

Administrative Requirements for
Implementation of HIPAA and 42 CFR
Part 2

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Document Scope: (applies to Policy & Procedure only)

- ☒ The requirements herein apply only to the GCBH BH-ASO Central Office and its functions.
 - The requirements herein apply, verbatim, to GCBH BH-ASO and its network providers².
 - The requirements herein apply both to GCBH BH-ASO and its network providers². Additionally, network providers must have internal documents outlining their processes for implementing the requirements, insofar as they relate to actions for which network providers are responsible.
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PURPOSE: To outline the obligations relating to the implementation of the Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH), and 42 CFR Part 2.

DEFINITIONS

- I. HIPAA: The Health Insurance Portability and Accountability Act (HIPAA) passed in 1996 as part of congressional response to the breach of confidentiality of individual's protected health information.
- II. HITECH: The Health Information Technology for Economic and Clinical Health Act (HITECH), is meant to promote the adoption and meaningful use of health information technology, address privacy and security concerns associated with electronic transmission of health information, and strengthen the civil and criminal enforcement of HIPAA rules.
- III. 42 CFR Part 2: From the Code of Federal Regulations, the second part of Title 42; these regulations serve to protect patient records created by federally assisted programs for the treatment of substance use disorder (SUD).
- IV. Protected Health Information (PHI): Individually identifiable information relating to past, present or future physical, substance use, or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual.
- V. Workforce Members: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for GCBH BH-ASO, its offices, programs or facilities, is under the direct control of GCBH BH-ASO, office, program or facility, regardless of whether they are paid by GCBH BH-ASO.
- VI. Business Associate (BA): A person or entity who, on behalf of GCBH BH-ASO, or an office, program or facility of GCBH BH-ASO, but not in the capacity of a workforce member, performs, or assists in the performance of, a function or activity involving the use or disclosure of PHI, or provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services involving disclosure of PHI.

- VII. Privacy Notice: The notice of privacy practices relating to GCBH BH-ASO's and/or its designees use and disclosure of PHI that is mandated under HIPAA, and 42 CFR, Part 2 regulations for distribution to all individuals whose information will be collected by or on behalf of GCBH BH-ASO.

PROCEDURE

1. Personnel Designations: GCBH BH-ASO designates and documents designations of the following:
 - 1.1. HIPAA Officer: GCBH BH-ASO designates an individual to be the HIPAA Officer, responsible for the development and implementation of GCBH BH-ASO-wide policies and procedures relating to the safeguarding of PHI.
 - 1.2. Contact Person or Office: GCBH BH-ASO designates an individual, position title, or office that will be responsible for receiving complaints relating to PHI and for providing information about GCBH BH-ASO's privacy practices.
2. Training Requirements: GCBH BH-ASO documents the following training actions:
 - 2.1. On or before the effective date of the HIPAA privacy regulations [4/14/03], HITECH (04/27/2009), and 42 CFR part 2, all GCBH BH-ASO employees and other workforce members receive training on applicable policies and procedures relating to PHI as necessary and appropriate for such persons to carry out their functions within GCBH BH-ASO.
 - 2.2. Each new workforce member receives the training as described above within a reasonable time after joining the workforce.
 - 2.3. Each workforce member whose functions are impacted by a material change in the policies and procedures relating to PHI, or by a change in position or job description, receives the training as described above within a reasonable time after the change becomes effective.
3. Safeguards: GCBH BH-ASO has in place appropriate administrative, technical, and physical safeguards to reasonably safeguard PHI from intentional or unintentional unauthorized use or disclosure.
4. Grievance Process: GCBH BH-ASO has in place a process for individuals to make complaints about the GCBH BH-ASO's HIPAA policies and procedures and/or the entity's compliance with those policies and procedures, and documents all grievances received and the disposition of each grievance.
5. Sanctions: GCBH BH-ASO has in place, applies and documents application of appropriate sanctions against workforce members who fail to comply with HIPAA regulations and 42 CFR part 2 regulations and procedures.
 - 5.1. There are exceptions for disclosures made by workforce members who qualify as whistleblowers or certain crime victims.
6. Mitigation Efforts Required: GCBH BH-ASO mitigates, to the extent practicable, any harmful effects of unauthorized uses or disclosures of PHI by GCBH BH-ASO or any of its business associates.
7. Intimidating or Retaliatory Acts and Waiver of Rights Prohibited:

- 7.1. Prohibition on Intimidating or Retaliatory Acts: No employee of GCBH BH-ASO will intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for the exercise of their rights or participation in any process relating to compliance with HIPAA and 42 CFR, Part 2, or against any person for filing a complaint with the Secretary of the U.S. Department of Health and Human Services, participating in a HIPAA or 42 CFR, Part 2 related investigation, compliance review, proceeding or hearing, or engaging in reasonable opposition to any act or practice that the person in good faith believes to be unlawful under HIPAA or 42 CFR, Part 2 regulations as long as the action does not involve disclosure of PHI in violation of the regulations.
- 7.2. Prohibition on Waiver of Rights: No employee of GCBH BH-ASO requires individuals to waive any of their rights under HIPAA or 42 CFR, Part 2 as a condition of treatment, payment, enrollment in a health plan or eligibility for benefits.
8. Policies and Procedures: GCBH BH-ASO documents the following actions relating to its policies and procedures:
- 8.1. Required Policies and Procedures: GCBH BH-ASO designs and implements policies and procedures to assure appropriate safeguarding of PHI in its operations.
- 8.2. Changes to Policies and Procedures: GCBH BH-ASO changes its policies and procedures as necessary and appropriate to conform to changes in law or regulation. GCBH BH-ASO also makes changes to policies and procedures at other times as long as the policies and procedures are still in compliance with applicable law. Where necessary, GCBH BH-ASO makes correlative changes in its Privacy Notice. GCBH BH-ASO does not implement a change in policy or procedure prior to the effective date of the revised Privacy Notice.
9. Documentation Requirements: GCBH BH-ASO maintains the required policies and procedures in written or electronic form, and maintains written or electronic copies of all communications, actions, activities or designations as are required to be documented hereunder, or otherwise under the HIPAA or 42 CFR, Part 2 regulations, for a period of ten (10) years from the later of the date of creation or the last effective date.
10. Initial Distribution of Privacy Notice: GCBH BH-ASO and/or its designees use reasonable efforts to distribute the Privacy Notice to those individuals served by the provider network. Additionally, the Privacy Notice will be posted on the GCBH BH-ASO Website.

APPROVAL



Karen Richardson or Sindi Saunders, Co-Directors

2/16/23

Date