

**BALTIMORE CITY HEALTH DEPARTMENT POLICIES AND PROCEDURES
REGARDING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**

Policy and Procedure Topics:

1. Definitions
 2. Designation of Health Care Components
 3. BCHD is a Public Health Authority
 4. Personnel Designations
 5. Minimum Necessary Standard
 6. Verification Requirements
 7. Notice of Privacy Practices
 8. Authorizations to Use or Disclose Protected Health Information
 9. Individual Requests for Additional Privacy Protections
 10. Individual Access to Protected Health Information
 11. Amendments to Protected Health Information
 12. Accountings of Disclosures
 13. Complaints Regarding Protected Health Information
 14. Documentation Requirements
 15. Workforce Training
 16. Non-Retaliation Requirement
 17. Waiver of Rights
 18. Business Associate Agreements
 19. Additional Administrative, Physical, and Technical Safeguards
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1. Definitions

- a. HIPAA Definitions Apply. Unless otherwise noted, the terms used in these Policies and Procedures have the meanings provided in HIPAA.
- b. BCHD. Unless otherwise noted, BCHD means the health care components of the Baltimore City Health Department. The health care components are identified in § 2 of these Policies and Procedures.
- c. Commissioner. Commissioner means the Commissioner of the Baltimore City Health Department.
- d. HIPAA. HIPAA means the federal Health Insurance Portability and Accountability Act of 1996 and the federal regulations adopted pursuant to that act.
- e. PHI. PHI means protected health information.

2. **Designation of Health Components**

- a. The Health Care Components. The following components of the Baltimore City Health Department perform covered functions under HIPAA, and are hereby designated as the Department’s health care components:
- i. School Health Programs;
 - ii. Medical Assistance Transportation Program;
 - iii. Medical Assistance Personal Care Program;
 - iv. Treatment Options through Education (TOTE);
 - v. Infants and Toddlers Program;
 - vi. Maternal and Infant Nursing Program;
 - vii. Bureau of Adolescent and Reproductive Health;
 - viii. Healthy Teens and Young Adults;
 - ix. Youth Opportunity (YO!) Program; and
 - x. Adult Immunization.
- b. Application of HIPAA to BCHD.
- i. The requirements of HIPAA and these Policies and Procedures apply only to the health care components designated in § 2(a).
 - ii. Unless otherwise noted, references in these Policies and Procedures to “BCHD” apply only to the health care components.

3. **BCHD is a Public Health Authority**

- a. BCHD is a public health authority under HIPAA.
- b. BCHD may receive, report, and use PHI for any public health activities that are authorized or required by law (such as reporting vital statistics to government agencies or conducting public health surveillance).

4. Personnel Designations

a. Privacy Official

- i. The Commissioner shall designate a HIPAA Privacy Official.
- ii. The Privacy Official shall develop and implement the policies and procedures that are necessary to achieve and maintain BCHD's HIPAA compliance.

b. Contact Person

- i. The Commissioner shall designate a HIPAA Contact Person.
- ii. The Contact person shall:
 - 1. receive complaints regarding the use or disclosure of PHI;
 - 2. receive requests for information regarding BCHD's notice of privacy practices; and
 - 3. provide information regarding BCHD's notice of privacy practices.

c. Additional Staff. The Commissioner may designate any additional persons to assist with the duties of the Privacy Official and the Contact Person.

d. Commissioner's Discretion.

- i. The Commissioner may designate the same individual, or different individuals, as the Privacy Official, and the Contact Person.
- ii. The Commissioner may alter personnel designations at anytime.

5. Minimum Necessary Standard

a. Scope. The requirements of this § 5 do not apply to:

- iii. disclosures to or requests by a health care provider for treatment purposes;

- iv. disclosures made to the individual;
 - v. uses or disclosures made pursuant to an authorization;
 - vi. disclosures made to the Secretary of the United States Department of Health and Human Services;
 - vii. uses or disclosures that are required by law; and
 - viii. uses or disclosures that are required for HIPAA compliance.
- b. Minimum Necessary Standard. Except as provided in subsection (a), whenever BCHD uses or discloses PHI or requests PHI from another covered entity, it shall make reasonable efforts to limit the PHI to minimum amount that is necessary to accomplish the intended purpose of the use, disclosure, or request.
- c. Workforce Access to PHI.
- i. The following types of BCHD employees need access to PHI to carry out their duties:

Students, trainees, causal, and temporary staff, and covered employees, and covered personnel that are involved in the provision of health care or payment for health care.
 - ii. Each type of employee should have access to the minimum amount of PHI necessary to perform the job function.
- d. Routine Disclosures.
- i. For any type of disclosure that BCHD makes on a routine basis, it shall limit the PHI disclosed to that which is reasonably necessary to achieve the purpose of the disclosure.
 - ii. The Privacy Official shall develop and implement standard protocols to ensure that routine and recurring disclosures are limited to the amount of PHI reasonably necessary to achieve the purpose of the disclosure.
- e. Non-routine Disclosures.
- i. The Privacy Official shall review any request that BCHD receives for a PHI disclosure that is not routine.

