Procedure A-2: Client Rights Regarding Protected Health Information

I. Right to Notice of Privacy Practices

A. SBC shall provide clients with detailed information that describes, in plain language, SBC privacy practices, their individual's rights related to his/her PHI including explanation of how SBC will use or disclose their PHI.

B. The SBC Privacy Practices Notice (the "Notice") will be combined with a Tennessen Warning. Summary notice shall be provided to all current clients. New clients will receive a copy of the Notice at the time of their first clinic visit. Clients may receive additional copies of the Notice upon request.

C. Annually SBC shall make a good faith effort to obtain a written acknowledgement from the client that he/she received the Notice.

D. The signed acknowledgement of the Notice will be saved and recorded in client's medical record.

E. The Notice shall also be posted in clear and prominent locations where it is reasonable to expect clients to be able to read it. Additionally, the Notice will be posted and available electronically on the MDHFS SBC web site that contains information about the SBC and its services.

F. SBC shall revise and distribute its notice whenever there is a material change to the use or disclosures of PHI, individual's rights, the provider's legal duties or other privacy practices stated in the Notice.

II. Right to Access & to Obtain a Copy of PHI

A. SBC shall inform clients through the Notice of the right to access and obtain a copy of medical information that is used to make decisions about their care. This may include medical and billing information, but may not include some mental health information.

B. Access to mental health information can be denied if a licensed mental health care professional (physician, psychologist, or master-prepared therapist) has determined, in the exercise of professional judgment, that the access requested is reasonably likely to compromise the mental health or physical treatment of the patient or, the request involves psychotherapy notes, or will endanger the life or physical safety of the client.

C. SBC sites shall provide access to information even if the information wasn't created at that site. Thus, if a clinic has copies of medical records created by another clinic, these records shall be provided to the individual upon his/her request.

D. SBC may charge a reasonable, cost-based fee for providing copies of PHI, including the costs of copying (supplies and labor), postage (if the individual has requested that the PHI be mailed) and preparation of any summary or explanation (if agreed to in advance).

III. Right to Request an Amendment of PHI

A. SBC shall inform clients through the Notice of the right to request an amendment to their PHI for as long as such PHI is maintained by the MDHFS.

B. Requests for amendments must be submitted in writing and provide a reason that supports the request.

C. Amendments may be denied under the following circumstances:

1. The PHI was not created by SBC (unless the client provides a reasonable basis to believe that an originator of the PHI external to the SBC is no longer available to act on the request);
2. The information at issue is not part of the medical information kept by SBC;
3. The information is not part of the PHI that the client would be permitted to access and obtain a copy; or
4. The information is accurate and complete.

D. If a request to amend PHI is denied, the client shall have the right to submit a written addendum, not to exceed 250 words, with respect to any item or statement that the client believes is incomplete or incorrect.

E. Upon the client's clear written indication, the addendum shall be attached to his/her records and included whenever SBC makes a disclosure of the item or the statement that the client believes to be incomplete or incorrect.

IV. Right to an Accounting of Disclosures

A. SBC shall inform clients through the Notice of the right to an accounting of how their PHI has been disclosed (see section IV. C for exceptions).

B. SBC shall respond in writing to any requests and include the following in the accounting:

1. Disclosures for the six years prior to the request, but not prior to 1/1/2012, unless the client wants information for a shorter time period;
2. Disclosures made to or by business associates;
3. The date of each disclosure;
4. The name of the person or entity who received the PHI, including an address if possible;
5. A brief description of the information disclosed; and
6. A brief statement of the purpose of the disclosure.

C. Accountings do <u>not</u> need to include disclosures made for the following purposes:

1. To carry out treatment, payment or health care operations or as part of a limited data set;
2. To clients regarding their own information;
3. Incident to a use or disclosure otherwise permitted or required by HIPAA;
4. Pursuant to an authorization;
5. To persons involved in the client's care;
6. For notification purposes (e.g. to notify a family member, personal representative or other person of the client's location or general condition);
7. For national security or intelligence purposes; or
8. To correctional facilities or law enforcement officials.

D. SBC shall provide the first accounting of disclosures to a client free of charge. A reasonable, cost-based fee may be charged for each subsequent request for an accounting within the same 12-month period as long as the has been informed in advance of the fee and the client has had the opportunity to withdraw or modify the request.

V. Right to Request Restrictions on PHI

A. SBC shall inform clients through the Notice of the right to request that the SBC providers restrict their use or disclosure of PHI to carry out treatment, payment or healthcare operations; that is, a client may request that a SBC provider voluntarily agree not to use or disclose PHI in a way that the law would otherwise allow. SBC shall also inform Clients through the Notice of the right to request restrictions on the information that may be released to family or friends.

B. Requests for restrictions must be made in writing and include the following:

1. What information to limit;
2. Whether the limitation is for use, disclosure, or both; and
3. To whom the limitation applies (e.g. disclosure to a spouse).

C. Although clients shall be informed of the right to make such requests, SBC is not required to agree to such requests, and only the SBC provider responsible for the client's care may make the decision as to whether to agree or not agree to such a request.

D. Upon agreement to a restriction, the agreement can only be broken during a medical emergency and only if the restricted information is needed to provide the emergency treatment.

E. An agreement to restrict information doesn't prevent uses or disclosures made for the following purposes:

1. For public health activities;
2. For reporting abuse, neglect, domestic violence or other crimes;
3. For health agency oversight activities or law enforcement investigations;
4. For judicial or administrative proceedings;
5. For certain research activities; and
6. For uses or disclosures otherwise required by law.

F. An agreement to a special restriction may be terminated as follows:

1 The client agrees to or requests the termination in writing;

2 The client orally agrees to the termination and the oral agreement is documented; or

3 The SBC provider informs the client that it is terminating the agreement; however, the termination shall be effective only with respect to PHI created or received after the client has been notified of the termination.

G. A SBC provider that agrees to a special restriction must document the restriction in the client's medical record. Such documentation must be retained for at least six years.

VI. Right to Request Restrictions on the Manner and Method of Confidential Communications

A. SBC shall inform clients through the Notice of the right to request to receive communications of PHI by alternative means or at alternative locations. For example, some clients may not want their appointment notices, bills, or explanation of benefits to go to their home where a family member might see it.

B. SBC shall accommodate reasonable requests and shall not require an explanation from the client as to why he/she is requesting an alternative means or location of communication.