



Policy Title:	Privacy and Security of Protected Health Information Policy		
Policy Number:	AM-RPM-016		
Chapter:	Risk Prevention and Management	Sub-section:	Security of Information
Nullifies:	NA		
Revision History:	NA		
Initiating Authority:	Cynthia Williams, Chief Transformation Officer Renee Romine, Clinical Director		
Approving Authority:	Carol Klocek, Chief Executive Officer and Board of Directors		
Date Approved:	3/3/21	Date Effective:	5/1/21
Approving Authority:	Head Start Early Head Start Policy Council		
Date Approved:	3/4/21	Date Effective:	5/1/21

STATEMENT OF PURPOSE:

To establish Policy which governs the use and disclosure of protected program participant information in adherence to applicable federal law.

SCOPE:

This Policy applies to employees at all levels of the organizations and across departments and programs, including Housing Services: Rapid Rehousing, Transitional Housing, Emergency Shelter; Child and Family Services: Head Start, Early Head Start, Traditional Early Childhood Education; Clinical Counseling; Economic Mobility; volunteers, interns, contractors, and independent contractors.

This Policy does not apply to customers served by Social Enterprises operated by CTL.

DEFINITIONS:

1. *Protected Health Information (PHI)*. Protected information, in any form, that will or may identify the program participant and relates to his or her past, present, or future physical or mental health or condition and related healthcare services. PHI includes electronic, paper, and oral media that is held or transmitted by the organization or contracted CTL professionals. Such information includes but is not limited to demographics or other identifiable health information (e.g., name, birthdate, social security number, diagnosis, tests, treatments, the doctors or medical provider who provided services to the program participant, the insurance company or the health card number, claim information, etc.) assessments, evaluations, treatment plans, case notes, progress notes, and medication administration records.
2. *Program participant*. Any person or family or parent/legal guardian of a minor child currently enrolled in a CTL program service.
3. *Record Set*. A designated record set that contains medical and billing records and any other records that the organization uses to make decisions about a program participant’s health care.

STATEMENT OF POLICY:

Center for Transforming Lives’ (CTL) has a legal and ethical responsibility to preserve and ensure the privacy and security regarding use and disclosure Protected Health Information (hereafter referred to as “PHI”).

It is the Policy of CTL to protect the privacy and security of program participant PHI against intentional and unintentional destruction or modification and unauthorized disclosure and use in strict adherence to the Health Insurance Portability and Accountability Act (HIPAA) and applicable Policy and Procedure (RPM 6). The organization shall apply security and privacy principles across programs, departments, locations, functions, and activities at all times and implement reasonable administrative, technical, physical, and security safeguards to avoid accidental use and disclosure of PHI.

Program and department leadership shall be accountable for securing and maintaining, current and complete PHI protected from loss, destruction, theft, and unauthorized use. PHI includes, but is not limited to, record sets and other documents or lists containing PHI, computers, laptops, phones, and workstations. Physical access to PHI is safeguarded to ensure it is not viewed, read, copied, used, or disclosed by other program participants, unauthorized employees, agents, or members of the community at large.

PHI disclosed by a program participant to a CTL employee shall remain confidential, except in circumstances in which reporting of the information is required by law or statute. Oral, electronic, or written disclosure of PHI shall be released under specific conditions only. Control of confidentiality, within the confines of local, state, and federal law, belongs to the program participant. It should be clear, however, that the actual record set belongs to CTL. CTL is obligated to protect all PHI contained in its record sets. PHI received from outside sources is treated with the same level of confidentiality as information generated by CTL (RPM 6.03).

Violation of this Policy and related Procedure is proper cause for disciplinary action up to and including termination of employment.

COMPLIANCE:

This Policy complies with HIPAA Privacy Rule and Council On Accreditation Standards: RPM 6 and RPM 6.03.