- ii. The Privacy Official shall consider the following criteria when determining whether to disclose PHI in response to a request for a non-routine PHI disclosure:
 - 1. whether HIPAA permits the disclosure;
 - 2. whether HIPAA requires the disclosure; and
 - 3. whether the amount of information requested is reasonably necessary to accomplish the purpose for which disclosure is sought.

- f. Routine Requests
 - i. For any request for PHI that BCHD makes on a routine basis, it shall limit the PHI requested to the minimum necessary to accomplish the purpose for which the request is made.
 - ii. The Privacy Official shall develop and implement standard protocols to ensure that BCHD's routine requests are limited to the amount of PHI that is the minimum necessary to accomplish the purposes for which the requests are made.

- g. Non-routine Requests
 - i. The Privacy Official shall review in advance any non-routine request for PHI that BCHD intends to make.
 - ii. The Privacy Official shall consider the following criteria when determining whether BCHD should make the non-routine request:
 - 1. whether HIPAA permits the request;
 - 2. whether HIPAA requires the request; and
 - 3. whether the amount of information requested is the minimum necessary to accomplish the purpose of the request.

- h. Uses and Disclosures of, and Requests for, an Entire Medical Record. BCHD may not use, disclose, or request an entire medical record, except when the entire medical record is specifically justified as the minimum necessary to accomplish the purpose of the use, disclosure, or request.

- i. Reasonable Reliance. BCHD may reasonably rely that a request for a disclosure meets the minimum necessary standard when:
 - i. the information is requested by a public official who represents that the information requested is the minimum necessary for the stated purpose;
 - ii. the information is requested by another covered entity;
 - iii. the information is requested by a professional who is a member of BCHD's workforce or is a business associate of BCHD for the purpose of providing professional services to BCHD, if the professional represents that the information requested is the minimum necessary for the stated purpose; or
 - iv. documentation or representations that comply with the applicable requirements of 45 C.F.R. § 164.512(i) have been provided by a person requesting the information for research purposes.

6. Verification Requirements

- a. Scope. The requirements of this § 6 do not apply to any disclosure of PHI that is permitted under 45 C.F.R. § 164.510, such as disclosures for emergencies and disaster relief purposes.
- b. In general. Prior to any disclosure of PHI, BCHD must:
 - i. verify the identity of the person requesting PHI and the authority of such person to have access to PHI, if the identity or authority of such person is not already known by BCHD; and
 - ii. obtain any documentation, statements, or representations, whether oral or written, from the person requesting the PHI when such documentation, statement, or representation is a condition of the disclosure under HIPAA.
- c. Reasonable Reliance. If a disclosure is conditioned on particular documentation, statements, or representations from the person requesting the PHI, BCHD may reasonably rely on documentation, statements, or representations that, on their face, meet the applicable requirements.

d. Identity and Authority of Public Officials.

- i. BCHD may reasonably rely on any of the following to verify identity when the disclosure of PHI is to a public official or a person acting on behalf of the public official:
 1. if the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;
 2. if the request is in writing, the request is on the appropriate government letterhead; or
 3. if the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official.
- ii. BCHD may reasonably rely on any of the following to verify authority when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:
 1. a written statement of the legal authority under which the information is requested, or, if a written statement would be impracticable, an oral statement of such legal authority; or
 2. if a request is made pursuant to legal process, a warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal.

7. Notice of Privacy Practices

- a. The Notice. BCHD has a notice of privacy practices (the "Notice").
- b. Compliance. BCHD shall comply with the Notice.
- c. Posting.
 - i. BCHD shall post the Notice on any BCHD website that provides information about BCHD's customer services or benefits.
 - ii. BCHD shall post the Notice at each of its physical service delivery sites.

d. Copies of the Notice.

- i. BCHD shall provide a copy of the Notice to each patient on the patient's first date of treatment or, in the case of emergency treatment, as soon as practicable after the treatment.
- ii. Paper copies of the Notice shall be available at each physical service delivery site. At the site, a copy of the Notice shall be provided to any patient upon the patient's request.
- iii. Upon request, BCHD shall provide to any person a paper copy of the Notice.

e. Written Acknowledgement.

- i. BCHD shall make a good faith effort to obtain the patient's written acknowledgement that the individual received the Notice.
- ii. If acknowledgement is not obtained, BCHD shall document its attempts to obtain acknowledgement and the reason why acknowledgement was not obtained.

f. Amendment of the Notice.

