and in the time and manner designated by Health Care Provider, Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Health Care Provider (or its employees or agents) directs or agrees to pursuant to 45 C.F.R. § 164.526.

III. Other Obligations of Business Associate.

[Insert Duties and Obligations of Business Associate Not Related to HIPAA]

IV. Other Obligations of Health Care Provider.

[Insert Duties and Obligations of Health Care Provider Not Related to HIPAA]

V. Term and Termination.

5.1 Term.

[Insert provisions relating to term of this Agreement – the Term to commence with the Effective Date. If Business Associate functions are the only activities to be performed under this Agreement, you may use the following provision:]

The term of this Agreement shall commence upon the Effective Date and continue thereafter for a period of **[Insert period (in days, months or years) that contract is in effect]** or until earlier terminated in accordance with Section 5.2 below.

5.2 Termination.

5.2.1 General Termination Provisions.

[Insert general provisions relating to the termination of this Agreement. If Business Associate functions are the only activities to be performed under this Agreement and you wish to permit Business Associate to terminate this Agreement without cause, you may use the following provision:]

Either Health Care Provider or Business Associate may terminate this Agreement at any time without cause with **[Insert number of days of required notice – typically 30 to 120 days, depending upon the time period needed for a transition]** day's prior written notice.

- 5.2.2 **Termination Upon Breach.** Any other provision of this Agreement notwithstanding, this Agreement may be terminated by Health Care Provider upon five business days written notice to Business Associate in the event that the Business Associate breaches any provision (including any covenant, representation, warranty, or condition) contained in Article II of this Agreement or any other such provision of this Agreement that relates to PHI and such breach is not cured within the five day notice period; provided, however, that in the event that termination of this Agreement is not feasible in Health Care Provider's sole discretion, Business Associate hereby acknowledges that Health Care Provider shall have the right to report the breach to the Secretary.

5.2.3 Return or Destruction of PHI upon Termination.

- 5.2.3.1 **General Provisions.** Upon termination of this Agreement, Business Associate shall either return or destroy, at the option of Health Care

Provider, all PHI received from the Health Care Provider, or created or received by Business Associate on behalf of the Health Care Provider and which Business Associate still maintains in any form. Business Associate shall not retain any copies of such PHI.

5.2.3.2 **Alternative Arrangement.** Notwithstanding the foregoing, to the extent that the Health Care Provider agrees that it is not feasible to return or destroy such PHI, Business Associate shall provide Health Care Provider with a written acknowledgement and notification of the conditions that make return or destruction infeasible. Business Associate hereby agrees to (a) extend the protections of this Agreement to such PHI only for those purposes that make the return or destruction infeasible, (b) limit further uses and disclosures of such PHI to such purposes, and (c) extend any term or provision of this Agreement relating to PHI so that such term or condition shall survive termination of this Agreement. Thereafter, such PHI shall be used or disclosed solely for such purpose or purposes, which prevented the return or destruction of such PHI.

5.2.3.3 **Applicability of Provisions.** The provisions of this section of the Agreement shall apply, to the same extent that it applies to Business Associate, to PHI that is in the possession of agents of Business Associate.

5.2.4 **Health Care Provider's Right to Cure.** At the expense of Business Associate, Health Care Provider shall have the right to cure any breach of Business Associate's obligations under this Agreement with respect to PHI. Health Care Provider shall give Business Associate notice of its election to cure any such breach and Business Associate shall cooperate fully in the efforts by the Health Care Provider to cure Business Associate's breach. All requests for payment for such services of the Health Care Provider shall be paid within 30 days of Business Associate's receipt of the request for payment.

VI. Miscellaneous.

6.1 Indemnification.

[Insert an indemnification provision for this Agreement. If the only purpose of this Agreement is to comply with HIPAA's business associate requirements, you may use the following indemnification provision.]

Business Associate hereby agrees to indemnify and hold Health Care Provider and its employees and agents harmless from and against any and all loss, liability, or damages, including reasonable attorneys' fees, arising out of or in any manner occasioned by a breach of any provision of this Agreement by Business Associate, or its employees or agents.

6.2 Insurance.

[Insert insurance provision for this Agreement. If the only purpose of this Agreement is to comply with HIPAA's business associate requirements, you may use the following insurance provision.]

Business Associate shall obtain and maintain, at its sole expense, during the term of this Agreement liability insurance on an occurrence basis with responsible insurance companies covering claims based upon a violation of any of the Standards or any applicable state law or regulation concerning the privacy of patient information and claims based upon its obligations pursuant to Section 6.1 of this Agreement in amount not less than **[Insert minimum amount of required coverage; for high risk business**

associates – suggest \$1,000,000 per claim.] [Optional, suggest inserting for high or medium risk business associates: Such insurance policy shall name Health Care Provider as an additional named insured and shall provide for 30 days prior written notice to Health Care Provider in the event of any decrease, cancellation, or non-renewal of such insurance.] A copy of such policy or a certificate evidencing the policy shall be provided to Health Care Provider upon written request.

- 6.3 **Injunction.** Business Associate hereby agrees that Health Care Provider will suffer irreparable damage if Business Associate breaches this Agreement and that such damages will be difficult to quantify. Business Associate hereby agrees that Health Care Provider may file an action for an injunction to enforce the terms of this Agreement against Business Associate, in addition to any other remedy Health Care Provider may have.
- 6.4 **Independent Contractor.** Under this Agreement, Business Associate shall at all times be acting and performing in the status of independent contractor to Health Care Provider. Business Associate shall not by virtue of this Agreement be deemed a partner or joint venturer of Health Care Provider. No person employed by Business Associate will be an employee of Health Care Provider, and Health Care Provider shall have no liability for payment of any wages, payroll taxes, and other expenses of employment for any employee of Business Associate. Business Associate is constituted the agent of Health Care Provider only for the purpose of, and to the extent necessary to, carrying out its obligations under this Agreement.
- 6.5 **Authorization for Agreement.** Business Associate represents and warrants that the execution and performance of this Agreement by Business Associate has been duly authorized by all necessary laws, resolutions and corporate action, and this Agreement constitutes the valid and enforceable obligations of the Business Associate in accordance with its terms.
- 6.6 **Governing Law and Choice of Forum.** The parties agree that this Agreement shall be construed in accordance with the laws of the State of Utah, without regard to conflict of laws principles. The parties further agree that any litigation concerning this Agreement shall only be brought in a court of competent jurisdiction within the State of Utah. To the extent that the Privacy Standards apply to any provision in this Agreement, any ambiguity shall be resolved in favor of a meaning that permits Health Care Provider to comply with the Privacy Standards.
- 6.7 **Binding Agreement: Assignment.** This Agreement shall inure to the benefit and be binding upon the parties hereto and their respective successors and assigns; provided, however, that Business Associate may not assign any rights or obligations under this Agreement without the prior written consent of Health Care Provider.
- 6.8 **Notices.** Any notice, request, demand, report, approval, election, consent or other communication required or permitted under the terms of this Agreement (collectively, “Notice”) shall be in writing and either delivered personally, by registered or certified mail, return receipt requested, postage prepaid, or by reputable overnight courier, addressed as follows:

To Health Care Provider:

**Davis Behavioral Health, Inc.
291 South 200 West
Farmington, UT, 84025**

With a copy to:

To Business Associate:

[Insert Full Legal Name of Entity]
[Street Address]
[City or Town, State, Zip Code]
Attn: [Insert Title of Officer in Business Associate's
Organization, i.e., President]

With a copy to: **[If copy is desired, insert name and address of person to whom copy should be sent.]**

or at such other address as either party may designate by Notice. Notice shall be deemed to have been given when received if delivered personally, three days after postmarked if sent by certified mail, or one day after deposited with an overnight courier.

- 6.9 **Integration.** This Agreement constitutes the sole and only agreement of the parties hereto with respect to the subject matter herein. Any and all prior agreements, promises, proposals, negotiations or representations, whether written or oral, which are not expressly set forth in this Agreement are hereby superseded and are of no force or effect.
- 6.10 **Amendment.** This Agreement may not be amended, modified or terminated orally, and no amendment, modification, termination or attempted waiver shall be valid unless in writing signed by the party against whom the same is sought to be enforced.
- 6.11 **Severability.** Should any provision of this Agreement or application thereof be held invalid, illegal or unenforceable for any reason whatsoever, then notwithstanding such invalidity, illegality or unenforceability, the remaining terms and provisions of this Agreement shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law unless to do so would defeat the purposes of this Agreement.
- 6.12 **Survival.** All matters that (a) expressly survive the termination of this Agreement including without limitation the provisions of Sections 2.10, 2.11, 5.2.3, and 5.2.4, (b) relate to the termination of this Agreement, or (c) in the normal course would not occur or be effectuated until after any such termination, as well as all rights and obligations of the parties pertaining thereto, shall survive any termination and be given full force and effect notwithstanding any termination of this Agreement.
- 6.13 **Waiver.** The failure at any time by either party to require or demand performance of any provision of this Agreement shall not constitute a waiver by such party of such provision and shall not affect such party's full right to require performance at any later time.
- 6.14 **Legislative, Regulatory or Administrative Changes.** In the event of a change in federal, state or local law, any of which could, in Health Care Provider's reasonable judgment, materially and adversely affect the manner in which either party may perform services under this Agreement, the parties shall immediately amend this Agreement to comply with the law, regulation, or policy and approximate as closely as possible the arrangements set forth in this Agreement as it existed immediately prior to the change in law, regulation or policy.
- 6.15 **Joint Notices.** If applicable, in this Agreement the term "covered entity" shall include all entities covered by a joint Notice of Privacy Practices.
- 6.16 **Business Associates That Are Covered Entities.** In the event a Business Associate is a "covered entity" under the Privacy Standards, Business Associate may designate a

“health care component” of that entity, pursuant to 45 C.F.R. § 164.504(a) as the Business Associate for purposes of this Agreement.

- 6.17 **No Third Party Beneficiary.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties to this Agreement and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- 6.18 **Headings.** The headings to the various paragraphs of this Agreement have been inserted for convenient reference only and shall not modify, define, limit or expand the provisions of this Agreement.
- 6.19 **Counterparts.** This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same instrument.

In Witness Whereof, Health Care Provider and Business Associate have caused this instrument to be duly executed by their authorized representatives as of the Effective Date.
Davis Behavioral Health, Inc.

By: [Insert “President” or Title of Other Authorized Officer]

[Insert Full Legal Name of Business Associate]

By: [Insert “President” or Title of Other Authorized Officer]

Form 2 – Business Associate Addendum – Amendment to Existing Contract

BUSINESS ASSOCIATE ADDENDUM With [Full Legal Name of Business Associate] Effective Date: [Insert Effective Date of this Addendum]

This **Business Associate and Chain of Trust Addendum** (the “Addendum”) is made as of the Effective Date set forth above, by and between **Davis Behavioral Health, Inc.** (“Health Care Provider”) and **[Insert full legal name of Business Associate]** (“Business Associate”) as a duly executed amendment to **[Insert name of original contract]** originally effective as of **[Insert effective date of original contract]** (the “Agreement”).

Whereas, Health Care Provider and Business Associate desire to amend the Agreement with this Addendum in order to permit the use or disclosure of Individually Identifiable Health Information between Health Care Provider and Business Associate and to permit Business Associate as necessary to use, disclose, create and/or receive Individually Identifiable Health Information (i) on behalf of the Health Care Provider in the performance of certain functions or activities involving Individually Identifiable Health Information, or (ii) while providing certain designated services (including legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services) to or for the Health Care Provider;

Whereas, Health Care Provider and Business Associate wish to comply with the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §1320(d)) (“HIPAA”) including without limitation the Standards for Privacy of Individually Identifiable Health Information (42 C.F.R., Part 160 and 164), the Standards for Electronic Transactions (45 C.F.R., Part 160 and 162) and the Security Standards (45 C.F.R., Part 142) (collectively, the “Standards”) promulgated or to be promulgated by the Secretary of Health and Human Services (the “Secretary”).

