



PRIVACY PRACTICES AND HITECH ACT REQUIREMENTS

Psychcare identifies protected health information (PHI), defined in the Federal Register, volume 65, no. 250, section 164.501, *Definitions*, as individually identifiable information that is transmitted by electronic media, or transmitted or maintained in any other form or medium.

Psychcare adheres to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Privacy Rule); CFR Title 45, Part 164, Subpart C; the Health Information Technology for Economic and Clinical Health Act (HITECH), Title XIII, Section 13402 of the American Recovery and Reinvestment Act of 2009; 16 C.F.R. Part 318: Health Breach Notification Rule: Final Rule -- Issued Pursuant to the American Recovery and Reinvestment Act of 2009 -- Requiring Vendors of Personal Health Records and Related Entities To Notify Consumers When the Security of Their Individually Identifiable Health Information Has Been Breached; Federal Regulations "Confidentiality of Alcohol and Drug Abuse Records", Code 42, Chapter 1, Subchapter A, Part 2; the Florida Mental Health Act, Chapter 394.4615, "Clinical Records; Confidentiality"; Medicare Advantage Program, 42 CFR, Part 422.118, Confidentiality and Accuracy of Enrollee Records; and Michigan Public Health Code, Act 368 of 1978, section 333.16213 Retention of Records.

As noted in the Office of Civil Rights Privacy Brief, Summary of HIPAA Privacy Rule, adherence to privacy practices assures that individuals' behavioral health information is properly protected while allowing the flow of information needed to provide and promote high quality care, and protects our members' health and well-being.

Psychcare will not disclose PHI, except either as the Privacy Rule permits or requires; or when the member, or the member's authorized representative, acting on behalf of the member, who is the subject of the information, authorizes the release of PHI in writing.

Protected health information includes individually identifiable health information, including demographic data such as name, address, birth date, Social Security number, as it relates to:

- The members' past, present, or future physical or mental health, or condition
- The provision of behavioral healthcare to the member, or
- The past, present, or future payment for the provision of behavioral healthcare to the member; and
- That identifies the individual or for which there is a reasonable basis to believe can be used to identify the individual.

Psychcare defines an authorized representative as **one** of the following:

- An authorized representative, acting on behalf of the member related to urgent care decisions may be a health care practitioner with knowledge of the member's current condition **or** a prudent layperson, acting reasonably, and believes that an emergency behavioral health condition exists.
- For nonurgent care decisions and general discussion of the member's behavioral health PHI, an authorized representative, acting on the member's behalf, in cases that involve a minor child provides verbal confirmation of legal guardianship to act on the minor child's behalf, **or** an adult member's explicit written consent or legal documentation that the individual and/or legal counsel may act on behalf of the member in health care decisions.

Routine Uses and Disclosures of PHI

The member's health plan is responsible for routine consent at the time of the member's enrollment with the health plan.

Psychcare does not accept certification to disclose PHI to plan sponsors or employers. De-identified member behavioral health information may be disclosed without restrictions. De-identified information will contain the removal of specified identifiers pertaining to the member, the members' family, household members, and/or employer.

Psychcare will make reasonable efforts to disclose, and request only the minimum amount of PHI necessary to accomplish the intended use, disclosure, or request; and will not use or disclose PHI except as the Privacy Rule



PRIVACY PRACTICES AND HITECH ACT REQUIREMENTS

permits; or the member's authorized representative, acting on behalf of the member, authorizes the disclosure of the member's PHI in writing.

Psychcare is required to disclose PHI in only 2 situations:

1. To the member or the member's authorized representative, acting on behalf of the member, specifically when they request access to, or for accounting disclosures of their PHI
2. to the Department of Health and Human Services when it is undertaking a compliance investigation or review, or enforcement of action

Psychcare does not accept certification to disclose PHI to plan sponsors. De-identified member behavioral health information may be disclosed without restrictions. De-identified information will contain the removal of specified identifiers pertaining to the member, the members' family, household members, and/or employer.

Psychcare may disclose the following PHI without authorization, for purposes of treatment, payment, healthcare operations, or otherwise permitted or required by the Privacy Rule and the Federal Register, volume 65, no. 250, section 164.501, *Definitions*:

- Disclosure of information to the member, or the member's authorized representative, acting on behalf of the member, who is the subject of the PHI;
- To fulfill responsibilities for coverage of benefits, furnish or obtain reimbursement for behavioral healthcare delivered to a member, and activities of a behavioral healthcare practitioner or provider to obtain payment or be reimbursed for the provision of behavioral healthcare rendered to a member;
- Quality assessment, quality improvement activities, case management, and care coordination of PHI to our client health plans in accordance with the Business Associate Agreements Psychcare executes with our client health plans;
- Competency of assurance activities, including provider performance evaluation, and credentialing;
- Conducting or arranging treatment record reviews or audits, including fraud and abuse detection and compliance programs;
- Business planning, development, management, and administration;
- Business management and general administrative activities, including but not limited to, de-identifying PHI, and creating a limited data set;
- When required by law to report information about suspected abuse, neglect or domestic violence, or relating to criminal activity; and
- To prevent threats to a members' health or safety.