- i. BCHD may amend the Notice at anytime.
- ii. The amended Notice will apply to all PHI that BCHD receives, creates, maintains, uses, or discloses.
- iii. BDHD shall post, disseminate, and obtain acknowledgement of the amended Notice in compliance with subsections (c), (d), and (e) of this section.

g. Documentation.

- i. BCHD must retain:
 - 1. the Notice and any amended Notice issued by BCHD;
 - 2. patients' written acknowledgments; and
 - 3. documentation of BCHD's good faith efforts to obtain the written acknowledgments.
- ii. The documents must be retained in accordance with § 14.

8. Authorization to Use or Disclosures Protected Health Information

- a. Uses and Disclosures without the Individual’s Authorization. BCHD may use or disclose PHI without the individual’s authorization only as permitted under the Notice of Privacy Practices (the “Notice”).
- b. Uses and Disclosures Subject to Authorization. If the Notice does not permit a use or disclosure without authorization, then BCHD must obtain the individual’s authorization before it undertakes the use or disclosure.
- c. Compliance with the Authorization. When BCHD uses or discloses PHI pursuant to an authorization, the use or disclose must be consistent with the terms of that authorization.
- d. Contents of the Authorization.
 - i. The authorization must be in writing.
 - ii. The authorization must include:
 - 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 other specific identification of the person(s), or class of persons, at BCHD who are authorized to make the requested use or disclosure.
 - 3. The name or other specific identification of the person(s), or class of persons, to whom BCHD 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 provide a statement of the purpose.
 - 5. An expiration date or an expiration event. 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.
 - 6. Signature of the individual and date. If the authorization is signed by a personal representative of the individual, a

description of such representative's authority to act for the individual must also be provided.

7. A statement that the individual may revoke the authorization in writing at anytime, but that the revocation will not be effective to the extent that BCHD already has used or disclosed the individual's PHI in reliance on the authorization.
8. A statement of that BCHD may not condition treatment, payment, enrollment or eligibility for benefits on the authorization, except that:
 - a. BCHD is allowed to deny research-related treatment if the individual does not provide an authorization to use or disclose health information for the research; and
 - b. If BCHD is providing treatment solely for the purpose of disclosing health information to a third-party, then BCHD is allowed to deny the treatment if the individual does not give an authorization to provide the information to the third-party.
9. A statement of the potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer protected by HIPAA.
 - iii. The authorization must be written in plain language.
- e. Copy to the individual. BCHD must provide a copy of the signed authorization to the individual.
- f. Revocation of Authorization.
 - i. An individual may revoke an authorization in writing at anytime.
 - ii. The revocation will not be effective to the extent that BCHD already has used or disclosed the individual's PHI in reliance on the authorization.
- g. Documentation. BCHD must document and retain any authorization or revocation in accordance with § 14.

9. Individual Requests for Additional Privacy Protection

a. Restrictions on Uses and Disclosures.

- i. An individual may request that BCHD restricts:
 1. uses or disclosures of PHI about the individual to carry out treatment, payment, or health care operations; or
 2. disclosures to the individual's family members, personal friends, or any other persons involved with the individual's health care or payment for health care.
- ii. BCHD is not required to agree to the requested restriction.
- iii. If BCHD agrees to the restriction, it may not use or disclose PHI in violation of the restriction, except that, if the individual who requested the restriction is in need of emergency treatment and the restricted PHI is needed to provide the emergency treatment, BCHD may use the restricted PHI, or may disclose the restricted PHI to another health care provider, to provide treatment to the individual.
- iv. BCHD may terminate its agreement to a restriction, if:
 1. The individual agrees to or requests the termination in writing;
 2. The individual orally agrees to the termination and BCHD documents the oral agreement; or
 3. BCHD informs the individual that it is terminating its agreement to a restriction, except that such termination is only effective with respect to PHI created or received after it has so informed the individual.

b. Confidential Communications.

- i. Requests for Confidential Communications.
 1. An individual may request that BCHD uses alternative means or alternative locations to communicate with the individual about the individual's PHI.
 2. The individual must make the request in writing.

- ii. BCHD will accommodate the request if:
 - 1. BCHD finds that the request is reasonable;
 - 2. the individual has made the request in writing;
 - 3. the individual has specified an alternative address or other method of contact; and
 - 4. the individual has agreed to cover the additional costs, if any, of complying with the request.
- c. Reason for the Request. BCHD may not require the individual to explain the reason for the individual's request for restrictions or confidential communications.
- d. Documentation. BCHD must retain all documentation required by this section in accordance with § 14.