I. Definitions.

The following terms, as used in this Addendum, shall have the meanings set forth below:

- 1.1 **"Data Aggregation"** means, with respect to Protected Health Information created or received by Business Associate in its capacity as the business associate of Health Care Provider, the combining of such Protected Health Information by Business Associate with the Protected Health Information received by Business Associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.
- 1.2 **"Designated Record Set"** means a group of records maintained by or for Health Care Provider that is (i) the medical records and billing records about individuals maintained by or for Health Care Provider, (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for Health Care Provider to make decisions about individuals. As used in this Agreement, 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 the Health Care Provider.
- 1.3 **"Electronic Media"** means the mode of electronic transmissions. It includes the internet, extranet (using internet technology to link a business with information only

accessible to collaborating parties), leased lines, dial-up lines, private networks, and those transmissions that are physically moved from one location to another using magnetic tape, disk, or compact disk media.

- 1.4 **"Individually Identifiable Health Information"** means information that is a subset of health information, including demographic information collected from an individual, and:

- (a) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- (b) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (i) identifies the individual, or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

- 1.5 **"Protected Health Information" or "PHI"** means Individually Identifiable Health Information that is (a) transmitted by electronic media, (b) maintained in any medium constituting Electronic Media, or (c) transmitted or maintained in any other form or medium. "Protected Health Information" does not include (a) education records covered by the Family Educational Right and Privacy Act, as amended, 20 U.S.C. §1232g and (b) records described in 20 U.S.C. §1232g(a)(4)(B)(iv).

II. Integration of Addendum.

- 2.1 **Effect of this Addendum.** The terms and provisions of this Addendum shall supercede any other conflicting or inconsistent terms and provisions in the Agreement to which this Addendum is attached, including all exhibits or other attachments to, and all documents incorporated by reference in, the Agreement. Without limitation of the foregoing, any limitation or exclusion of damages provisions contained in the Agreement shall not be applicable to this Addendum.

III. Obligations of Business Associate With Respect to PHI.

- 3.1 **Use and Disclosure of PHI.** Business Associate shall use and disclose PHI only as required to satisfy its obligations under the Agreement or as required by law and shall not otherwise use or disclose any PHI. Health Care Provider shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Standards for Individually Identifiable Health Information (hereinafter, the "Privacy Standards") if done by Health Care Provider [**Optional:** except with respect to uses and disclosures of PHI for data aggregation or management and administrative activities of Business Associate, as provided in Sections 3.12 and 3.13 of this Addendum, respectively].

- 3.2 **Purposes and Limitations on Use or Disclosure of PHI.**

- 3.2.1 **Purposes.** Except as otherwise provided in this Addendum, Business Associate may use or disclose PHI on behalf of, or to provide services to, Health Care Provider only for the following purposes, so long such use or disclosure of PHI would not violate (a) the minimum necessary policies and procedures of Health Care Provider and (b) the Privacy Standards if used or disclosed by the Health Care Provider:

[List specific purposes for Business Associate's use or disclosure of PHI]
i.e., to conduct a survey and determine the accreditation status of Health Care Provider; to provide accounting services to Provider; to conduct research services using patient medical records for XYZ purposes, etc.

- 3.2.2 **Property Rights in PHI.** Business Associate hereby acknowledges that, as between Business Associate and Health Care Provider, all PHI shall be and remain the sole property of Health Care Provider, including any forms of PHI developed by Business Associate in the course of fulfilling its obligations under this Agreement.
- 3.2.3 **Minimum Necessary.** Business Associate further represents that, to the extent Business Associate requests Health Care Provider to disclose PHI to Business Associate, such request is only for the minimum necessary PHI for the accomplishment of Business Associate's purposes.
- 3.3 **Safeguards and Security.**
 - 3.3.1 **Safeguards.** Business Associate agrees to use all appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Addendum or as required by law.
 - 3.3.2 **Security.** Business Associate shall establish security policies, processes and procedures in compliance with the Security Standards including without limitation administrative procedures, physical safeguards, technical security services, and technical security mechanisms, in order to protect the integrity and confidentiality of PHI exchanged electronically. Business Associate acknowledges and agrees that the legal, technical, or business requirements for security of PHI may change and that, at any time during the term of this Agreement, Health Care Provider shall have the right to require Business Associate to adopt new policies, processes and procedures, or to require modifications to existing policies, processes and procedures. Health Care Provider shall communicate in writing such new or altered requirements to Business Associate, and Business Associate agrees to promptly implement such requirements. Business Associate shall supply a written copy of its security policies and procedures to Health Care Provider upon the execution of this Agreement.
- 3.4 **Reporting Disclosures of PHI; Mitigation.** Business Associate shall report any use or disclosure in violation of this Addendum within two business days of learning of such violation by Business Associate or its officers, directors, employees, contractors or other agents or by any third party to which Business Associate has disclosed PHI. Business Associate agrees to mitigate promptly at the direction of Health Care Provider any harmful effect of a use or disclosure of PHI by Business Associate in violation of the requirements of this Addendum. Health Care Provider may, at its sole discretion, access records of Business Associate, direct an investigation of a use or disclosure by Business Associate, and determine the appropriate method of mitigation; Business Associate agrees to cooperate fully with Health Care Provider in any such investigation or mitigation.
- 3.5 **Employees, Subcontractors, and Agents.** Business Associate hereby represents and warrants that its employees and agents will be specifically advised of, and shall comply in all respects with, the terms and conditions of this Addendum. Business Associate shall obtain and maintain, in full force and effect, a binding contract with each of its agents including without limitation subcontractors who will have access to PHI and whose PHI is received from, or created or received by, Business Associate on behalf of the Health Care Provider. Business Associate shall further ensure that any such agent agrees in such contract to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI.
- 3.6 **Accounting of Disclosures.**
 - 3.6.1 **Accounting by Business Associate.** Business Associate agrees to document any disclosures of PHI made by Business Associate, as well as other information

related to such disclosures, as would be required for Health Care Provider to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Business Associate also agrees to provide Health Care Provider, in a time and manner designated by Health Provider, information collected in accordance with this section of the Addendum, to permit Health Care Provider to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528.

- 3.6.2 **Record keeping.** Business Associate agrees to implement an adequate record keeping process to enable it to comply with the requirements of this section of the Addendum.
- 3.7 **Privacy Practices.** Business Associate hereby acknowledges and agrees that Health Care Provider has provided it with a copy of its Notice of Privacy Practices. Business Associate agrees to comply with the practices identified in the Notice of Privacy Practices, to the extent that such practices would apply to Health Care Provider if it were performing Business Associate's functions, and will utilize as appropriate Health Care Provider's form documents. Health Care Provider hereby reserves the right to change the applicable privacy practices and related documents at any time. To the extent that such changes affect the duties and obligations of Business Associate under this Agreement, Business Associate will implement such changes within 10 days of receipt of notice of the change.
- 3.8 **Revocation or Modification of Consumer Permission.** Health Care Provider shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.
- 3.9 **Consumer Restrictions on Uses and Disclosures.** Health Care Provider shall notify Business Associate of any restriction to the use or disclosure of PHI in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- 3.10 **Availability of Books and Records.** Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Health Care Provider available to Health Care Provider, or at the request of Health Care Provider to the Secretary, in a time and manner designated by Health Care Provider or the Secretary, for purposes of the Secretary determining Health Care Provider's compliance with the Privacy Standards. The provisions of this section of the Addendum shall survive the termination of this Agreement.
- 3.11 **Notice of Request for PHI.** Business Associate agrees to notify Health Care Provider within two business days of receipt of any request, subpoena or other legal process to obtain PHI or an accounting of PHI. Health Care Provider in its discretion shall determine whether Business Associate may disclose PHI pursuant to such request, subpoena, or other legal process. Business Associate agrees to cooperate fully with Health Care Provider in any legal challenge initiated by Health Care Provider in response to such request, subpoena, or other legal process. The provisions of this section shall survive the termination of this Agreement.

[Optional: Include the following section only if you intend Business Associate to be able to use PHI in its own management or administration functions.]

3.12 Proper Management and Administration of Business Associate.

- 3.12.1 **Permissible Uses.** Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

- 3.12.2 **Permissible Disclosures.** Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are required by law, or that Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

[Optional: Include the following section only if you intend Business Associate to perform Data Aggregation functions.]

- 3.13 **Data Aggregation.** Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Health Care Provider as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

[Optional: Include the following section only if Business Associate will receive PHI in Designated Record Sets.]

- 3.14 **Access to Records in a Designated Record Set.** At the request of Health Care Provider and in the time and manner designated by Health Care Provider, Business Associate agrees to provide access to PHI in a Designated Record Set to Health Care Provider (and its employees and agents) or, as directed by Health Care Provider, to an individual in order to meet the requirements under 45 C.F.R. § 164.524.

[Optional: Include the following section only if Business Associate will receive PHI in Designated Record Sets.]

- 3.15 **Amendment of Records in a Designated Record Set.** At the request of Health Care Provider and in the time and manner designated by Health Care Provider, Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Health Care Provider (or its employees or agents) directs or agrees to pursuant to 45 C.F.R. § 164.526.

IV. Termination.

- 4.1 **Termination Upon Breach.** Any other provision of this Agreement notwithstanding, this Agreement may be terminated by Health Care Provider upon five business days written notice to Business Associate in the event that the Business Associate breaches any provision (including any covenant, representation, warranty, or condition) contained in Article III of this Addendum or any other such provision of this Addendum that relates to PHI and such breach is not cured within the 5 day notice period; provided, however, that in the event that termination of this Agreement is not feasible in Health Care Provider's sole discretion, Business Associate hereby acknowledges that Health Care Provider shall have the right to report the breach to the Secretary, notwithstanding any other provision of this Agreement to the contrary.
- 4.2. **Return or Destruction of PHI upon Termination.**
- 4.2.1 **General Provisions.** Upon termination of this Agreement, Business Associate shall either return or destroy, at the option of Health Care Provider, all PHI received from the Health Care Provider, or created or received by Business Associate on behalf of the Health Care Provider and which Business Associate still maintains in any form. Business Associate shall not retain any copies of such PHI.
- 4.2.2. **Alternative Arrangement.** Notwithstanding the foregoing, to the extent that the Health Care Provider agrees that it is not feasible to return or destroy such PHI, Business Associate shall provide Health Care Provider with a written acknowledgement and notification of the conditions that make return or destruction infeasible. Business Associate hereby agrees to (a) extend the

protections of this Agreement to such PHI only for those purposes that make the return or destruction infeasible, (b) limit further uses and disclosures of such PHI to such purposes, and (c) extend any term or provision of this Agreement relating to PHI so that such term or condition shall survive termination of this Addendum. Thereafter, such PHI shall be used or disclosed solely for such purpose or purposes, which prevented the return or destruction of such PHI.

4.2.3 **Applicability of Provisions.** The provisions of this section of the Addendum shall apply, to the same extent that it applies to Business Associate, to PHI that is in the possession of agents of Business Associate.

4.2.4 **Health Care Provider's Right to Cure.** At the expense of Business Associate, Health Care Provider shall have the right to cure any breach of Business Associate's obligations under this Addendum. Health Care Provider shall give Business Associate notice of its election to cure any such breach and Business Associate shall cooperate fully in the efforts by the Health Care Provider to cure Business Associate's breach. All requests for payment for such services of the Health Care Provider shall be paid within 30 days of Business Associate's receipt of the request for payment.

1.2.5 **Survival.** The provisions of this Article IV of the Addendum shall survive the termination of this Agreement.

V. Miscellaneous.

5.1 **Indemnification.** Business Associate hereby agrees to indemnify and hold Health Care Provider and its employees and agents harmless from and against any and all loss, liability, or damages, including reasonable attorneys' fees, arising out of or in any manner occasioned by a breach of any provision of this Addendum by Business Associate, or its employees or agents, without regard to any limitation or exclusion of damages provision otherwise set forth in this Agreement.

5.2 **Insurance.** Business Associate shall obtain and maintain, at its sole expense during the term of this Agreement, liability insurance on an occurrence basis with responsible insurance companies covering claims based on a violation of any of the Standards or any applicable state law or regulation concerning the privacy of patient information and claims based on its obligations pursuant to Section 5.1 of this Addendum in amount not less than **[Insert minimum amount of required coverage; for high risk business associates – suggest \$1,000,000 per claim.] [Optional, suggest inserting for high or medium risk business associates:** Such insurance policy shall name Health Care Provider as an additional named insured and shall provide for 30 days prior written notice to Health Care Provider in the event of any decrease, cancellation, or non-renewal of such insurance.] A copy of such policy or a certificate evidencing the policy shall be provided to Health Care Provider upon written request.