Related Policy and Procedures:

Data Security Policy and Procedure

Record Storage and Retention Procedure

Related Documents:

N/A

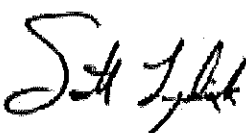
Other Related Forms:

Authorization to Obtain, Use and Disclose Protected Health Information

APPROVED: 

Chief Executive Officer

3/4/21
Date

APPROVED: 

Board Chair

3/4/21
Date

Procedure Title:	Privacy and Security of Protected Health Information Procedure		
Procedure Number:	AM-RPM-017		
Chapter:	Risk Prevention and Management	Sub-section:	Security of Information
Nullifies:	NA		
Revision History:	NA		
Initiating Authority:	Cynthia Williams, Chief Transformation Officer Renee Romine, Clinical Director		
Approving Authority:	Carol Klocek, Chief Executive Officer		
Date Approved:	11/10/2020	Date Effective:	5/1/21

STATEMENT OF PURPOSE:

To establish Procedure that governs the use and disclosure of protected program participant information in adherence to applicable federal law.

SCOPE:

This Procedure applies to employees at all levels of the organization and across departments and programs, volunteers, interns, contractors, and independent contractors.

Violation of this Procedure is proper cause for disciplinary action up to and including termination of employment.

This Procedure does not apply to customers served by Social Enterprises operated by CTL.

DEFINITIONS:

1. *Agent.* Refers to a person or agency authorized to act on behalf of CTL. Such persons include but are not limited to volunteers, interns, contractors, and independent contractors.
2. *Minimum Necessary Standard.* A key protection standard of the HIPAA Privacy Rule, which requires that the organization to make reasonable efforts to obtain, use, and disclose only the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure, or request for PHI.
3. *Personal Representative.* A person authorized under state or applicable law to act on a program participant's behalf in making healthcare decisions.
4. *Privacy Officer.* Responsible for the development and implementation of policy and procedure necessary for compliance with HIPAA including, but not limited to, processing authorizations for specified types of research and fundraising, meeting requests for correction and or amendment of record sets and handling complaints and grievances.
5. *Protected Health Information (PHI).* Protected information, in any form, that will or may identify the program participant and relates to his or her past, present, or future physical or mental health or condition and related healthcare services. PHI includes electronic, paper, and oral media that is held or transmitted by the organization or contracted CTL professionals. Such information includes but is not limited to demographics or other identifiable health information (e.g., name, birthdate, social security number, diagnosis, tests, treatments, the doctors or medical provider who provided services to the program participant, the insurance company or the health card number, claim information, etc.) assessments, evaluations, treatment plans, case notes, progress notes, and medication administration records.
6. *Program participant.* Any person or family or parent/legal guardian of a minor child currently enrolled in a CTL program service.
7. *Psychotherapy Notes.* Process notes recorded in any medium by a mental health professional such as a psychologist, psychiatrist, or other mental health professional documenting or analyzing the contents of a conversation during a private counseling session or joint group session.
8. *Record Set.* A designated record set that contains medical and billing records and any other records that the organization uses to make decisions about a program participant's health care.

STATEMENT OF PROCEDURE:

1. Any information disclosed by a program participant to a Center for Transforming Lives (CTL) employee/agent shall remain confidential, except in circumstances in which reporting of the information is required by law or statute. Oral, electronic, or written disclosure of PHI may be made only under specific conditions. The principles of privacy and confidentiality are maintained throughout all CTL locations, departments, programs, functions, and activities at all times. CTL employees/agents shall not discuss, use or disclose to unauthorized individuals/agencies any PHI pursuant to the Confidentiality Pledge signed by all employees/agents.
2. PHI shall not be released over the telephone without a valid authorization. When given, the disclosure must be documented on the Accounting of Disclosure of Protected Health Information form. If an employee does not have authorization to release the information, he or she responds with the statement, "CTL policy does not permit the release of confidential information over the telephone." This includes confirming whether a person is, is not, was, or was not a program participant of CTL.
3. Removal of a record set off a CTL premise, from a secured record storage area, or leaving PHI in a public area such as on printers, carts in hallways, on desks, or in non-secured areas is strictly prohibited. When PHI is not being used by authorized employees/agents, the record set shall be returned to the designated secure area.
4. In unique situations, it may be necessary to transport a record set from one CTL location to another. In such cases, approval must be obtained from the Department Director prior to the transport. Record sets shall be secured in a lock box during transport.
5. Control of confidentiality, within the confines of local, state, and federal law, belongs to the program participant; however, it should be clear that the actual case record belongs to CTL. CTL is obligated to protect all PHI contained in its record sets.
6. Any PHI received from outside sources is treated with the same level of confidentiality as information generated by CTL.
7. PHI shall be kept secure, current, and complete in adherence to Data Security Policy and Procedure. PHI, including, but not limited to, record sets and other documents or lists containing PHI, computers, laptops, phones, and workstations.
8. CTL has adopted reasonable administrative, technical, physical, and security safeguards to avoid accidental uses or disclosures and to protect PHI. All PHI is maintained safe from loss, destruction, theft, and unauthorized use.