10. Individual Access to Protected Health Information

- a. Request for Access.
 - i. An individual may request access to inspect and obtain a copy of any PHI about the individual that BCHD maintains in a designated record set.
 - ii. The individual must make the request in writing.
- b. Denial of Access Without Review. BCHD may deny the individual's request for access, without providing the individual an opportunity for review, in the following circumstances:
 - i. The requested PHI is:
 - 1. psychotherapy notes;
 - 2. information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding;
 - 3. subject to the Clinical Laboratory Improvements Amendments of 1988, 42 U.S.C. 263a, to the extent the provision of access to the individual would be prohibited by law; or

4. exempt from the Clinical Laboratory Improvements Amendments of 1988, pursuant to 42 CFR 493.3(a)(2);
 - ii. The requested PHI was created in the course of on-going research, provided that the individual agreed to the denial of access when consenting to participate in the research that includes treatment, and provided that BCHD has informed the individual that the right of access will be reinstated upon completion of the research; or
 - iii. The requested PHI was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.
- c. Denial of Access with Review. BCHD may deny access, provided that the individual is given a right to have such denials reviewed, as required by subsection (d) of this section, in the following circumstances:
 - i. A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;
 - ii. The PHI makes reference to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to the other person; or
 - iii. The request for access is made by the individual's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to the personal representative is reasonably likely to cause substantial harm to the individual or another person.
- d. Review of Denial.
 - i. If BCHD denies access under subsection (c) of this section, the individual may have the denial reviewed by a licensed health care professional who is designated by BCHD to act as a reviewing official and who did not participate in the original decision to deny.
 - ii. BCHD must provide or deny access in accordance with the determination of the reviewing official.

e. Timing.

- i. If the requested PHI is accessible to BCHD on-site, BCHD shall take one of the following actions within 30 days after receiving the request for access:
 1. provide the access requested; or
 2. provide the individual with a written denial.
 - ii. If the requested PHI is not available to BCHD on-site, BCHD shall take one of the following actions within 60 days after receiving the request for access:
 1. provide the access requested; or
 2. provide the individual with a written denial.
 - iii. If BCHD is unable to take an action within the time required by subsection (e)(i) or (e)(ii) of this section, as applicable, it may extend the time for such actions by no more than 30 days, provided that:
 1. BCHD, within the time limit set by paragraph (e)(i) or (e)(ii) of this section, as applicable, provides the individual with a written statement of the reasons for the delay and the date by which BCHD will complete its action on the request; and
 2. BCHD may have only one such extension of time.
- f. Documentation. All documentation required under this section must be retained in accordance with § 14.

11. Amendments to Protected Health Information

a. Request for Amendment.

- i. An individual may request that BCHD amend any PHI about the individual that BCHD maintains in a designated record set.
- ii. The individual must make the request for an amendment in writing and must provide a reason to support the request.

b. Timing of BCHD's Response.

- i. Except as provided in subsection (b)(ii) of this section, within 60 days after receiving a request for amendment, BCHD must either:
 1. issue a written denial under subsection (d) of this section;
or
 2. accept the amendment under subsection (f) of this section.
- ii. If BCHD is unable to act on the amendment within 60 days after receiving the request, BCHD may extend the time for such action by no more than 30 days, provided that:
 1. BCHD, within the time limit set by paragraph (b)(i) of this section, provides the individual with a written statement of the reasons for the delay and the date by which BCHD will complete its action on the request; and
 2. BCHD may have only one such extension of time.

c. Denial of Amendment. BCHD may deny a request for amendment, if it determines that the PHI or record that is the subject of the request:

- i. was not created by BCHD, unless the individual provides a reasonable basis to believe that the originator of PHI is no longer available to act on the requested amendment;
- ii. is not part of a designated record set;
- iii. would not be available for inspection under 45 C.F.R. § 164.524;
or
- iv. is accurate and complete.

d. Written Denial.

- i. If BCHD denies the request for amendment, in whole or in part, it must provide the individual with a written denial.
- ii. The denial must use plain language.
- iii. The denial must contain:
 1. The basis for the denial;

2. a statement that the individual may submit a written statement disagreeing with the denial;
 3. a statement that, if the individual does not submit a statement of disagreement, the individual may request that BCHD provide the individual's request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment; and
 4. a description of how the individual may complain to BCHD or the Secretary of the United States Department of Health and Human Services.
- e. Right to Submit a Statement of Disagreement.
- i. If the request for amendment is denied, the individual may submit to BCHD a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement.
 - ii. BCHD may prepare a written rebuttal to the individual's statement of disagreement. BCHD must provide a copy of the rebuttal to the individual.
- f. Acceptance of Amendment. If BCHD accepts the requested amendment, in whole or in part, it must:
- i. identify the records in the designated record set that are affected by the amendment and append or otherwise provide a link to the location of the amendment;
 - ii. inform the individual that the amendment is accepted and obtain the individual's identification of and agreement to have BCHD notify the relevant persons with which the amendment needs to be shared;
 - iii. make reasonable efforts to inform and provide the amendment within a reasonable time to:
 1. persons identified by the individual as having received PHI about the individual and needing the amendment; and
 2. persons, including business associates, that BCHD knows have the PHI that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the individual.