5.3 **Injunction.** Business Associate hereby agrees that Health Care Provider will suffer irreparable damage if Business Associate breaches this Addendum and that such damages will be difficult to quantify. Business Associate hereby agrees that Health Care Provider may file an action for an injunction to enforce the terms of this Addendum against Business Associate, in addition to any other remedy Health Care provider may have.

5.4 **Authorization for Addendum.** Business Associate represents and warrants that the execution and performance of this Addendum by Business Associate has been duly authorized by all necessary laws, resolutions and corporate action, and this Addendum constitutes the valid and enforceable obligations of the Business Associate in accordance with its terms.

- 5.5 **Legislative, Regulatory or Administrative Changes.** In the event of a change in federal, state or local law, any of which could, in Health Care Provider's reasonable judgment, materially and adversely affect the manner in which either party may perform services under this Addendum, the parties shall immediately amend this Addendum to comply with the law, regulation, or policy and approximate as closely as possible the arrangements set forth in this Addendum as it existed immediately prior to the change in law, regulation or policy.
- 5.6 **Interpretation.** Notwithstanding any other provision of this Agreement, any ambiguity in a provision of this Agreement that may require an interpretation of the Standards, shall be resolved in favor of a meaning that permits Health Care Provider to comply with the Standards including without limitation those standards relating to preemption of state laws.

In Witness Whereof, Health Care Provider and Business Associate have caused this instrument to be duly executed by their authorized representatives as of the Effective Date.

Davis Behavioral Health, Inc.

By: [Insert "President" or Title of Other Authorized Officer]

[Insert Full Legal Name of Business Associate]

By: [Insert "President" or Title of Other Authorized Officer]

Policy 6 The Designated Record Set and PHI

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the elements of the designated record set and the creation and maintenance of data sources that contain PHI. This Policy mandates that Davis Behavioral Health maintain accurate and complete medical and billing records for each of our clients so that they can exercise their rights to access, review, and amend their PHI maintained in a designated record set as required under HIPAA.

Policy

Davis Behavioral Health will maintain the following items in its designated record set:

The Medical Record (including all of the items listed below, and any other records of care that would be appropriate):

- a. The clinical diagnostic assessment
- b. The psychiatric diagnostic assessment
- c. The treatment plan
- d. Consents for treatment
- e. Reports/information from indirect treatment providers
- f. Functional status assessments
- g. Medication profiles
- h. Progress notes and documentation of care provided, for both treatment and reimbursement purposes. .
- i. Multidisciplinary progress notes/documentation
- j. Content of any consultation with internal or external individuals regarding the client's care
- k. Nursing assessments
- l. Orders for diagnostic tests and diagnostic study results
- m. Practice guidelines that imbed patient data
- n. Records of physical history, examinations, respiratory therapy, physical therapy, speech therapy, occupational therapy, and any other records of services provided by specialty providers
- o. Telephone consultation records
- p. Telephone orders

- q. Discharge instructions
- r. Discharge summaries
- s. Legal Documents and correspondence between the agency and the client or others involved in the client's care
- t. utilization management or utilization review forms that are used to determine or review level of care decisions including admission, continuing stay, and discharge

The Billing Record

- a. Signature on file
- b. Consent to bill third parties
- c. Individual Financial Assessment (i.e., Income Affidavit)
- d. Copies of any insurance cards and other data on insurance coverage
- e. Fee Agreement
- f. Requests for prior authorization of services
- g. Authorizations for services or other written acknowledgements of client eligibility for services
- h. Billing records including dates, services provided, provider, billing and payment records, and other information used to bill or to record and report encounters or services.

PHI is kept in many forms throughout Davis Behavioral Health. Each of the existing repositories of PHI have been identified, documented, and approved for usage. It is our policy that any new need for creation of an additional repository of PHI must follow the same process. Unsanctioned maintenance of PHI in any form will lead to disciplinary action.

Policy 7 Privacy Notice

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the conditions for providing notice to clients of our privacy practices.

Policy

Davis Behavioral Health will post a copy of our Privacy Notice, in English, in a prominent position at the Intake area of each service delivery site. In addition, copies of the Notice, in English and Spanish, will be available at the Front Desks for those who wish to have them. Any individual who is unable to read can request that the Notice be read to him/her.

Davis Behavioral Health will obtain a written acknowledgment of receipt of the Privacy Notice from each new client (other than in emergency situations) no later than their first service. Should we fail to obtain the written acknowledgment, we will document the good faith effort we made to obtain the acknowledgment and the reason why we were unable to obtain it. We will mail the Privacy Notice to all current clients, prior to April 14, 2003.

The Privacy Notice that is in effect will be the Notice that is attached to this Policy. This version of the Notice reflects the privacy practices in place at this time in our Agency.

It is our policy to conform our Privacy Notice to the content specified in the Privacy Rule. At the present time, this content is as follows and any version of our Privacy Notice must contain all of these items:

1. Header:

“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. A description, including sufficient detail to place the individual on notice, and at least one example of the types of uses and disclosures for each of the following purposes: treatment, payment, and health care operations.

3. A description, including sufficient detail to place the individual on notice, of each of the other purposes a covered entity is either required or permitted to use or disclose PHI without the individual's written consent or authorization.
4. A description of any prohibitions or material limitations required by more stringent law.
5. A statement that other uses and disclosures will be made only with the individual's written authorization and that such authorization may be revoked.
6. If Davis Behavioral Health intends to do any of the following, there must be a separate statement that:
 - a. It will contact the individual to provide appointment reminders or information about treatment alternatives, or other health-related benefits and services that may be of interest;
 - b. It may contact the individual to raise funds on its behalf.
7. A statement of the individual's rights with respect to uses and disclosures of PHI and a description of how those rights may be exercised including:
 - a. The right to request restrictions, including a statement that Davis Behavioral Health is not required to agree to such a restriction;
 - b. The right to receive confidential communications of PHI;
 - c. The right to inspect and copy PHI;
 - d. The right to amend PHI;
 - e. The right to receive an accounting of disclosures of PHI; and
 - f. The right to obtain a paper copy of the notice upon request.
8. A statement about Davis Behavioral Health's duties to:
 - a. Maintain the privacy of PHI and to provide individuals with notice of its legal duties and privacy practices relative to PHI;
 - b. Abide by the terms of the privacy notice currently in effect; and
 - c. When retroactively applying a change in the notice, to provide a statement that it reserves the right to change the terms of its notice and to make the new notice effective for all PHI it maintains; and how it intends to provide individuals with a revised notice.
8. A statement that individuals may complain (to Davis Behavioral Health or the Department of Health and Human Services) if he/she believe their rights have been violated; a brief description of how to file a complaint with the covered entity; and a

statement that there will be no retaliation against the individual if a complaint is made.

9. The name, title, and telephone number of the person or office designated as responsible for receiving complaints and providing additional information.
10. The date on which the notice is first in effect which may not be earlier than the date on which the privacy notice is printed or otherwise published.

Davis Behavioral Health requires that revision of our privacy practices may only occur after deliberation by the ELT or its designated group and the Privacy Officer. Any changes arising from the revision process will be incorporated into the Privacy Notice and distributed to clients before those practices are effective.

DAVIS BEHAVIORAL HEALTH NOTICE OF PRIVACY PRACTICES

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU MAY ACCESS THIS INFORMATION. PLEASE REVIEW IT CAREFULLY. Effective: 04/14/2003

Davis Behavioral Health is required by law to maintain the privacy of your medical information, to provide this notice to you, and to abide by the terms of this notice.

HOW WE USE YOUR HEALTH INFORMATION

When you receive care from Davis Behavioral Health, we may use your health information for treating you, billing you for services, and conducting our normal business (known as health care operations).

Examples of how we use your information include:

Treatment – We keep records of the care and services provided to you. Health care providers use these records to deliver quality care to meet your needs. For example, your doctor may share your health information with a specialist who will assist in your treatment. Some health records, including confidential communications with a mental health professional, substance abuse treatment records, and genetic test results, may have additional restrictions for use and disclosure under state and federal laws.

Payment – We keep billing records that include payment information and documentation of the services provided to you. Your information may be used to obtain payment from you, your insurance company, or other third party. We may also contact your insurance company to verify coverage for your care or to notify them of upcoming services that may need prior notice or approval. For example, we may disclose information about the services provided to you to claim and obtain payment from your insurance company (i.e., Medicaid) or to the State Division of Mental Health and Substance Abuse.

Health Care Operations – We use health information to improve the quality of care, train staff and students, provide customer service, manage costs, conduct required business duties, and make plans to better serve our communities. For example, we may use your health information to evaluate the quality of treatment and services provided by our physicians, therapists, nurses, and other health care workers.

Health Related Benefits – We may use and disclose information to tell you about health related benefits. For example, we may disclose information about insurance benefits to others.

OTHER SERVICES WE PROVIDE

We may also use your health information to recommend treatment alternatives, tell you about health services and products that may benefit you, share information with family or friends involved in your care or payment for your care, share information with third parties who assist us with treatment, payment, and health care operations, and remind you of an appointment (optional, notify the front desk staff if you do not wish to be reminded).

YOUR INDIVIDUAL RIGHTS

You have the right to:

- Request restrictions on how we use and share your health information. We will consider all requests for restrictions carefully but are not required to agree to any restriction.
- Request that we use a specific telephone number or address to communicate with you.
- Inspect and copy your health information, including medical and billing records. Fees may apply. When it is not in your best interest, we may deny you access to a portion of your health information and you may request a review of the denial.*
- Request changes or additions to your health information.*
- Request an accounting of certain disclosures of your health information made by Davis Behavioral Health. The accounting does not include disclosures made for treatment, payment, and health care operations, disclosures subject to your signed authorization, and some disclosures required by law. Your request must state the period of time desired for the accounting, which must be within the six years prior to your request and exclude dates prior to April 14, 2003. The first accounting is free, but a fee will apply if more than one request is made in a 12-month period. *

- Request a paper copy of this notice even if you agree to receive it electronically.

Requests marked with a star () must be made in writing. Contact Abel Ortiz at 773-7060, the Davis Behavioral Health Privacy Officer, for the appropriate form for your request.

SHARING YOUR HEALTH INFORMATION

There are limited situations when we are permitted or required to disclose health information without your signed authorization and without notice to you. These situations include activities necessary to administer the Medicaid program and the following:

- For public health purposes such as reporting communicable diseases, work-related illnesses, or other diseases and injuries permitted by law; reporting births and deaths; and reporting reactions to drugs and problems with medical devices
- To protect victims of abuse, neglect, or domestic violence and emergencies
- For health oversight activities such as investigations, audits, and inspections
- For legal proceedings
- When otherwise required by law
- When requested by law enforcement as required by law or court order
- To coroners, medical examiners, and funeral directors
- For organ and tissue donation
- For research approved by our review process under strict federal guidelines
- To reduce or prevent a serious threat to public health and safety
- For worker's compensation or other similar programs if you are injured at work
- For specialized government functions such as intelligence and national security
- To the armed forces when requested if you are a member of the armed forces

All other uses and disclosures, not described in this notice, require your signed authorization. You may revoke your authorization at any time with a written statement.

OUR PRIVACY RESPONSIBILITIES

Davis Behavioral Health is required by law to:

- Maintain the privacy of your health information
- Provide this notice that describes the ways we may use and share your health information
- Follow the terms of the notice currently in effect.

We reserve the right to make changes to this notice at any time and make the new privacy practices effective for all information we maintain. Current notices will be posted in all Davis Behavioral Health offices. You may also request a copy of any notice (including an 11-page document explaining this notice in greater detail) from Abel Ortiz, the Davis Behavioral Health Privacy Officer.

CONTACT US

If you would like further information about your privacy rights, are concerned that your privacy rights have been violated, or disagree with a decision that we made about access to your health information, contact Abel Ortiz, the Davis Behavioral Health Privacy Officer.