Access to PHI

Psychcare is not the treatment record custodian. Our network practitioners and providers are responsible for their patients' treatment records, and maintaining their patients' behavioral health treatment related PHI, in accordance with HIPAA Privacy Rules, the Health Information Technology for Economic and Clinical Health Act (HITECH), Title XIII, Section 13402 of the American Recovery and Reinvestment Act of 2009, and the Federal Regulations "Confidentiality of Alcohol and Drug Abuse Records", Code 42, Chapter 1, Subchapter A, Part 2, and the Florida Mental Health Act, Chapter 394.4615, "Clinical Records; Confidentiality". The network practitioners' and providers' responsibilities include, but are not limited to:

- The distribution and documentation of the network practitioner's/provider's Privacy Rights to each patient;
- Processes and documentation of patient approval or denial of release of behavioral health PHI;
- Processes and documentation of patient requests for accounting of their PHI disclosures;
- Processes and documentation for patient's access to their treatment record;
- Processes and documentation for patient's amendment of their treatment record;
- Processes and documentation for obtaining patient consent for treatment; and
- Processes and documentation to obtain the patient's Consent for the Release of Confidential Information so that their treating behavioral health network practitioner or provider can exchange (the minimum amount of PHI necessary) the member's behavioral health treatment with other treating behavioral health and/or medical practitioners and providers.



PRIVACY PRACTICES AND HITECH ACT REQUIREMENTS

Network practitioners and providers can visit the Department of Health and Human Services, Office for Civil Rights, to find out more about HIPAA Privacy Rules and the HITECH Act requirements at www.hhs.gov/ocr/hipaa.

Requests for Members' Restrictions on the Use and Disclosure of PHI

Member or the member's authorized representative, request to restrict the use and disclosure of their PHI, or request an accounting of the PHI contained in their treatment record must be addressed with their treating practitioner. Each network practitioner and provider is required to have processes in place to address their patients' requests for restrictions on the use and disclosure of PHI, and a process for accounting requests of PHI.

The member, or the member's authorized representative, acting on behalf of the member, has a right to request that Psychcare restrict the use or disclose PHI for treatment, payment or healthcare operations, or notify family members or others about the individual's general condition, location, or death. However, Psychcare is under no obligation to agree to such restriction requests. When Psychcare does agree to honor the restriction request, compliance with the request is required except for purposes of treating the member in a medical emergency. The Privacy and Compliance Committee reviews restriction requests within two (2) business days from receipt of the request. The Privacy and Compliance Committee will notify the member, or the member's authorized representative, acting on behalf of the member, of their decision within one (1) business day of the committee meeting.

When Psychcare requests PHI which is not treatment, payment, healthcare operations, or otherwise permitted or required by the Privacy Rule, and under the auspices of the Federal Regulations "Confidentiality of Alcohol and Drug Abuse Records", Code 42, Chapter 1, Subchapter A, Part 2; the Florida Mental Health Act, Chapter 394.4615, "Clinical Records; Confidentiality", including but not limited to psychotherapy notes; or behavioral health PHI related to services for which the member paid out-of-pocket; the member, or the member's authorized representative, acting on behalf of the member, must sign a Consent for the Release of Confidential Information Form prior Psychcare's request for any PHI.

Upon receipt of the executed consent, Psychcare will take reasonable efforts to use, disclose, or request only the minimum amount of PHI necessary to accomplish the intended purpose of its use, disclosure or request.

The consent may be revoked by the member, or the member's authorized representative, acting on behalf of the member, at any time, except when actions were taken in compliance with the consent, prior to revocation. Requests for revocation are submitted to the Vice President, Quality Improvement, and reported to the Privacy and Compliance Committee at minimum, annually.

The member, or the member's authorized representative, acting on behalf of the member, may request an accounting of Psychcare's, or Psychcare's Business Associates, disclosure of their PHI. The member, or the member's authorized representative, acting on behalf of the member, may submit a written request for an accounting of disclosures to the Privacy and Compliance Committee. The Privacy and Compliance Committee will convene within five (5) business days from receipt of the request, and review the accounting disclosure request. The Privacy and Compliance Committee will approve all accounting disclosures for a period of six (6) years immediately before the accounting request, except disclosures made before Psychcare's Privacy Rule compliance date. All accounting disclosures will be submitted to member, or the member's authorized representative, acting on behalf of the member, by the Privacy and Compliance Committee within five (5) business days from the date the committee convened.

An ad hoc Privacy and Compliance Committee will convene to review special requests for identifiable member information to any agency and/or practitioner/provider that are not included in the routine consent. A decision is rendered and forwarded to the individual and/or agency within five (5) business days of the determination.

Internal Protection of Oral, Written and Electronic PHI

Psychcare Participating Practitioner and Participating Provider Contracts include member confidentiality information and maintenance of members' medical records.



PRIVACY PRACTICES AND HITECH ACT REQUIREMENTS

All newly hired Psychcare employees must sign a Loyalty and Confidentiality Agreement. On initial and annual staff training, all Psychcare employees are informed of the federal and state regulations governing Psychcare's privacy practices, including verbal discussion, written communication, or electronic submission of PHI.

Authorized personnel only, have access to Psychcare member information for the purpose of administration of utilization management, case management, and quality review. Authorized personnel are considered Psychcare staff, and the member's health plan.

Verbal discussion of PHI among Psychcare employees is on a need to know basis, based exclusively on the issue at hand. Any Psychcare employee in contact with member specific information will not discuss PHI with any unauthorized individual.

Psychcare forwards all electronically mailed PHI in a secured, encrypted file using the WinZip Program.

Mailed information to members, or the member's authorized representative, is sent in unidentified white envelopes with Psychcare's return address only. Mailed information sent to Medicare members, or the member's authorized representative, acting on behalf of the member, will contain the statement "Important Plan Information" printed on the front of the envelope.

Information collected on the Psychcare is maintained as per HIPAA requirements.

The Psychcare IT Department develops, maintains, and monitors physical and electronic access to PHI.

Annually Psychcare conducts an annual Systems Risk Assessment to prevent, detect, contain, and correct security violations in systems that store, process, or transmit organizational information, which enables Psychcare management to make well-informed risk management decisions