Release of PHI

1. Requests for the release of PHI from an external individual/agency shall be reviewed by the Department Director or authorized designee to determine if the release is based on the best interests of the program participant. The program participant will be notified of such requests to verify authenticity of request and authorization to release PHI.
2. Requests for release of PHI or access to a record set shall be coordinated by the Department Director. The Department Director shall be solely responsible for all other requests (i.e., access, restrictions, amendment/correction, and appeals).
3. Requests for the release of psychotherapy notes, abuse records, Human Immunodeficiency Virus (HIV) status, or other legally protected information shall only be released pursuant to the HIPAA Privacy Rule, applicable state and federal laws, and or a court order.

Minimum Necessary Standard

1. Reasonable efforts shall be made to obtain, use, and disclose the minimum amount of PHI needed to accomplish the intended purpose of an external request for disclosure. Unless it can be specifically justified that an entire record set is reasonably needed for a particular purpose, CTL strictly prohibits the use, disclosure, or request an entire record set.
2. Upon receipt of a request to release PHI, the receiving program or department shall comply with the Minimum Necessary Standard. The authorized designee shall review the *Authorization to Obtain, Use, and Disclose Protected Health Information* and the PHI, on a case-by-case basis, to ensure the minimum amount of PHI necessary to accomplish the intended purpose of the authorization is released.

3. The Minimum Necessary Standard does not apply to:
 - 3.1. Disclosures to or requests by a healthcare provider for treatment purposes.
 - 3.2. Uses or disclosures made to the program participant pursuant to the HIPAA Privacy Rule.
 - 3.3. Disclosures made to the Department of Health and Human Services, or designee(s), for complaint purposes.
 - 3.4. Uses or disclosures required by law.
 - 3.5. Uses or disclosures otherwise required pursuant to the HIPAA Privacy Rule.
4. Employees/agents shall only have access to records on a need-to-know basis, pursuant to the Minimum Necessary Standard as per the HIPAA Privacy Rule.

Authorizations to Obtain, Use and Disclose PHI

1. When a program participant or personal representative signs an Authorization, they grant CTL permission to obtain, use, and disclose PHI for the purposes of service provision, program operations, and payment.
2. The program participant or personal representative shall be advised of their right:
 - 2.1. To object to the release of PHI.
 - 2.1. To refuse to sign an Authorization.
 - 2.2. To revoke an Authorization to release PHI.
 - 2.3. The provision of services is not contingent on the decision concerning release of PHI or payment for services rendered.
 - 2.4. PHI will be released pursuant to all applicable state, federal, and local laws, rules, and regulations.
3. If needed, the program participant may be assisted to complete any HIPAA or PHI related document.
4. If an Authorization is not signed in the presence of a CTL employee/agent, the signature must be notarized. The original shall be tracked and filed in the designated record set.
5. A separate Authorization is required before PHI is to be released for any reason other than in the provision of program services. Authorizations shall not be combined with any other document to create a compound authorization except for:
 - 5.1. Research purposes that include treatment of a program participant; and
 - 5.2. Psychotherapy notes that may only be combined with another authorization for psychotherapy notes.

Revocation of Authorization to Obtain, Use, and Disclose PHI

1. Authorizations shall terminate 90 days from the date of signature, unless the program participant specifies a different expiration date or expiration event.
2. The program participant may request revocation of an Authorization at any time unless action has been taken in reliance on the Authorization.
3. The request for revocation shall not apply to any release of PHI disclosed by CTL prior to the completion of the revocation.

How May CTL Use and Disclose PHI

An employee/agent of CTL may obtain, use, and disclose PHI about program participants for:

1. Treatment:
 - 1.1. Provide, coordinate, and manage medical and mental health care.
 - 1.2. Communicate with other medical, mental, and health care providers regarding treatment and coordination and management of health care.
 - 1.3. Disclose PHI when referring a program participant to another medical and mental health care provider.
2. Payment:
 - 2.1. Bill a program participant's, an insurance company or third party for treatment and services received. For example, an insurance company may need to know about treatment a program participant will receive to obtain prior approval, or to determine whether a plan will cover the treatment. CTL may also share medical information with:
 - 2.1.1. The Accounting department and
 - 2.1.2. Insurance companies, health plans, and their agents which provide coverage.