Abel Ortiz
2250 N 1700 W
Layton, UT 84041
(801) 773-7060
aortiz@davisbh.org

You may also file a written complaint with the following:

Office of Civil Rights
200 Independence Avenue
S.W. Room 509F
HHH Bldg.
Washington, DC 20201

We will investigate all complaints and will not retaliate against you for filing a complaint.

NOTICE OF PRIVACY PRACTICES

Davis Behavioral Health

291 South 200 West

Farmington, UT 84025

(801) 451-7799

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.

If you have any questions about this Privacy Notice, please contact Abel Ortiz @ 773-7060, the Davis Behavioral Health Privacy Officer.

I. Introduction

This Notice of Privacy Practices describes how we may use and disclose your protected health information to carry out treatment, payment or health care (health care refers to mental health, behavioral health, substance abuse, and related medical care) operations and for other purposes that are permitted or required by law. This Notice also describes your rights regarding health information we maintain about you and a brief description of how you may exercise these rights. This Notice further states the obligations we have to protect your health information.

“Protected health information” means health information (including identifying information about you) we have collected from you or received from your health care providers, health plans, your employer, or a health care clearinghouse. It may include information about your past, present, or future behavioral health or condition, the provision of your health care, and payment for your health care services.

We are required by law to maintain the privacy of your health information and to provide you with this notice of our legal duties and privacy practices with respect to your health information. We are also required to comply with the terms of our Notice of Privacy Practices.

II. How We Will Use and Disclose Your Health Information

We will use and disclose your health information as described in each category listed below. For each category, we will explain what we mean, in general, but not describe all specific uses or disclosures of health information.

A. Uses and Disclosures for Treatment, Payment, and Operations.

1. **For Treatment.** We will use and disclosure your health information, without your authorization, to provide your behavioral health care and any related services. We will also use and disclose your health information to coordinate and manage your health care and related services. For example, we may need to disclose information to a case manager who is responsible for coordinating your care. We may also disclose your health information among our clinicians and other staff (including clinicians other than your therapist or principal clinician), who work at or contract with Davis Behavioral Health. For example, our staff may discuss your care at a case conference. In addition, we may disclose your health information to another health care provider (such as your primary care physician, a hospital, a pharmacy, or a laboratory) working outside of Davis Behavioral Health for purposes of your treatment.

2. **For Payment.** We may use or disclose your health information, without your authorization, so that the treatment and services you receive are billed to, and payment is collected from, your health plan or other third party payer. By way of example, we may disclose your health information to permit your health plan to take certain actions before your health plan approves or pays for your services. These actions may include:

- Deciding if you qualify or have coverage for health insurance;
- Reviewing your services to determine if they were medically necessary;
- Reviewing your services to determine if they were appropriately authorized or certified in advance of your care; or
- Reviewing your services for purposes of utilization review, to ensure the appropriateness of your care, or to justify the charges for your care.

For example, your health plan may ask us to share your health information in order to determine if the plan will approve additional visits to your therapist. We may also disclose your health information to another health care provider so that provider can bill you for services they provided to you, such as an ambulance service that transported you to the hospital.

3. For Health Care Operations. We may use and disclose health information, without your authorization, about you for our health care operations. These uses and disclosures are necessary to run our organization and make sure that our consumers receive quality care. These activities may include quality assessment and improvement, reviewing the performance or qualifications of our clinicians, training students in clinical activities, licensing, accreditation, business planning and development, and general administrative activities.

We may combine the health information of many of our consumers to decide what additional services we should offer, what services are no longer needed, and whether certain new treatments are effective. We may also provide your health information to other health care providers or to your health plan to assist them in performing certain of their own health care operations. We will do so only if you have or have had a relationship with the other provider or health plan. For example, we may provide information about you to your health plan to assist them in their quality assurance activities. We may also use and disclose your health information to contact you to remind you of your appointment. Finally, we may use and disclose your health information to inform you about possible treatment options or alternatives that may be of interest to you.

4. Health-Related Benefits and Services. We may use and disclose health information to tell you about health-related benefits or services that may be of interest to you. If you do not want us to provide you with information about health-related benefits or services, you must notify Abel Ortiz, DBH Privacy Officer, in writing at 291 South 200 West, Farmington, UT 84025. Please state clearly that you do not want to receive materials about health-related benefits or services.

5. Fundraising Activities. It is not our practice to release identifiable health information that would allow a fundraiser to directly contact you. However, we may use or disclose non-identifiable health information to assist us in raising money for our programs, services, and operations. We may disclose identifiable health information to potential fundraising entities, to assist us in raising money. We will only disclose identifiable information, if we first obtain your consent. We will only release basic contact information, such as your name and address and the dates you were provided service, but we will not provide information about your treatment.

B. Uses and Disclosures That May be Made Without Your Authorization, But For Which You Will Have an Opportunity to Object.

1. **Facility Directory.** We do not maintain a facility directory at any of our units. If asked, we will not confirm orally, in writing, or through any other medium that you are our current or former client, with the exceptions listed below under “Person’s Involved in an Individual’s Care.”

2. **Persons Involved in Your Care.** We may provide health information about you to someone who helps pay for your care. We may use or disclose your health information to notify or assist in notifying a family member, personal representative, or any other person that is responsible for your care of your location, general condition, or death. We may also use or disclose your health information to an entity assisting in disaster relief efforts and to coordinate uses and disclosures for this purpose to family or other individuals involved in your health care. In limited circumstances, we may disclose health information about you to a friend or family member who is involved in your care. If you are physically present and have the capacity to make health care decisions, your health information may only be disclosed with your agreement to persons you designate to be involved in your care. However, if you are in an emergency situation, we may disclose your health information to a spouse, a family member, or a friend so that person may assist in your care. In this case, we will determine whether the disclosure is in your best interest and, if so, only disclose information that is directly relevant to participation in your care. If you are not in an emergency situation but are unable to make health care decisions, we will disclose your health information to:

- A person designated to participate in your care in accordance with an advance directive validly executed under state law,
- Your guardian or other fiduciary if one has been appointed by a court, or
- If applicable, the state agency responsible for consenting to your care.

C. Uses and Disclosures That May be Made Without Your Authorization or Opportunity to Object.

1. **Emergencies.** We may use and disclose your health information in an emergency treatment situation. By way of example, we may provide your health information to a paramedic who is transporting you in an ambulance. We will attempt to obtain your Consent as soon as reasonably practicable after we provide you with emergency treatment. If a clinician is required by law to treat you and your treating clinician has

attempted to obtain your Consent but is unable to do so, the treating clinician may nevertheless use or disclose your health information to treat you.

2. **Research.** We may disclose your health information to researchers when the research has been approved by an Institutional Review Board or a similar privacy board who has reviewed the research proposal and established protocols to ensure the privacy of your health information.
3. **As Required By Law.** We will disclose health information about you when required to do so by federal, state, or local law.
4. **To Avert a Serious Threat to Health or Safety.** We may use and disclose health information about you when necessary to prevent a serious and imminent threat to your health or safety or to the health or safety of the public or another person. Under these circumstances, we will only disclose health information to someone who is able to help prevent or lessen the threat.
5. **Organ and Tissue Donation.** If you are an organ donor, we may release your health information to an organ procurement organization or to an entity that conducts organ, eye or tissue transplantation, or serves as an organ donation bank, as necessary to facilitate organ, eye or tissue donation and transplantation.
6. **Public Health Activities.** We may disclose health information about you as necessary for public health activities including, by way of example, disclosures to:
 - Report to public health authorities for the purpose of preventing or controlling disease, injury or disability;
 - Report vital events such as birth or death;
 - Conduct public health surveillance or investigations;
 - Report child abuse or neglect;
 - Report elderly abuse or neglect;
 - Report disabled abuse or neglect;
 - Report to the Food and Drug Administration (FDA) or to a person subject to the jurisdiction of the FDA to report certain events including information about defective products or problems with medications;
 - Notify consumers about FDA-initiated product recalls;
 - Notify a person who may have been exposed to a communicable disease or who is at risk of contracting or spreading a disease or condition;
 - Notify the appropriate government agency, if we believe you have been a victim of abuse, neglect or domestic violence. We will only notify an agency if we obtain

your agreement or if we are required or authorized by law to report such abuse, neglect or domestic violence.

7. **Health Oversight Activities.** We may disclose health information about you to a health oversight agency for activities authorized by law. Oversight agencies include government agencies that oversee the health care system, government benefit programs such as Medicare or Medicaid, other government programs regulating health care, and civil rights laws.
8. **Disclosures in Legal Proceedings.** We may disclose health information about you to a court or administrative agency when a judge or administrative agency orders us to do so. We also may disclose health information about you in legal proceedings without your permission or without a judge or administrative agency's order when:
 - We receive a subpoena for your health information. We will not provide this information in response to a subpoena without your authorization if the request is for records of a federally-assisted substance abuse program.
9. **Law Enforcement Activities.** We may disclose health information to a law enforcement official for law enforcement purposes when:
 - A court order, subpoena, warrant, summons, or similar process requires us to do so; or
 - The information is needed to identify or locate a suspect, fugitive, material witness or missing person; or
 - We report a death that we believe may be the result of criminal conduct; or
 - We report criminal conduct occurring on the premises of our facility; or
 - We determine that the law enforcement purpose is to respond to a threat of an imminently dangerous activity by you against yourself or another person; or
 - The disclosure is otherwise required by law.

We may also disclose health information about a client who is a victim of a crime, without a court order or without being required to do so by law. However, we will do so only if the disclosure has been requested by a law enforcement official and the victim agrees to the disclosure or, in the case of the victim's incapacity, the following occurs:

- The law enforcement official represents to us that (i) the victim is not the subject of the investigation and (ii) an immediate law enforcement activity to meet a serious danger to the victim or others depends upon the disclosure; and
- We determine that the disclosure is in the victim's best interest.

10. **Medical Examiners or Funeral Directors.** We may provide health information about our consumers to a medical examiner. Medical examiners are appointed by law to assist in identifying deceased persons and to determine the cause of death in certain circumstances. We may also disclose health information about our consumers to funeral directors as necessary to carry out their duties.
11. **Military and Veterans.** If you are a member of the armed forces, we may disclose your health information as required by military command authorities. We may also disclose your health information for the purpose of determining your eligibility for benefits provided by the Department of Veterans Affairs. Finally, if you are a member of a foreign military service, we may disclose your health information to that foreign military authority.
12. **National Security and Protective Services for the President and Others.** We may disclose health information about you to authorized federal officials for intelligence, counter-intelligence, and other national security activities authorized by law. We may also disclose health information about you to authorized federal officials so they may provide protection to the President, other authorized persons or foreign heads of state or so they may conduct special investigations.
13. **Inmates.** If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may disclose health information about you to the correctional institution or law enforcement official.
14. **Workers' Compensation.** We may disclose health information about you to comply with the state's Workers' Compensation Law.

III. Uses and Disclosures of Your Health Information with Your Permission.

Uses and disclosures not described in Section II of this Notice of Privacy Practices will generally only be made with your written permission, called an "authorization." You have the right to revoke an authorization at any time. If you revoke your authorization, we will not make any further uses or disclosures of your health information under that authorization, unless we have already taken an action relying upon the uses or disclosures you have previously authorized.

IV. Your Rights Regarding Your Health Information.

A. Right to Inspect and Copy.

You have the right to request an opportunity to inspect or copy health information used to make decisions about your care, whether they are decisions about your treatment or

payment of your care. Usually, this would include clinical and billing records, but not psychotherapy notes.

You must submit your request in writing to Abel Ortiz, DBH Privacy Officer, at 291 South 200 West, Farmington, UT 84025. If you request a copy of the information, we may charge a fee for the cost of copying, mailing and supplies associated with your request. We may deny your request to inspect or copy your health information in certain limited circumstances. In some cases, you will have the right to have the denial reviewed by a licensed health care professional not directly involved in the original decision to deny access. We will inform you in writing if the denial of your request may be reviewed. Once the review is completed, we will honor the decision made by the licensed health care professional reviewer.