- g. Recordkeeping of Disputed Amendments. If an amendment is disputed, BCHD must:
- i. identify the designated record set that is the subject of the dispute; and
 - ii. append or otherwise link the individual's request for an amendment, BCHD's denial of the request, the individual's statement of disagreement, if any, and BCHD's rebuttal, if any, to the designated record set.
- h. Future disclosures.
- i. If a statement of disagreement has been submitted by the individual, BCHD must include the material appended in accordance with subsection (g) of this section, or, at BCHD's discretion, an accurate summary of any such information, with any subsequent disclosure of the PHI to which the disagreement relates.
 - ii. If the individual has not submitted a written statement of disagreement, BCHD must include the individual's request for amendment and BCHD's denial, or an accurate summary of such information, with any subsequent disclosure of the PHI, but only if the individual has requested such action.
 - iii. If a subsequent disclosure is made using a standard transaction under HIPAA that does not permit the additional material to be included with the disclosure, BCHD may separately transmit the material required by subsection (h)(i) or (ii) of this section, as applicable, to the recipient of the standard transaction.
- i. Actions on notices of amendment. If BCHD is informed by another covered entity of an amendment to an individual's PHI, it must amend the protected health information in designated record sets as provided by subsection (f)(i) of this section.
- j. Role of Privacy Official. The Privacy Official is responsible for:
- i. receiving and processing requests for amendments by individuals; and
 - ii. retaining documentation regarding requests for amendments in accordance with § 14.

12. Accountings of Disclosures

- a. Request for an Accounting. An individual may request an accounting of disclosures of the individual's PHI that BCHD made during the six years prior to the date of the request.
- b. Materials Exempt from Accounting. BCHD is not required to include the following types of disclosures of protected health information in the accounting:
 - i. disclosures that were made to carry out treatment, payment, or health care operations;
 - ii. disclosures made to the individual;
 - iii. disclosures that were incident to a use or disclosure otherwise permitted or required by HIPAA;
 - iv. disclosures that were made pursuant to the individual's authorization;
 - v. disclosures made to persons involved in the individual's care or for other notification purposes permitted under HIPAA;
 - vi. disclosures made for national security or intelligence purposes;
 - vii. disclosures made to correctional institutions or law enforcement officials;
 - viii. disclosures made as part of a limited data set in accordance with HIPAA; or
 - ix. disclosures that occurred prior to BCHD's HIPAA compliance date.
- c. Contents of the Accounting.
 - i. Except as provided in subsection (b) and (d) of this section, BCHD must provide the individual with a written accounting of disclosures of the individual's PHI that occurred during the six years prior to the date of the request for an accounting.
 - ii. The accounting must include disclosures to or by business associates of BCHD.

- iii. Except as provided in subsection (c)(iv) and (v), the accounting must include, for each disclosure:
 1. The date of the disclosure;
 2. The name of the entity or person who received the PHI and, if known, the address of such entity or person;
 3. A brief description of the PHI disclosed; and
 4. A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure.

- iv. If, during the period covered by the accounting, BCHD has made multiple disclosures of PHI to the same person or entity for a single purpose, either at the request of the Secretary of the United States Department of Health and Human Service, or under 45 C.F.R. § 164.512, the accounting may, with respect to such multiple disclosures, provide:
 1. the information required by subsection (c)(iii) of this section for the first disclosure during the accounting period;
 2. the frequency, periodicity, or number of the disclosures made during the accounting period; and
 3. the date of the last such disclosure during the accounting period.

- v. If, during the period covered by the accounting, BCHD has made disclosures of PHI for a particular research purpose in accordance with HIPAA for 50 or more individuals, the accounting may, with respect to such disclosures for which the PHI about the individual may have been included, 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 of the research and the criteria for selecting particular records;
 3. a brief description of the type of PHI that was disclosed;

4. the date or period of time during which such disclosures occurred, or may have occurred, including the date of the last such 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 of the individual may or may not have been disclosed for a particular protocol or other research activity.
- vi. If BCHD provides an accounting for research disclosures, in accordance with subsection (c)(v) of this section, and if it is reasonably likely that the PHI of the individual was disclosed for such research protocol or activity, BCHD shall, at the request of the individual, assist in contacting the entity that sponsored the research and the researcher.

d. Temporary Suspension of Right to Accounting.