3. Health Care Operations:
 - 3.1. Review and improve the quality and efficiency of services provided and to evaluate the performance of employees/agents providing the service.
 - 3.2. Resolve grievances within CTL.
 - 3.3. Cooperate with outside organizations that assess the quality-of-care CTL provides. These organizations may include government regulatory agencies, funders, contract authorities, or accrediting bodies such as the Council on Accreditation (COA).
 - 3.4. Cooperate with outside organizations that evaluate, certify, or license health care providers (e.g., use and disclose PHI so that an employee may become certified in a certain field).
4. Appointment Reminders:
 - 4.1. Contact a program participant regarding the scheduling of an appointment.
 - 4.2. Remind a program participant of an appointment; and
 - 4.3. Send written notification of a scheduled appointment for treatment.
5. Treatment Alternatives:
 - 5.1. Inform a program participant about or recommend possible treatment options or alternatives that may be of interest.
6. Fundraising Activities:
 - 6.1. Raise money for CTL and its operations; use and disclosure of program participant PHI is made in accordance with HIPAA policies and procedures.
7. Research:
 - 7.1. For research purposes, but only under specific criteria (ETH 6).

When May CTL Disclose PHI Without Authorization

There are additional situations where CTL may disclose a program participant's PHI without their authorization, such as:

1. Workers' Compensation:
 - 1.1. Disclose PHI for workers' compensation or similar programs, as authorized by state workers' compensation laws and programs.
2. To Avert Serious Threat to Health or Safety:
 - 2.1. Prevent or lessen a serious and imminent threat to a program participant's health and safety, or that of a person, or the public; if the disclosure is made to a person or persons reasonably able to lessen or prevent the threat, including the target of the threat, or it is necessary for law enforcement authorities to identify or apprehend an individual. Disclosure shall be in accordance with applicable state and federal laws and standards of ethical conduct.
 - 2.2. Report abuse, neglect, exploitation, abandonment, exploitation or intimate partner violence and domestic violence.
3. Public Health Activities:

Use and disclose PHI when necessary for public health activities such as, a program participant is exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition:

 - 3.1. To prevent or control disease, injury, or disability.
 - 3.2. To report births and deaths.
 - 3.3. To report child abuse or neglect.
 - 3.4. To report reactions to medications or problems with products.
 - 3.5. To notify people of recalls of products they may be using.
 - 3.6. To notify a person who may have been exposed to a disease or may be at risk of contracting or spreading a disease or condition.
 - 3.7. To notify the appropriate government authority if CTL believes a program participant has been the victim of abuse, neglect, or domestic violence.
4. Health Oversight Activities:
 - 4.1. For audits, investigations, inspections, and licensing activities conducted by state and federal health oversight agencies authorized by law.

5. Judicial Administrative Proceedings, Lawsuits, and Disputes:
 - 5.1. Disclose PHI in response to a court or administrative order, a subpoena or other lawful order from a court.
6. Law Enforcement:

Release PHI upon request by a law enforcement official. The information requested must be specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought. Examples of such uses and disclosures include:

 - 6.1. In response to a court order, subpoena, warrant, summons, or similar process.
 - 6.2. To identify or locate a suspect, fugitive, material witness, or missing person(s).
 - 6.3. In investigations of criminal conduct or victims of a crime.
 - 6.4. In emergency circumstances to report a crime, the location, the victims, and the identity or the description and locations of the person(s) who committed the crime.
7. Coroners, Medical Examiners, and Funeral Directors:
 - 7.1. To disclose PHI, as necessary, to carry out the duties of coroners, medical examiners, and funeral directors.
8. Inmates:
 - 8.1. If a program participant is an inmate or under the custody of a law enforcement official, CTL may use and disclose PHI for the provision of medical and mental health care.
9. As Required by Law:
 - 9.1. To disclose PHI when required to do so by federal, state, or local law or other judicial or administrative proceedings.
10. Disaster Relief Purposes:
 - 10.1. When necessary, under emergency circumstances, disclose PHI to a public or private agency or organization (e.g., the American Red Cross).