B. Right to Amend.

For as long as we keep records about you, you have the right to request us to amend any health information used to make decisions about your care, whether they are decisions about your treatment or payment of your care. Usually, this would include clinical and billing records, but not psychotherapy notes. To request an amendment, you must submit a written document to Abel Ortiz, DBH Privacy Officer, at 291 South 200 West, Farmington, UT 84025 and tell us why you believe the information is incorrect or inaccurate. We may deny your request for an amendment if it is not in writing or does not include a reason to support the request. We may also deny your request if you ask us to amend health information that:

- Was not created by us, unless the person or entity that created the health information is no longer available to make the amendment;
- Is not part of the health information we maintain to make decisions about your care;
- Is not part of the health information that you would be permitted to inspect or copy; or
- Is accurate and complete.

If we deny your request to amend, we will send you a written notice of the denial stating the basis for the denial and offering you the opportunity to provide a written statement disagreeing with the denial. If you do not wish to prepare a written statement of

disagreement, you may ask that the requested amendment and our denial be attached to all future disclosures of the health information that is the subject of your request.

If you choose to submit a written statement of disagreement, we have the right to prepare a written rebuttal to your statement of disagreement. In this case, we will attach the written request and the rebuttal (as well as the original request and denial) to all future disclosures of the health information that is the subject of your request.

C. Right to an Accounting of Disclosures.

You have the right to request that we provide you with an accounting of disclosures we have made of your health information. An accounting is a list of disclosures. But this list will not include certain disclosures of your health information, by way of example, those we have made for purposes of treatment, payment, and health care operations. To request an accounting of disclosures, you must submit your request in writing to Abel Ortiz, DBH Privacy Officer, at 291 South 200 West, Farmington, UT 84025. For your convenience, you may submit your request on a form called a "Request For Accounting," which you may obtain from our Privacy Officer. The request should state the time period for which you wish to receive an accounting. This time period should not be longer than six years and should not include dates before April 14, 2003.

The first accounting you request within a 12-month period will be free. For additional requests during the same 12-month period, we will charge you for the costs of providing the accounting. We will notify you of the amount we will charge, and you may choose to withdraw or modify your request before we incur any costs.

D. Right to Request Restrictions.

You have the right to request a restriction on the health information we use or disclose about you for treatment, payment or health care operations. To request a restriction, you must request the restriction in writing addressed to Abel Ortiz, DBH Privacy Officer, at 291 South 200 West, Farmington, UT 84025. The Privacy Officer will ask you to sign a request for restriction form, which you should complete and return to the Privacy Officer. We are not required to agree to a restriction that you may request. If we do agree, we will honor your request unless the restricted health information is needed to provide you with emergency treatment.

E. Right to Request Confidential Communications.

You have the right to request that we communicate with you about your health care only in a certain location or through a certain method. For example, you may request that we contact you only at work or by e-mail. We will accommodate all reasonable requests. You do not need to give us a reason for the request; but your request must specify how or where you wish to be contacted.

F. Right to a Paper Copy of this Notice.

You have the right to obtain a paper copy of this Notice of Privacy Practices at any time. Even if you have agreed to receive this Notice of Privacy Practices electronically, you may still obtain a paper copy. To obtain a paper copy, contact Abel Ortiz, DBH Privacy Officer, at 291 South 200 West, Farmington, UT 84025.

V. Confidentiality of Substance Abuse Records

For individuals who have received treatment, diagnosis, or referral for treatment from our drug or alcohol abuse programs, the confidentiality of drug or alcohol abuse records is protected by federal law and regulations. As a general rule, we may not tell a person outside the programs that you attend any of these programs, or disclose any information identifying you as an alcohol or drug abuser, unless:

- You authorize the disclosure in writing; or
- The disclosure is permitted by a court order; or
- The disclosure is made to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation purposes; or
- You threaten to commit a crime either at the drug abuse or alcohol program or against any person who works for our drug abuse or alcohol programs.

A violation by us of the federal law and regulations governing drug or alcohol abuse is a crime. Suspected violations may be reported to the United States Attorney in the district where the violation occurs. Federal law and regulations governing confidentiality of drug or alcohol abuse permit us to report suspected child abuse or neglect under state law to appropriate state or local authorities. Please see 42 U.S.C. § 290dd-2 for federal law and 42 C.F.R., Part 2 for federal regulations governing confidentiality of alcohol and drug abuse patient records.

VI. Complaints

If you believe your privacy rights have been violated, you may file a complaint with us or with the Secretary of the U.S. Department of Health and Human Services. To file a complaint with us, contact Abel Ortiz at 291 South 200 West, Farmington, UT 84025. All complaints must be submitted in writing. Abel Ortiz, who can be contacted at 291 South 200 West, Farmington, UT 84025 (801-451-7799) will assist you with writing your complaint, if you request such assistance. Davis Behavioral Health will not retaliate against you for filing a complaint.

VII. Changes to this Notice

We reserve the right to change the terms of our Notice of Privacy Practices. We also reserve the right to make the revised or changed Notice of Privacy Practices effective for all health information we already have about you as well as any health information we receive in the future. We will post a copy of the current Notice of Privacy Practices at our main office and at each site where we provide care. You may also obtain a copy of the current Notice of Privacy Practices by calling us at 801-451-7799 and requesting that a copy be sent to you in the mail or by asking for one any time you are at our offices.

VIII. Who will follow this Notice

This Notice of Privacy Practices will be followed by us and by our contracted entities. In addition, these entities, sites, or locations may share health information with each other for treatment, payment or health care operation purposes.

Policy 8 Minimum Necessary

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out in this policy, the process for applying the minimum necessary standards to uses, disclosures, and requests for PHI.

Policy

Davis Behavioral Health will apply the minimum necessary standards to all uses, disclosures, and requests for PHI, except for:

1. Disclosures to, or requests, by, a healthcare provider for the purpose of treatment;
2. Disclosures to the client;
3. Disclosures pursuant to the client's authorization;
4. Disclosures required to comply with the Privacy Rule; and
5. Uses and disclosures required by law to the extent that such disclosure complies with and is limited to the relevant requirements of the law.

Any request made for entire medical records, other than for treatment purposes, must be justified in writing and made part of the medical record as documentation of that justification.

Our policy for uses of PHI by our employees will be to use PHI in accordance with the matrix of classes of persons, categories of access, and conditions appropriate to such access. The operative version of the Role-based Access to PHI matrix will be appended to this Policy and Procedure. Changes to the matrix will require notification of Human Resources for inclusion in subsequent training of direct service personnel.

Our policy for routine and recurring disclosures of PHI will be to disclose PHI in accordance with the matrix of type of PHI, types of persons eligible to receive PHI, and the conditions that would apply to such access. The operative version of the Routine Disclosures Matrix will be appended to this Policy and Procedure. Changes to the matrix will require notification of Human Resources for inclusion in subsequent training of direct service personnel.

Non-routine, non-recurring disclosures of PHI will be reviewed, prior to release of PHI, by an authorized clinical person as identified in current procedures below. This person will make a determination that the minimum necessary PHI is being used or disclosed in accordance with our criteria for non-routine, non-recurring disclosures.

When we receive requests for PHI from external sources, we will generally rely upon the written representation of the requestor that it is requesting the minimum PHI necessary for its purpose. We will rely on the representation of the following person(s), only when reliance is reasonable:

1. Public officials for a disclosure not requiring any legal permission;
2. Other covered entities;
3. A professional who is either a member of our workforce or a business associate and the request is for the purpose of providing professional services on our behalf and the professional has asserted that the PHI requested is the minimum necessary for their stated purpose; and
4. Researchers as long as we have received documentation from an IRB or privacy board and we have determined the PHI that minimally necessary to achieve the scope of the use or disclosure.

However, if reliance on the representation of the requestor is not reasonable, we may disregard the representation and make our own determination of the minimum amount of PHI that is necessary for the purpose.

Policy 9 De-identification and Limited Data Sets

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out in this policy, the process for creating and using de-identified health information and limited data sets.

Policy

Davis Behavioral Health will create de-identified health information for use or disclosure in any circumstance where that information can be used, effectively and efficiently, in place of PHI.

Davis Behavioral Health will consider PHI to be de-identified health information if it meets one of the two following criteria:

1. A qualified statistician (a person with appropriate knowledge and experience with generally accepted statistical and scientific principles and methods), applying such principles and methods has determined 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 and documents the methods and results of the analysis that justify such determination.
2. All of the following identifiers have been removed, and Davis Behavioral Health does not have actual knowledge that the remaining information could be used, alone or with other information, to identify an individual who is the subject of the information:
 - a. Names of individual, relatives, or household members
 - b. Geographic subdivisions smaller than a state, except for the initial three digits of a zip code for geographic area with more than 20,000 people;
 - c. All elements of dates (including birth, admission and discharge dates, and dates of death), except for the year, for all individuals under 89, and all elements of dates for those over 89 except for presentation as a single over-90 category;
 - d. Telephone or fax numbers or e-mail addresses, URLs, or IP addresses;
 - e. Social security numbers;
 - f. Medical record numbers;
 - g. Health plan beneficiary numbers;
 - h. Account numbers;
 - i. Certificate or license numbers;

- j. Vehicle identifiers and serial numbers;
- k. Device identifiers and serial numbers;
- l. Biometric identifiers such as finger or voice prints;
- m. Full face photographic images and the like; or
- n. Any other unique identifying number, code, or characteristic except for a re-identification code.

The re-identification code may not be derived from or related to information about the individual and may not be otherwise translatable to identify the individual. We will not use or disclose the code for any purpose, nor the means of re-identification.

Davis Behavioral Health will create limited data sets for use or disclosure in any circumstance where that information can be used, effectively and efficiently for research, public health or health care operations.

Davis Behavioral Health will consider PHI to be in the form of a limited data set if it excludes the following direct identifiers of our clients, their relatives, employers, or household members:

- 1. Names;
- 2. Postal address information, other than town or city, state, and zip code;
- 3. Telephone numbers;
- 4. Fax numbers;
- 5. Electronic mail addresses;
- 6. Social security numbers;
- 7. Medical record numbers;
- 8. Health plan beneficiary numbers;
- 9. Account numbers;
- 10. Certificate/license numbers;
- 11. Vehicle identifiers and serial numbers, including license plate numbers;
- 12. Device identifiers and serial numbers;
- 13. Web Universal Resource Locators (URLs);
- 14. Internet Protocol address numbers;
- 15. Biometric identifiers, including finger and voice prints; and
- 16. Full face photographic images and any comparable images.

Any use or disclosure that we make of a limited data set must take place pursuant to a data use agreement. This data use agreement must include the following requirements:

1. That the limited data set recipient(s) will use or disclose information for the limited purposes described in the agreement and not further disclose the information in a way that would be inconsistent with the privacy regulation as it would apply to our Agency itself;
2. That only the recipient(s) specified in the agreement may use or receive the limited data set;
3. That the recipient(s) will not use or further disclose the information in a manner that violates the data use agreement or the law and will use appropriate safeguards to prevent any uses or disclosures other than the permitted uses or disclosures;
4. That the recipient(s) will report to Davis Behavioral Health any use or disclosure of PHI in the limited data set, which is not included in the data use agreement, of which it becomes aware;
5. That the recipient(s) will assure that any subcontractor who is provided with a limited data set agrees to the same restrictions and conditions as apply to the recipient(s); and
6. That the recipient(s) will not identify the information or contact the individuals.

Should Davis Behavioral Health become aware of a pattern of activity or practice by a recipient that constitutes a material breach of the data use agreement, we will discontinue disclosure to that recipient and report the problem to the Secretary of Health and Human Services.

Policy 10 Individual's Right to Access

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out in this policy, the processes for requesting, granting, denial of, and review of denial, of client requests for access to PHI.

Policy

Davis Behavioral Health will consider all requests from our clients, or previous clients, for access to their PHI that is maintained in their designated record set and that is dated after April 14, 2003. (See policy on Designated Record Set.) Davis Behavioral Health will consider client requests to either inspect or obtain a copy of their PHI for as long as we maintain their PHI in the designated record set.

Davis Behavioral Health will require that clients make their request in writing using the form that has been designed for that purpose (i.e., the Access Request Form). At a minimum, the form will contain:

1. Identification of the specific PHI that the client wishes to access;
2. The reason for their request (this is optional for the client);
3. Whether they wish to inspect or obtain copies of the PHI;
4. Notification of the cost we will charge for copying and postage; and
5. Notification of their right to obtain a summary or explanation of their information, along with the cost of that service.