- i. BCHD must temporarily suspend an individual's right to receive an accounting of any disclosures made to a health oversight agency or law enforcement official if the agency or official provides BCHD with a written statement that:
 1. represents that the accounting would be reasonably likely to impede the agency's or official's activities; and
 2. specifies the time for which the suspension is required.
- ii. If the agency or official states orally that the accounting would be reasonably likely to impede the agency's or official's activities, then BCHD must:
 1. document the statement, including the identity of the agency or official making the statement;
 2. temporarily suspend the individual's right to an accounting of disclosures subject to the statement; and
 3. limit the temporary suspension to no longer than 30 days from the date of the oral statement, unless a written statement is submitted by the official or agency during that time.

e. Timing

- i. Within 60 days after receipt of a request for an accounting, BCHD must:
 1. provide the individual with the accounting requested; or
 2. if BCHD is unable to provide the accounting within 60 days, extend the time to provide the accounting by no more than 30 days.
- ii. BCHD may extend the time limit set by subsection (e)(i) only if, within 60 days, BCHD provides the individual with a written statement of the reasons for the delay and the date by which BCHD will provide the accounting.
- iii. BCHD may have only one extension of time to act on the request.

f. Charge for Accounting.

- i. BCHD must provide the first accounting to an individual in any 12 month period without charge.
- ii. BCHD may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same individual within the 12 month period, provided that BCHD informs the individual in advance of the fee and provides the individual with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.

g. Documentation. BCHD must document and retain the following items in accordance with § 14:

- i. The information required to be included in an accounting under subsection (c) of this section; and
- ii. The accounting that is provided to the individual.

h. Role of Privacy Official. The Privacy Official is responsible for receiving and processing individuals' requests for accountings.

13. Complaints Regarding Protected Health Information

- a. Right to file a complaint. Any person who believe that BCHD has violated the requirements of HIPAA or these Policies and Procedures may file a written complaint with:

- i. BCHD; or
- ii. the Secretary of the United States Department of Health and Human Services.

b. Complaint Process.

- i. Any complaint filed with BCHD must include:
 - 1. the complainant's name, address, and telephone number;
 - 2. the date of the complaint; and
 - 3. the complainant's allegations regarding how BCHD violated HIPAA or these Policies and Procedures.
- ii. The complaint must be delivered to:

Baltimore City Health Department
Attn: Gena O'Keefe, M.D.
210 Guilford Avenue
Baltimore, MD 21202

c. Investigation of Complaint.

- i. The Privacy Official shall promptly investigate the allegations contained in the complaint.
- ii. The Privacy Official shall report his or her findings to the Commissioner.

d. Corrective Action.

- i. If, as a result of the investigation, the Commissioner determines that a violation of these Policies and Procedures or HIPAA has occurred, then the Commissioner, in his or her sole discretion, shall pursue appropriate corrective action, which may include, but is not limited to:
 - 1. the sanction, discipline, or termination of BCHD personnel;
 - 2. amendments to these Policies and Procedures;
 - 3. referral of individuals for criminal prosecution or professional discipline; and

- 4. contractual remedies or contractual termination.
- ii. BCHD must mitigate, to the extent practicable, any harmful effect that is known to BCHD of a use or disclosure of PHI that was made in violation of these Policies or Procedures or HIPAA.
- e. Documentation.
 - i. BCHD must document any complaint that it receives and the disposition of the complaint.
 - ii. BCHD must retain such documentation in accordance with § 13.

14. Documentation Requirements

- a. Policies and Procedures. BCHD must maintain its HIPAA Policies and Procedures in written or electronic form.
- b. Written Communications. If a communication is required to be in writing under HIPAA, BCHD must retain a paper or electronic copy of that writing.
- c. Actions under HIPAA. If an action, activity, or designation is required by HIPAA to be documented, BCHD must maintain a written or electronic record of such action, activity, or designation.
- d. Retention Period. Whenever BCHD is required to retain a document under these Policies and Procedures or HIPAA, it must retain the document for 6 years from the date of the document's creation or the date when it last was in effect, whichever is later.

15. Workforce Training

- a. Standard. BCHD must train all members of its workforce on these Policies and Procedures, as necessary and appropriate for the members of the workforce to carry out their function within BCHD.
- b. Timing. The training must be provided:
 - i. to each new member of the workforce within a reasonable period of time after the person joins the workforce; and
 - ii. to each member of BCHD's workforce whose functions are affected by a material change in these Policies and Procedures,

within a reasonable period of time after the material change becomes effective.

c. Documentation.

- i. BCHD must document that the training has been provided.
- ii. BCHD must retain such documentation in accordance with § 14.