Use and Disclosure of Psychotherapy Notes

1. All psychotherapy notes, recorded on any medium (paper or electronic) by a mental health professional, must be kept by the author and filed separately from the rest of the designated record set to ensure compliance with the required higher standard of protection of the HIPAA Privacy Rule.
2. Psychotherapy notes do not include:
 - 2.1. Medication prescription and monitoring;
 - 2.2. Counseling session start and stop time;
 - 2.3. Modalities and frequencies of treatment provided;
 - 2.4. Results of clinical tests; and
 - 2.5. Treatment summary.
3. Disclosure of Psychotherapy Notes:

When disclosing psychotherapy notes, the program participant must specifically authorize CTL to release them. CTL may release psychotherapy notes for:

 - 3.1. Training under the supervision of a CTL mental health professional;
 - 3.2. Use or disclosure by CTL in a legal action brought by the program participant;
 - 3.3. Use or disclosure is required by law or authorized by a health oversight authority;
 - 3.4. Reporting serious and imminent threat to the health and safety of the program participant or a third party;
 - 3.5. Use or disclosure is required by the Department of Health and Human Services to investigate CTL's non-compliance with the HIPAA Privacy Rule; and
 - 3.6. Disclosure to medical examiners or coroners about the deceased program participant to determine identity, cause of death, or to perform other duties as authorized by law.

Notice of Privacy Practices

1. At initial contact, a designated CTL employee shall orient each program participant to CTL's privacy and security Policies and practices and their right to be informed of how CTL may use and disclose their PHI.

- 2. Receipt of the *Notice of Privacy Practices* shall be documented in the *Acknowledgement of the Parent/Program Handbook* and maintained in each record set.

Accounting of Disclosures of PHI

- 1. Program participants have the right to receive an accounting of the disclosures of their PHI provided by CTL by independent contractors and contractors, when applicable.
- 2. The HIPAA Privacy Rule does not require CTL to account for the following disclosures:
 - 2.1. For treatment, payment, or health care operations.
 - 2.2. Disclosures made to or requested by the program participant.
 - 2.3. Disclosures made pursuant to an Authorization.
 - 2.4. As part of a limited set of information which does not contain certain information which would identify the program participant.
 - 2.5. Disclosures to the state licensing authority investigating a child abuse or elderly abuse report.
- 3. Disclosures of PHI that are subject to accounting are documented on the *Accounting of Disclosures of Protected Health Information* and maintained in the program participant record set.

Other Provisions for Legal Custodians, Personal Representatives, and Minors

- 1. The HIPAA Privacy Rule requires CTL to treat personal representatives the same as the individual, with respect to uses and disclosures of PHI, as well as the individual's rights as stated in the *Notice of Privacy Practices*.
- 2. The HIPAA Privacy Rule makes certain exceptions when CTL has a reasonable belief that the personal representative may be abusing or neglecting a program participant, or by treating the person as the personal representative could otherwise endanger a program participant.

Training

Within 90-days of hire, CTL provides employees/agents training in privacy and security Policy and Procedure and related forms and penalties associated with HIPAA violations (TS 2.02).

Continuous Quality Improvement (CQI)

- 1. The CQI department shall track, analyze, and report incidents of PHI breach to the Executive Team, the Board of Directors-Program Committee, and CQI Council on a quarterly basis.
- 2. Incident summary reports shall include a review of:
 - 2.1. The number of PHI breaches and resolution;
 - 2.2. Patterns and any problematic or unresolved issues; and
 - 2.3. Implementation and completion of corrective action plans, when indicated.

COMPLIANCE:

This Procedure complies with state regulations, HIPAA Privacy Rule, and Council on Accreditation Standards: ETH 6, RPM 6, and RPM 6.03.

Related Policy and Procedures:

- Confidentiality and Privacy Protections Policy and Procedure
- Case Record Access, Review, and Amendment Policy and Procedure
- Data Security Policy and Procedure
- Record Storage and Retention Procedure

Related Documents:

N/A

Other Related Forms:

- Accounting of Disclosures
- Authorization to Obtain, Use and Disclose Protected Health Information
- Notice of Privacy Practices
- Request for Correction/Amendment of Protected Health Information

APPROVED:  _____
Chief Executive Officer

11/10/20

Date