Davis Behavioral Health will deny a client access to PHI, and that denial will not be subject to review if:

1. The PHI requested is contained in:
 - a. Psychotherapy notes;
 - b. Records or documents compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding; or
 - c. Records or documents from clinical laboratories subject to or exempt from the Clinical Laboratory Improvement Act.
2. The PHI is subject to the Federal Privacy Act;

3. The information was obtained under the promise of confidentiality from another person (not a healthcare provider), and the access requested would be reasonably likely to reveal the source of that information;
4. The information was created or obtained in the course of research that involves treatment when the individual agreed to the denial of access for the duration of the research (that includes treatment) when consenting to participate in the research and the client has been informed that access will be reinstated upon completion of the research; or
5. An inmate requests a copy of PHI, and it is determined that such a copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or other inmates or the safety of an officer or other person responsible for transporting the inmate. Davis Behavioral Health will provide an inmate with the right to inspect his PHI unless other grounds for denial exist.

Davis Behavioral Health will deny access to any PHI that a licensed healthcare professional determines:

1. Exercising professional judgment, is reasonably likely to endanger the life or physical safety of the client or another person;
2. Exercising professional judgment, makes reference to another person (not a health care provider) and access is reasonably likely to cause substantial harm to that other person; or
3. Has been requested by a personal representative and access by that person is reasonably likely to cause substantial harm to the client or another person.

When denying a client access for any of these three reasons, these denials will be subject to review as described below. In addition, if access to the entire record is denied and the client requests a review of the decision, we will make the entire record available to the client's attorney, with the consent of the client, or to a psychotherapist designated by the individual.

It is the policy of Davis Behavioral Health to deny clients access to their PHI only infrequently and in unusual circumstances and, when access is denied, it must be for one of the specific reasons listed above. Furthermore, Davis Behavioral Health will provide access, to the extent possible, to any other requested PHI that is not part of the PHI to which access has been denied. Davis Behavioral Health will make an effort to redact the denied PHI from the designated record set and allow inspection or copying of any remaining information.

When a client has been denied access for one of the reasons that is subject to review, Davis Behavioral Health will respond in writing giving the basis for denial in plain language within the time period set forth below. Davis Behavioral Health will also inform the client of their right to request a review of the denial of access and provide a description of how the client may file a complaint with us or with the Secretary of Health and Human Services.

In any case where the client requests a review, Davis Behavioral Health will promptly refer the denial to another licensed healthcare professional, who has not been directly involved in the denial, for their review. Davis Behavioral Health will also promptly inform the client, in writing, if the reviewer upholds the denial. In those cases where the reviewer permits access, the client will be informed.

When Davis Behavioral Health agrees to grant access to PHI, Davis Behavioral Health will notify the client and arrange for access within 30 days from the date of the request. Should the PHI requested be maintained off-site, Davis Behavioral Health can take longer to respond, but no more than 60 days from the date of the request. In either case, Davis Behavioral Health can obtain a single, 30-day extension of time in those rare cases where we are unable to respond in the initial time period. Davis Behavioral Health will notify the client of the reasons for delay and the date of completion by means of a written statement.

When Davis Behavioral Health has agreed to inspection of the designated record set, a mutually agreeable time and place will be arranged for the inspection.

When Davis Behavioral Health has agreed to provide copies of the requested PHI, we will confer with the client and determine their preference for the media in which to receive it (i.e., paper or electronic, where available). If we cannot agree on how the PHI will be produced then we will produce the PHI in readable hard copy. We will charge a fee for copying the material and for postage, if the copies are to be mailed, and the client will be notified of that charge in the Access Request Form. However, if the individual is requesting the PHI for the purpose of supporting a claim or appeal under the Social Security Act or any Federal or state financial need-based benefit program, we will furnish the PHI within 30 days of the request at no charge to the individual.

It will be the policy of Davis Behavioral Health to charge for the cost of making the copies (i.e., the labor, machine, and paper cost) but we will not include in our charges the cost of the retrieval and handling of information nor will the client be charged for the costs of processing the request.

Davis Behavioral Health will provide summaries of PHI in those cases where the individual has requested them. Davis Behavioral Health will charge for the costs associated with producing the summary, and the client will be notified of that charge in the Access Request Form.

In those cases where Davis Behavioral Health receives a request for PHI that we do not maintain, but we know where it is maintained, we will inform the client of the location of the PHI.

CLIENT'S REQUEST FOR HIS/HER OWN RECORDS

HIPAA regulations allow our clients the right to view, inspect, amend and request a copy of their health information. Although we have the right, under certain circumstances to deny such requests, our general practice, at Davis Behavioral Health, will be to comply with and grant such requests. A client must show picture identification before his/her records will be released.

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| Name: |
| |
| Address: |
| |
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| |
| Birth date: |
| |
| Social Security Number: |
| |
| Reason for requesting records (optional): |
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|---|--|
| Information that you would like released: | |
| <input type="checkbox"/> Complete Record | <input type="checkbox"/> Treatment Plan |
| <input type="checkbox"/> Progress Notes | <input type="checkbox"/> Discharge Summary |
| <input type="checkbox"/> Initial Assessment | <input type="checkbox"/> Substance Abuse Treatment Notes |
| <input type="checkbox"/> Psychiatric Evaluation | <input type="checkbox"/> Treatment Summary |
| <input type="checkbox"/> Diagnosis | <input type="checkbox"/> Dates of Service |
| <input type="checkbox"/> Other-please specify: | |

| | |
|-------------------|--------------|
| Signature: | Date: |
| | |
| Witness: | Date: |
| | |

By signing this document, I agree to the following conditions as outlined by the HIPAA regulations: (Please see reverse side for details).

Records will be provided in paper format unless you would prefer that you receive your records in another manner.

☐ I would like my information in another manner. Please explain: _____

Prior to release of records, your chart will be reviewed a licensed mental health professional at Davis Behavioral Health.

DBH shall respond to all written requests for PHI within thirty (30) days, unless the information is not stored on a DBH site, then DBH shall respond to the request within sixty (60) days. If DBH is unable to respond within the time frames stated, then DBH shall respond within an additional 30 days, provided that the Privacy Officer gives you a statement in writing of the reasons that DBH is unable to respond within these time frames.

If your request for information is denied, the Privacy Officer shall give written notice to the requester of its denial of the request for PHI.

DBH shall arrange to allow the client to inspect or obtain a copy of the PHI at a convenient time and place. DBH may discuss the scope, format, and other aspects of the request for access with the client to facilitate timely provision of the information.

If you request copies of your record, or you agree to pay for a summary of your record, DBH shall **charge fees** as follows:

***\$.05 per page copied;**

***\$10.00 per hour to copy or scan the information, which is the approximate cost of the staff who will take the time to copy or scan the chart;**

***postage, when the client asks for the PHI to be mailed; and**

***\$ 18-45 (range) per hour to prepare a summary of the information, which is the approximate cost of the staff who will be preparing the summary.**

If DBH denies access, in whole or in part, to your record, DBH shall:

Provide a written denial, which states: the basis of the denial; the client's rights to have a review of the denial; and how the client may appeal the denial (where applicable) or appeal to the Secretary of Health and Human Services

Upon receipt of a request for review of denial, DBH shall appoint Abel Ortiz, the DBH Privacy Officer, who was not involved in the initial denial to review the request. The reviewing professional shall promptly give a written response to the client's request to review.

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| Dates and Number of hours to copy or scan the record: |
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| Dates and Number of hours to prepare a summary: |
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| Total Number of pages copied: |
| |
| Cost of preparation time (Hours X Rate Per Hour): |
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| |
| Cost of the paper record (Number of Pages Copied X .05): |
| |
| |
| Total Cost: |

Policy 11 Individual's Right to Amendment of PHI

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out in this policy, the process for providing clients with an opportunity to amend their PHI that is maintained in a designated record set.

Policy

Davis Behavioral Health will consider all requests from clients, or former clients, to amend their PHI that is maintained in a designated record set for as long as it is maintained. Davis Behavioral Health will require that all requests for amendment be in writing and be prepared using the Request for Amendment form. In any case where that form cannot be obtained, Davis Behavioral Health will provide the client or former client with the information needed to submit in lieu of the form. Davis Behavioral Health will require that the individual inform us, in writing, as to the reason for the amendment. Davis Behavioral Health will notify our clients of our policies for requesting amendments in our Privacy Notice.

Davis Behavioral Health will respond to requests for amendment within 60 days from the date of the request. Should, in rare circumstances, Davis Behavioral Health be unable to respond within 60 days, the individual will be notified prior to the expiration of the 60-day period, in writing, and he/she will be provided with the reason additional time is needed. At that time, a date will be set (no more than 30 days beyond the original 60 days) by which Davis Behavioral Health expects to complete action on the request.

In those instances where the request for amendment is granted, Davis Behavioral Health will do the following:

1. Inform the client in writing;
2. Obtain the client's agreement about the list of people or organizations that the client and Davis Behavioral Health believe should be informed of the amendment; and
3. Notify the agreed-upon list (identified above in number 2. of the amendment).

(Note: it is the policy of Davis Behavioral Health to identify anyone who we know may have relied upon the subject PHI in the past, or who might reasonably be expected to rely upon it in the future and attempt to obtain agreement from the client regarding their notification.)

In those instances where the request for amendment is denied, Davis Behavioral Health will do the following:

1. Provide the client with a written denial that is in plain language and that:
 - a. Contains the basis for the denial; and
 - b. Notifies the individual that he/she has the right to provide a written statement disagreeing with the denial and how he/she might file such a statement.
2. Describe to the client the procedure for filing a complaint either with:
 - a. The Department of Health and Human Services or
 - b. With the person or office in Davis Behavioral Health who is responsible for receiving complaints, including the name, title, and telephone number.
3. Inform the individual that he/she may file a statement of disagreement with the denial that does not exceed 250 words.
4. Inform the individual that he/she may request, should he/she not file a statement of disagreement, that the request for amendment and the related denial be attached to all future disclosures of the subject PHI.

Davis Behavioral Health will prepare rebuttals in those instances, where a licensed healthcare professional determines that a rebuttal is necessary, to add clarity to the other material created around this request for amendment.

Designated Record Set

It is the policy of Davis Behavioral Health to take the following actions with respect to the designated record set in amendment situations:

1. When the amendment request has been granted:
 - a. Identify the subject PHI in the designated record set; and
 - b. Append the amendment to the PHI or
 - c. Provide a link to the location in the file of the amendment.
2. When the amendment request has been denied and the client requests it:
 - a. Identify the subject PHI in the designated record set; and
 - b. Append the request for amendment and the denial to the PHI or
 - c. Provide a link to the location in the file of the request and the denial.
3. When the amendment request has been denied, and the client has filed a statement of disagreement, and Davis Behavioral Health has or has not prepared a rebuttal:

- a. Identify the subject PHI in the designated record set; and
- b. Append the request for amendment, the denial, the statement of disagreement, and, if prepared, our rebuttal to the PHI or
- c. Provide a link to the location in the file of all of the items listed in b.

CLIENT'S REQUEST FOR AMENDMENT TO RECORD

HIPAA regulations allow our clients the right to view, inspect, amend, and request a copy of their health information. At Davis Behavioral Health, our standard is accurate documentation; therefore requests to amend records will be given serious consideration. Under certain circumstances, these requests may be denied. A client must show picture identification before his/her records will be released and/or amended.

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| Date of Request: |
| Date Received by Privacy Officer: |

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| Name: |
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| Address: |
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| Birth date: |
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| Social Security Number: |
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| Information to be amended: |
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| Reason for amending records (not optional): |
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|-------------------------------|
| Treatment Coordinator: |
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|-------------------|--------------|
| Signature: | Date: |
| | |
| Witness: | Date: |
| | |

By signing this document, I agree to the following conditions as outlined by the HIPAA regulations: (Please see reverse side for details).

Prior to amending of records, your chart will be reviewed a licensed mental health professional at Davis Behavioral Health.

DBH shall respond to all written requests for amendment within sixty (60) days from the date of the request. In rare circumstances, DBH be unable to respond within sixty (60) days. In such cases, DBH shall provide a written response explaining the reason for the delay and setting a date within an additional thirty (30) days to complete an action on the client's request.