16. **Non-Retaliation Requirement.** BCHD may not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against:

- a. any individual for the exercise by the individual of any right under HIPAA, or for participation by the individual in any process established by HIPAA, including the filing of a complaint; or
- b. any individual or other person for:
 - i. filing of a complaint with the Secretary of the United States Department of Health and Human Services;
 - ii. testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing under HIPAA; or
 - iii. opposing any practice made unlawful by HIPAA, provided that the individual or person has a good faith belief that the practice is unlawful, and the manner of the opposition is reasonable and does not involve a disclosure of PHI in violation of HIPAA.

17. **Waiver of rights.** BCHD may not require individuals to waive their rights under HIPAA as a condition of the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits.

18. **Business Associate Agreements**

- a. A business associate is any person or entity who:
 - i. *on behalf of* BCHD, performs functions or activities involving the use or disclosure of PHI; or
 - ii. performs one of the following services for BCHD and, as a part of that service, receives PHI from BCHD:
 - 1. legal services;
 - 2. accounting services;

3. actuarial services;
 4. consulting services;
 5. data aggregation services;
 6. information technology services;
 7. management services;
 8. administrative services;
 9. accreditation services; or
 10. financial services.
- b. A member of BCHD's workforce – which includes any employee, volunteer, trainee, or other person whose work conduct is under the direct control of BCHD – is not a business associate.
 - c. BCHD must enter into a business associate agreement with each business associate.
 - d. A business associate agreement is not necessary to transmit electronic PHI to another health care provider concerning the treatment of an individual.
 - e. The business associate agreement must establish the permitted and required uses and disclosures of such information by the business associate.
 - f. The business associate agreement must provide that the business associate will:
 - i. Implement safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of BCHD;
 - ii. Ensure that any agent, including a subcontractor, to whom it provides PHI agrees to implement reasonable and appropriate safeguards;
 - iii. Report to BCHD any security incident of which it becomes aware; and

- iv. Authorize termination by BCHD if BCHD determines that the business associate has violated a material term of the agreement.
- g. If the business associate is another governmental entity, a business associate agreement is unnecessary if either:
 - i. BCHD and the entity enter into a memorandum of understanding that meets the objectives of this section; or
 - ii. Other law (including BCHD regulations or the other entity's regulations) contain requirements that meet the objectives of this section.
- h. BCHD must document and retain all business associate agreements in accordance with § 14.
- i. If an employee becomes aware of a violation of a business associate agreement, he or she should report the violation immediately to the HIPAA Privacy Officer.
- j. If BCHD becomes aware of a material breach of a business associate agreement, it must take reasonable steps to cure the violation. If such steps are unsuccessful, it must take appropriate steps to:
 - i. Terminate the contract; or
 - ii. If termination is not feasible, report the problem to the Secretary of the United States Department of Health and Human Services.

19. Additional Administrative, Physical, and Technical Safeguards

- a. This section sets forth additional administrative, physical, and technical safeguards specific to each health care component.
- b. Medical Assistance Transportation Program. The following additional safeguards apply to the Medical Assistance Transportation Program ("MATP").
 - i. Computer access to all billing and transportation documents is restricted. Only employees who need to use the documents to perform their duties have access.
 - ii. MATP enters into business associate agreements with all vendors and subcontractors who provide transportation services in order to assure that those vendors and subcontractors will appropriately safeguard PHI.

- iii. All documents containing PHI, including all physician certification forms and tickets, are not stored in plain view.
 - iv. Documents containing PHI are stored in locked rooms or locked file cabinets. Only employees who need access to the documents to perform their duties have keys to the rooms or cabinets.
 - v. Unneeded records containing PHI are shredded on a daily basis.
 - vi. All records over 3 years old are sent to Baltimore City Archives for secure storage.
 - vii. Access to the Phone Room area is restricted.
 - viii. Records that are transported for home visits are locked in the trunk of the vehicle when not in use.
 - ix. Records are not left in plain view in a vehicle.
- c. School Health Programs. The following additional safeguards apply to the School Health Programs.
- i. Patient charts are stored in locked cabinets.
 - ii. Only health suite staff and health center staff have access to the locked cabinets.
 - iii. School Health Programs use secure fax lines to forward and receive information from MCOs and health providers.
 - iv. Fax machines that are not located in locked offices have their paper trays removed so that laboratory results or other PHI received by the machine will not be printed until staff is present to assure confidentiality.
 - v. School Health Programs obtain written patient consent or the consent of a parent or guardian (as appropriate) before disclosing the patient's PHI.
 - vi. Each health center has shredders to destroy unneeded documents containing PHI.
 - vii. Each employee of School Health Programs agrees in writing to keep all patient information confidential.

