

(was Administrative Policy 9-09-020)

Chapter: **DIRECTLY-OPERATED PROGRAM MANAGEMENT**
 Title: **BUSINESS ASSOCIATES**

Prior Approval Date: N/A
 Current Approval Date: 12/6/07

Approved by: _____

Executive Director

Date

I. ABSTRACT

This policy establishes the standards and procedures of the Macomb County Community Mental Health Board (MCCMH) for compliance with the Privacy Rules of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) by establishing the nature of the third party relationships that are to be considered Business Associates and the requirements for establishing contracts with them for protection of consumer personal health information.

II. APPLICATION

This policy shall apply to the MCCMH administrative offices and to all directly-operated network providers of the MCCMH Board.

III. POLICY

It is the policy of the MCCMH Board that any vendor or contractor who proposes to do or is doing business with Board shall be subjected to criteria to determine whether the vendor or contractor is a Business Associate and, if so, to sign a Business Associate Agreement to protect personal health information of consumers of the MCCMH Board.

IV. DEFINITIONS

- | | | |
|-----------------------|----|---|
| A. Business Associate | -- | any entity which |
| | 1. | performs a function or activity on behalf of the MCCMH Board that involves the use or disclosure of personal health information or provides any legal, actuarial, accounting, consulting, data aggregation or management, administrative, accreditation, or financial services to or for the Board; |
| | 2. | is <u>not</u> involved in the treatment of consumers; and |
| | 3. | is <u>not</u> providing consumer-conducted financial transactions. |

- B. Personal Health Information – individually identifiable information which relates to a consumer's past, present or future physical or mental health, treatment or payment for health care services.

V. STANDARDS

- A. Any vendor or contractor (not a member of the MCCMH work force) who qualifies as a Business Associate will be required to sign a Business Associate Agreement.
- B. Protection of consumer health information is important to the MCCMH Board, which therefore requires its staff members to be sensitive to the behavior of its Business Associates and to report any conduct that appears inappropriate as a possible violation of MCCMH privacy rules.
- C. All Business Associate agreements shall follow basically the form of the contract approved by the Macomb County Corporation Counsel.
 - 1. No Business Associate Agreement can be modified, changed, or amended without the approval of legal counsel and the MCCMH Executive Director or designee.
 - 2. Business Associate agreements may contain, on the advice of Counsel, certain provisions for the oversight of the contract including on-site audits and self-reporting by the Business Associate of breaches of the agreement.

VI. PROCEDURES

- A. The MCCMH Business Manager, in consultation with the Privacy and Compliance Officer, shall be responsible for developing and maintaining an updated current list of MCCMH's business associates.
 - 1. The MCCMH Business Manager, in consultation with the Privacy and Compliance Officer, shall distribute a listing of the current MCCMH business associate relationships, including the scope of work and types of allowed disclosures of personal health information, to all supervisors and management staff.
 - 2. Management staff shall be aware of MCCMH's Business Associate relationships in order to provide adequate oversight of the Business Associate's work for their division (including the appropriateness of disclosures of personal health information) and its adherence to the MCCMH privacy requirements.
- B. MCCMH Business Management staff shall maintain knowledge of current MCCMH Board Business Associate relationships to ensure that the appropriate pre-contract procedures can be instituted.
- C. Staff should assume that most relationships with outside entities or agencies that are

not treatment-related could be Business Associate relationships and should contact the MCCMH Corporate Compliance Officer to determine if a Business Associate agreement is needed, preferably prior to the establishment of a contract with the entity or agency.

VII. REFERENCES / LEGAL AUTHORITY

- A. Health Insurance Portability and Accountability Act of 1996 (HIPAA), P.L. 104-191
- B. 45 CFR §§ 160.103, 164.501, 164.502(e), 164.514(e)

VIII. EXHIBITS

- A. None.