If your request for amendment is denied, the Privacy Officer shall give written notice to the requester of its denial of the request and the basis for that denial.

If your request for amendment is denied, you have the right to file a complaint either with: the Department of Health and Human Services or Davis Behavioral Health. If you would like to file a complaint with Davis Behavioral Health, please contact Todd A. Soutor, Ph.D. at 451-7799.

If your request for amendment is denied, you have the right to file a statement of disagreement with the denial that does not exceed 250 words. If you would like to file a statement of disagreement, please contact Todd A. Soutor, Ph.D., at 451-7799. Should you choose not to file a statement of disagreement, you may request that your original request for amendment and the related denial be attached to all future disclosures of the specific PHI.

If your request for amendment involves copying your record, DBH shall **charge fees** as follows:

***\$.05 per page copied;**

***\$10.00 per hour to copy or scan the information, which is the approximate cost of the staff who will take the time to copy or scan the chart;**

***postage, when the client asks for the PHI to be mailed; and**

| |
|---|
| Dates and Number of hours to copy or scan the record: |
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| Total Number of pages copied: |

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|--|
| Cost of preparation time (Hours X Rate Per Hour): |
| |
| |
| Cost of the paper record (Number of Pages Copied X .05): |
| |
| |
| Total Cost: |

Policy 12 Individual's Right to an Accounting of Disclosures of PHI

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out in this policy, the process for providing clients with an opportunity to receive an accounting of the disclosures made of their PHI.

Policy

Davis Behavioral Health will consider all requests from clients, or former clients, to receive an accounting of certain disclosures of their PHI that have occurred in the six year period prior to their request, or from the effective date of the Privacy Rule, whichever is shorter. Davis Behavioral Health will require that all requests for an accounting be in writing using the Request for Accounting form. Should a client need assistance in completing the form, Davis Behavioral Health will provide that assistance. Davis Behavioral Health will notify our clients of the policies for requesting an accounting in our Privacy Notice.

Davis Behavioral Health will respond to requests for an accounting within 60 days from the date of the request. Should, in rare circumstances, Davis Behavioral Health be unable to respond within 60 days, the individual will be notified, in writing during the initial 60-day period and he/she will be provided with the reason(s) that Davis Behavioral Health needs additional time. Additionally, Davis Behavioral Health will identify a date (no more than 30 days beyond the original 60 days) by which we expect to complete action on the request.

Davis Behavioral Health will account for all uses and disclosures of our clients' PHI except for those in the following categories:

1. Disclosures made to carry out treatment, payment, or operations (this includes disclosures made by business associates for these purposes as well);
2. Disclosures made to the individual;
3. Disclosures made incident to a use or disclosure that is otherwise permitted or required;
4. Disclosures made pursuant to an authorization;
5. For disclosures made to the Secretary of Health and Human Services for compliance purposes and for any other disclosures allowed to be made without the individual's permission;

6. Disclosures for national security or intelligence purposes; and
7. Disclosures to correctional institutions or law enforcement officials when individual is an inmate;
8. Disclosures made as part of a limited data set. See Policy 9, De-identification;
9. Those disclosures that occurred prior to April 14, 2003.
10. Disclosures to persons involved in the individual's care or other permitted notification purposes. See Policy 4, No Permission.

In those situations where Davis Behavioral Health has made disclosures to a health oversight or law enforcement agency (as permitted by the No Permission Policy) and the particular agency has provided Davis Behavioral Health with a written statement that inclusion of such disclosures would be reasonably likely to impede with their activities (within a specific time period provided by the agency), our policy will be to exclude those disclosures from any accounting requested by the client. At the end of that period, Davis Behavioral Health will include, in any future accountings, any disclosures made to the agency during that period in any future accountings.

Should the health oversight or law enforcement agency provide Davis Behavioral Health with an oral statement that a disclosure would be reasonably likely to impede their activities, Davis Behavioral Health will withhold disclosures for a 30 day period. After the 30 day period, Davis Behavioral Health will include the disclosures in requested accountings unless a written statement requesting a longer time period has been provided during the 30 day period.

Davis Behavioral Health will include the following items in every accounting:

1. The date of the disclosure;
2. The name and address of the person or organization receiving the PHI;
3. A brief description of the PHI disclosed; and
4. A brief statement that reasonably informs the client of the purpose for the disclosure.

Davis Behavioral Health's policy with respect to multiple disclosures of a client's PHI to the same person or entity (for the same purpose) will be to present all of the information listed above for the first disclosure in the accounting period. In addition, we will present the frequency, periodicity, or number of disclosures made during the accounting period and the date of the most recent disclosure.

Davis Behavioral Health's policy, with respect to disclosures of PHI for a particular research purpose with 50 or more individuals participating, is that the accounting will 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 and criteria for selection of particular records;
3. A description of the type of PHI that was disclosed;
4. The date or period of time during which such disclosure occurred, or may have occurred, including the date of the last disclosure during the accounting period;
5. The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
6. A statement that the PHI may or may not have been disclosed.

In the event that it is reasonably likely that the PHI of a particular client has been disclosed for such a protocol or research activity, Davis Behavioral Health will, if requested by the client, assist him/her in contacting the entity that sponsored the research and the researcher.

Davis Behavioral Health will provide the first accounting in each 12 month period, beginning with the client's first request for an accounting, at no charge. Any additional request for accounting from the same client during that 12 month period will be made subject to the client's agreement to pay a reasonable, cost-based fee for the additional accounting. Davis Behavioral Health will inform the client of the fee on the Request for Accounting form and obtain their written agreement to pay the fee prior to preparing the accounting. Davis Behavioral Health will offer the client an opportunity to withdraw or modify their request in order to avoid or reduce the fee.

Request for Accounting of PHI Disclosed by Davis Behavioral Health

I request an accounting of all PHI disclosed by Davis Behavioral Health pursuant to the requirements of the Privacy Rule. I understand that this accounting will not include disclosures that were:

1. Made to me or my health care representatives.
2. Made to carry out the treatment, payment or operational activities of the organization.
3. For facility directory purposes or to discuss my healthcare with a family member or other individuals involved in my care or for other permitted notification purposes
4. Made for national security and intelligence purposes
5. Made to a correctional institution or to law enforcement and I am currently an inmate
6. Made incident to a use or disclosure that is otherwise permitted by the Agency
7. Made pursuant to an authorization
8. Made as part of a limited data set
9. Occurred prior to April 14, 2003

The period of time I am requesting the accounting for is from:

_____ to _____

I understand that this period of time can be for no longer than six years and cannot include any time period before April 14, 2003, the date the Privacy Rule became effective. I also understand that the first accounting I request in any 12 month period will be given to me for no charge.

Signed: _____

Date: _____

Print Name Below

For a client requesting more than one accounting in a 12 month period the following additional signature should be obtained:

I understand that because I have requested more than one accounting in a 12 month period that I will be charged the cost to Davis Behavioral Health for completing this accounting. I understand that this cost will be *\$.05 per page copied; *\$10.00 per hour to process, copy, or scan the information, which is the approximate cost of the staff who will take the time to copy or scan the chart; and *postage, when the client asks for the PHI to be mailed. Payment must be made at the time I receive the accounting or prior to the accounting being mailed to me.

Agreed and accepted: _____ Date: _____

Print Name Below

PHI Disclosure to be Included in Client's Accounting

If this disclosure was made:

1. To the client or their personal representative;
2. To carry out our treatment, payment or operational activities;
3. For facility directory purposes, to discuss their healthcare with a family member or other individual involved in their care, or for other permitted notification purposes;
4. For national security or intelligence purposes; or
5. To a correctional institution or to law enforcement and the client is currently an inmate;
6. Incident to a use or disclosure that is otherwise permitted;
7. Pursuant to an authorization;
8. As part of a limited data set;
9. Prior to April 14, 2003

STOP – DO NOT COMPLETE THIS FORM!

For all other disclosures:

Date of disclosure: _____ Staff ID Number: _____

Name of person and organization receiving disclosure:

Address of person/organization receiving this disclosure:

Description of what information was disclosed:

Brief statement of purpose of disclosure:

Signature of staff person making disclosure: _____

Date of Disclosure: _____

Uses and Disclosures

Policy 13 Other Individual Rights – Right to Restrict Uses and Disclosures of PHI

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the conditions for agreeing to client-requested restrictions on the use and disclosure of PHI for treatment, payment, and operations.

Policy

Davis Behavioral Health will consider a client's request for restriction of the uses and disclosures of PHI that are made for purposes of treatment, payment, and operations. Davis Behavioral Health will discuss with the client the potential difficulties that are inherent in the restrictions that the client requests, such as those that might interfere with the client's ability to obtain appropriate treatment.

Davis Behavioral Health will use the Request for Restrictions form to document the request and, ultimately, the restriction that has been granted to the client. While Davis Behavioral Health is not required by the Privacy Rule to agree to client-requested restrictions, it will be our policy to grant those restrictions that we believe, in our judgment, to be in the best interests of our clients. Davis Behavioral Health will abide by all of the restrictions that are granted, except as described below.

When the individual is in need of emergency treatment and the restricted PHI is needed to provide the emergency treatment, the policy will be to make disclosure of the PHI that is required for treatment and to send along with the PHI the requirement that there be no further uses or disclosures of the restricted PHI.

In non-emergency situations, when Davis Behavioral Health receives a request for PHI that is restricted but required for appropriate treatment, Davis Behavioral Health will discuss with the client the need to send the PHI and attempt to obtain their agreement. Should the client agree to the request, this agreement will be documented by a note in the medical record.

In any case where Davis Behavioral Health believes that the client's restriction can no longer be honored, the restriction will be terminated. Davis Behavioral Health will discuss the change of

circumstance with the client, will ask for their agreement, and will document that agreement on the Request for Restrictions form that is in the medical record.

Should the client refuse to agree to the termination of the restriction, Davis Behavioral Health will implement a unilateral termination. This will also be documented on the Request for Restrictions form. The PHI that was created or received during the term of the restriction will be flagged to assure that future uses and disclosures of it are made in accordance with the restrictions in place for that period.

Davis Behavioral Health

Client Restriction on the Uses and Disclosures of PHI for Treatment,
Payment or Operations

Client Name: _____

Client Number: _____

Social Security Number: _____

Address: _____

Telephone Number: _____

Restriction

requested: _____

This restriction reviewed with client:

Date: _____

By: _____

(Name and Position of Individual Reviewing Restriction with Client)

Face to Face: _____

Phone call: _____

Restriction Approved: Yes ☐

No ☐

Date: _____

Signature of employee approving/denying restriction: _____

Name of employee approving/denying restriction: _____

Signature of Client (required): _____

Signature of Privacy Officer: _____ Date: _____

Uses and Disclosures

Policy 14 Other Individual Rights – Confidential Communications

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the conditions for accommodating a client's request for confidential communications.

Policy

Davis Behavioral Health will consider a client's request for confidential communications upon request, for example, at intake.

Davis Behavioral Health will document the alternative information and the approval on the intake/demographic form or equivalent electronic field. It will be our policy to grant reasonable requests. Reasonableness will be judged by the administrative difficulty of complying with the request.

Davis Behavioral Health will not ask the client to explain why he/she wishes to have us communicate with them by alternative means or to alternative locations.

Davis Behavioral Health will not comply with the client's request unless he/she has provided us with complete information to enable us to communicate with them (i.e., a complete address or other method of contact).

Davis Behavioral Health will provide adequate notice of the request to those employees who may need to contact the client by flagging the medical record and, where possible, other client databases.

Policy 15 Administrative Requirements -- Documentation

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the standards it will maintain to fulfill the documentation retention requirements.

Policy

Davis Behavioral Health will retain all documentation as described in the Privacy Rules for a period of six years from its creation or from the date it was last in effect, whichever is later. The six-year period does not apply to the retention of the medical record itself.

The Privacy Officer will assure that all documentation is preserved for the appropriate retention period in whatever medium is considered appropriate for each required item.