- d. Medical Assistance Personal Care Program. The following additional safeguards apply to the Medical Assistance Personal Care Program (the “Personal Care Program”).
 - i. The Personal Care Program maintains patient records in locked files.
 - ii. Access to patient records is restricted to staff members who are responsible for maintaining the records and to the nursing staff.
 - iii. The Personal Care Program obtains a written release from each patient before disclosing the patient’s PHI to a third-party.
 - iv. The fax machine is located in an area that is inaccessible to unauthorized individuals.
 - v. Business associates of the Personal Care Program are required to execute agreements to assure that they appropriately safeguard PHI.

- e. Treatment Options through Education (TOTE). The following additional safeguards apply to Treatment Options through Education (“TOTE”).
 - i. A patient’s PHI will not be disclosed without the patient’s written consent.
 - ii. All testing results are registered with the Needle Exchange Program (“NEP”) database.
 - iii. The NEP database cannot be accessed without a username and password.
 - iv. All documents associated with HIV CTR, including all HIV results, are maintained in a secured cabinet.

- f. Infants and Toddlers Program. The following additional safeguards apply to the Baltimore Infants and Toddlers Program (“BITP”).
 - i. Initial interviews of families seeking assessments or services are held in private interview rooms.
 - ii. BITP collects and monitors its patients’ PHI through a web-based, State-run client tracking system.
 - iii. The client tracking database cannot be accessed without an individual password.

- iv. After business hours, client records are maintained in locked files.
 - v. BITP obtains consent and release forms from clients in order to seek necessary additional client information from other entities.
- g. Maternal and Infant Nursing Program. The following additional safeguards apply to the Maternal and Infant Nursing Program (the “M&I Program”).
- i. If the M&I Program needs additional information from a client’s health care provider, it first obtains a written release from the client.
 - ii. The M&I Program uses a dedicated fax line to receive any client PHI from health care providers.
 - iii. Client charts are locked in case managers’ desks and may not be removed from the office.
 - iv. Only client assessment forms may be taken to home visits. The assessment forms do not contain social security numbers or medical assistance numbers.
 - v. The M&P Program instructs staff not to maintain any client documentation in their vehicles or homes.
 - vi. The M&P Program instructs staff to file charts appropriately when the charts are not in use.
 - vii. The M&P Program office is locked each night.
 - viii. Inactive client files are maintained in locked file cabinets in the M&P Program office.
- h. Bureau of Adolescent and Reproductive Health. The following additional requirements apply to the Bureau of Adolescent and Reproductive Health (“ARH”).
- i. Upon arriving at a clinic, a client signs in on a sheet. A staff person then removes the client’s name so that no other client can see who has signed in.
 - ii. Patient registration occurs in private rooms where the client may close the door for further privacy.

- iii. Clients receive services in private areas, separate from the waiting room.
 - iv. Medical records are stored in secure and locked areas.
 - v. Only designated staff may access areas containing medical records.
 - vi. AHR requires a client to sign a release form before it will copy files for another provider or for the client.
 - vii. All computers used by AHR staff are password protected.
 - viii. The AHLERS database, which contains client PHI, is password protected.
- i. Healthy Teens and Young Adults. The following additional safeguards apply to Healthy Teens and Young Adults (“HTYA”).
- i. Upon arriving at a clinic, a client signs in on a sheet. A staff person then removes the client’s name so that no other client can see who has signed in.
 - ii. Patient registration occurs in private rooms where the client may close the door for further privacy.
 - iii. Clients receive services in private areas, separate from the waiting room.
 - iv. Medical records are stored in secure and locked areas.
 - v. Only designated staff may access areas containing medical records.
 - vi. HTYA requires a client to sign a release form before it will copy files for another provider or for the client.
 - vii. All computers used by HTYA staff are password protected.
 - viii. The AHLERS database, which contains client PHI, is password protected.
- j. Youth Opportunity (YO!) Program. The following additional safeguards apply to the Youth Opportunity Program (the “YO! Program”).
- i. Upon arriving at a clinic, a client signs in on a sheet. A staff person then removes the client’s name so that no other client can see who has signed in.

- ii. Patient registration occurs in private rooms where the client may close the door for further privacy.
 - iii. Clients receive services in private areas, separate from the waiting room.
 - iv. Medical records are stored in secure and locked areas.
 - v. Only designated staff may access areas containing medical records.
 - vi. The YO! Program requires a client to sign a release form before it will copy files for another provider or for the client.
 - vii. All computers used by YO! Program staff are password protected.
 - viii. The AHLERS database, which contains client PHI, is password protected.
- k. Adult Immunization. The following additional safeguards apply to Adult Immunization.
- i. Documents containing clients' PHI are maintained in locked filing cabinets at the main office of the Bureau of Child Health and Immunization.
 - ii. Client PHI is maintained in a secure database. A password is necessary to access the database.