The material subject to documentation retention requirements is set out in each individual Privacy Policy. The list that follows summarizes these requirements:

1. The notice of privacy practices, with copies of the notices maintained by implementation dates by version;
2. All policies and procedures, with copies of each policy and procedure maintained through each of its iterations;
3. Workforce training efforts;
4. Restrictions to uses and disclosures of PHI that were granted;
5. The designated record set;
6. Personnel roles related to Privacy Rules (i.e., the Privacy Officer, the person or office designated to receive complaints, the titles of person(s) or office(s) who are responsible for receiving and processing requests for access by individuals, the titles of person(s) or office(s) responsible for receiving and processing requests for amendments and accountings of PHI);
7. For each accounting provided to an individual – the date of disclosure, the name and address of entity or person who received the PHI, a description of the PHI disclosed, a briefly stated purpose for the disclosure, and the written accounting that was provided;

8. All signed, written acknowledgements of receipt of the Privacy Notice or documentation of good faith efforts made to obtain such acknowledgement in those cases where a signed, written acknowledgement could not be obtained;
9. Any signed authorization;
10. All complaints received and their disposition;
11. Any sanctions against members of the workforce that have been applied as a result of non-compliance; and
12. Any of PHI for research made without the individual's authorization and any approval or alteration or waiver of PHI for research in accordance with the requirements of §164.512(i)(2).

Policy 16 Administrative Requirements – Complaint Process

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the process it will establish to receive complaints from clients.

Policy

Davis Behavioral Health will appoint a person to receive and be responsible for complaints about:

1. Privacy policies and procedures required by the Privacy Rule;
2. Compliance with such policies and procedures; and
3. Compliance with the Privacy Rule.

All privacy complaints, as defined above, received by Davis Behavioral Health will be directed to this individual for proper processing and handling.

When any privacy complaint is received, the Complaint Officer will:

1. Retain the original copy of every complaint,
2. Enter the complaint in a log book maintained chronologically;
3. Request the complainant to submit the complaint in writing and, if requested, promptly refer the complainant to the Privacy Officer who will assist the complainant in writing a complaint.
4. Send a letter to or make a telephone contact with the complainant within five-days of receipt of complaint acknowledging receipt of the complaint, thanking him/her for their assistance in strengthening Davis Behavioral Health's privacy practices, providing a copy of the procedures for processing the complaint, establishing the time frame for responding, providing an address for correspondence, and describing that the complainant always has the right to complain to the Secretary of Health and Human Services as well as the information needed to make that contact;
5. Review the complaint;
6. Investigate the complaint;
7. Report results of the investigation to the appropriate individuals; and
8. Periodically submit a summary report of activity to the designated persons (for example, a risk management committee, the Privacy Officer, the Board, the CEO, Counsel).

Davis Behavioral Health will inform clients either orally or in writing at the time of the complaint of his/her right to complain directly to the Secretary of Health and Human Services and will give the client the contact information.

Any complaint that deals with a breach of privacy practices must be reported to the Privacy Officer for appropriate follow-up.

Policy 17 Administrative Requirements – Training of the Workforce

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the requirements for workforce training in our privacy practices.

Policy

Davis Behavioral Health will train all of our workforce members (full time employees, part time employees, interns, and volunteers) in our privacy practices. All members will be trained on or before the effective date of the Privacy Rules. Davis Behavioral Health will train employees in accordance with his/her role in the Agency and his/her functions with regard to PHI. All workforce members who join the Agency subsequent to the effective date will receive privacy training as part of their orientation to the Agency.

Whenever there are material changes to the privacy practices, the Privacy Officer will determine the workforce groups affected by the changes and coordinate the training of those groups.

All trainings presented will be documented as to content and attendance. Workforce members who fail to attend their assigned trainings will be subject to sanction for breach of privacy practices.

Policy 18 Administrative Safeguards – Personnel

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the requirements for safeguarding PHI in all media.

Policy

Davis Behavioral Health will assign responsibility for all safeguarding matters to a Security Officer. This position will be responsible for assuring that all PHI, whether in oral, written, or electronic form, is reasonably secure from accidental or intentional uses and disclosures that violate the Privacy Rules and from inadvertent disclosures to other than the intended recipient.

The Security Officer will maintain the Policies and Procedures, for all media, around security measures to protect PHI. The Security Officer will also be responsible for monitoring the appropriate and consistent implementation of the policies and procedures that control the conduct of the workforce, subcontractors, and business associates with regard to the protection of data. The Security Officer will assure that breaches of security are investigated and that members of the workforce who are responsible for those breaches will be subject to the appropriate sanctions. In addition, the Security Officer will assure that any system weakness uncovered during such investigations will be corrected.

Policy 19 Administrative Safeguards – Chain of Trust Agreements

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rules of HIPAA's Administrative Simplification provisions, sets out, in this policy, the requirements for safeguarding PHI in electronic media.

Policy

Chain of Trust Agreements

Davis Behavioral Health will obtain agreements, commonly referred to as "Chain of Trust Agreements" with any third party through whom it processes electronic data. This agreement will assure that at least the same level of security present within our Agency will be maintained at all points in the movement of PHI to ensure its security, accuracy, and authentication.

The Chain of Trust Agreement is a form of Business Associate Agreement and will be in the form attached to this policy. Note: Chain of Trust provisions are incorporated in Section 3.3 of the model Business Associates Addendum and Section 2.3 of our Model Business Associates Agreements that are attached to the Business Associates Policy.

Davis Behavioral Health will identify the specific attributes that we will require from our electronic data vendors and the steps that will be taken in performing due diligence with these vendors. The process in the Business Associates Policy and Procedure is the guidance for minimum procedures around electronic data vendors.

Policy 20 Administrative Safeguards – Contingency Planning

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rule of HIPAA's Administrative Simplification provisions, sets out, in this policy, the requirements for safeguarding PHI through contingency planning.

Policy

Davis Behavioral Health will maintain contingency plans in accordance with the five required plans set forth in the proposed Security Rule.

It will be our policy to maintain, in a timely manner, documentation of our applications and data criticality that includes:

1. Network architecture diagrams and systems flowcharts showing current structure, equipment addresses, communication providers and system interdependencies;
2. Critical business processes surrounding PHI;
3. Key applications and systems used to support critical business processes;
4. Key applications and systems and their recovery time objectives;
5. Internal and external interfaces with key applications and systems;
6. The adequacy of redundancies within the network infrastructure; and
7. Mitigating controls, in place and tested, for any single points of failure for which redundancies cannot be established.

Davis Behavioral Health will assure, by means of a Data Backup Plan that we have adequate (regular and periodic) backup of critical information as prioritized in the data criticality analysis. Backup and restore procedures will be updated regularly to reflect changes within the organization for the documentation listed above. In addition, Davis Behavioral Health will assure that the backup data can be accessed quickly. We will maintain offsite storage of critical documentation and assure access to those materials.

Davis Behavioral Health will maintain a Disaster Recovery Plan that documents all elements of the Plan and that is updated on a regular basis. The Plan will cover the full range of information and activities needed to assure that the Plan will function smoothly in situations where it is needed.

Davis Behavioral Health will maintain an Emergency Mode Operation Plan that will enable us to operate effectively in emergency conditions. The Plan will include any information, activities, and assignments that are needed such as: identification of crisis management team members, a command center for emergency purposes, a process for acquiring additional personnel with needed skill sets, alternate processing and work space, and health and safety issues.

Davis Behavioral Health will test and revise procedures as necessary to assure that they function as planned and that they are effective.

Policy 21 Administrative Safeguards – Audit Controls and Internal Audit

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rule of HIPAA's Administrative Simplification provisions, sets out, in this policy, the requirements for safeguarding PHI through audit controls and internal auditing.

Policy

Davis Behavioral Health will establish and maintain ongoing processes to review records of systems activity, such as log-ins, file accesses, and security incidents, for PHI in all media. We will establish documented procedures for auditing this information for the purpose of identifying security breaches and for assuring that users comply with access controls. We will assign specific individuals or job functions that will be responsible for such internal audit activity.

Davis Behavioral Health will also establish audit controls that will define users, data sources, data accessed, the client, the date and time of the access, and other information we consider appropriate.

Davis Behavioral Health will also establish procedures to audit configuration management practices that have been established to assure that changes to hardware and software systems do not contribute to, or create, security weaknesses.

Access to audit logs will be limited to those assigned to the internal audit and control function as described above.

Policy 22 Administrative Safeguards – Workforce-related Security Measures

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rule of HIPAA's Administrative Simplification provisions, sets out, in this policy, the requirements for safeguarding PHI. This Policy recognizes that our workforce is the foundation for our security environment.

Policy

Davis Behavioral Health will create and maintain procedures directed toward the behavior of our workforce that promote an environment for PHI that is reasonably secure from accidental, intentional, or inadvertent disclosures that violate the Privacy Rule.

Davis Behavioral Health will create and maintain guidelines on workstation use that are documented. These guidelines will address:

1. The proper functions to be performed;
2. The manner in which those functions are to be performed (i.e., the documentation of the actual function and how it is to be performed); and
3. The attributes of the physical environment in which the workstations, including laptops and other portable devices, are to be located – the attributes will vary based on the sensitivity of information that typically is accessed from that environment. Attributes include such things as physical access to the workstation itself and to the area in which the workstation is located, the removable media, such as diskettes, CD-ROMs, etc., and the practices around writing down passwords where others can find/use them.

The Security Officer will oversee this process and assure that the workforce is trained on these guidelines prior to being given access to the system.

It will be our policy to provide security awareness training to all members of the workforce and to any independent contractors who have access to our workplace and systems. Awareness training will be directed at all of these individuals, regardless of their roles or access to PHI – its purpose will be to provide education around such things as: password maintenance, security incident

reporting, virus and other forms of destructive software. Awareness training will also be accomplished by periodic environmental reminders such as: screen savers, posters, etc. The Security Officer will oversee the development of awareness training in conjunction with Human Resources.

It will also be our policy to provide training to all users of electronic systems. User training will be required prior to any user receiving access to the system. User training will focus specifically on the actual usage of security features such as: virus protection practices, addition of unauthorized hardware or software to the system, password management, login practices, automatic logoffs, etc. The Security Officer will oversee the development of awareness training in conjunction with Human Resources.

We will establish procedures in conjunction with Human Resources for terminated workforce members and for members of the workforce whose positions and work assignments have changed. These procedures will cover security for PHI in all media. We will address:

1. Physical access combinations – for locks and alarm systems;
2. Removal of access privileges – both general access and user levels of access; and
3. The collection of keys, tokens, or other objects that allow access.

Policy 23 Administrative Safeguards – Access Control

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rule of HIPAA's Administrative Simplification provisions, sets out, in this policy, the requirements for safeguarding PHI by controlling access to our facilities and electronic systems.

Policy

Davis Behavioral Health will create and maintain procedures to safeguard all of our locations from unauthorized physical access and to safeguard hardware and other equipment from unauthorized physical access, theft, and interference.

Davis Behavioral Health will limit and control physical access to any and all parts of the designated record set. Our paper medical record files will be placed in limited access spaces and access to those records will be controlled by medical records or other appropriate staff.

Electronic files will be subject to access controls that will limit user access to that PHI for which they have clearance. See Minimum Necessary Policy and Procedures. Controls for access to non-PHI data will be established and maintained in accordance with either context, role, or user-based criteria. These controls will include a process for setting criteria for granting access and for modification of the criteria.

Our systems will maintain an access authorization record to document and review the level of access granted to a user, program, or procedure.

Davis Behavioral Health will assure that systems maintenance personnel have proper access authorization.

Davis Behavioral Health will not transmit PHI over the Internet (open network) without some form of encryption intended to limit access to information.

Policy 24 Administrative Safeguards – Data and Entity Authentication

Purpose

Davis Behavioral Health, in an effort to be compliant with the Privacy Rule of HIPAA's Administrative Simplification provisions, sets out, in this policy, the requirements for safeguarding PHI by assuring that PHI is going to, or coming from, the appropriate person or entity and that the data being processed or transmitted has not been modified intentionally or inadvertently.

Policy

Davis Behavioral Health will establish and maintain procedures for assuring that recipients of PHI via electronic or other means are the intended recipients.

Davis Behavioral Health will also establish and maintain procedures for data authentication. These procedures will assure that PHI contained in messages or files has not been altered or modified.