

DEFINITIONS

Policy Number: [Enter]

Effective Date: [Enter]

In General: Any terms used but not otherwise defined in this policy have the definitions set forth in HIPAA Privacy Rule, HIPAA Security Rule and HIPAA Breach Notification Rule, 42 C.F.R. Part 2, or the Minnesota Health Records Act, as applicable. The following definitions have a meaning specific to this policy or, if the definitions are the same as the definitions provided in the applicable law, are provided for the convenience of the reader.

- 1) **Affiliate:** An entity that controls, is controlled by, or is under common control with another entity.
- 2) **Authorization:** A signed written document meeting the requirements of 45 C.F.R. § 164.508.
- 3) **Breach:** Except as otherwise provided in the HIPAA breach notification rule, “breach” means the acquisition, access, use, or disclosure of protected health information in a manner not permitted by the Privacy Rule which compromises the security or privacy of the protected health information.
- 4) **Consent:** Written permission to release health information that is dated and signed by the individual.
- 5) **Health Care Operations:** Any of the following activities, to the extent that the activities are related to covered functions:
 - (i) Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; patient safety activities (as defined in 42 CFR 3.20); population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
 - (ii) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;
 - (iii) Except as prohibited under § 164.502(a)(5)(i), underwriting, enrollment, premium rating, and other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and

excess of loss insurance), provided that the requirements of § 164.514(g) are met, if applicable;

- (iv) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
 - (v) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and
 - (vi) Business management and general administrative activities of the entity, including, but not limited to:
 - (A) Management activities relating to implementation of and compliance with the requirements of this subchapter;
 - (B) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that protected health information is not disclosed to such policy holder, plan sponsor, or customer.
 - (C) Resolution of internal grievances;
 - (D) The sale, transfer, merger, or consolidation of all or part of *[Organization]* with another covered entity, or an entity that following such activity will become a covered entity and due diligence related to such activity; and
 - (E) Consistent with the applicable requirements of [§ 164.514](#), creating de-identified health information or a limited data set, and fundraising for the benefit of *[Organization]*.
- 6) **HIPAA**: The federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and the accompanying Regulations.
- 7) **Marketing**: Marketing includes any communication about *[Organization]*'s products or services that encourages individuals to purchase or use the products or services. Marketing does not include a communication made:
- (i) to provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the individual, provided any financial remuneration received by *[Organization]* in exchange for making the communication is reasonably related to *[Organization]*'s cost of making the communication;
 - (ii) For the following treatment and health care operations purposes, except where *[Organization]* receives financial remuneration in exchange for making the communication:
 - (A) For treatment of an individual by *[Organization]*, including case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual;

- (B) To describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, [*Organization*], including communications about: the entities participating in a health care provider network or health plan network; replacement of, or enhancements to, a health plan; and health-related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits; or
 - (C) For case management or care coordination, contacting of individuals with information about treatment alternatives, and related functions to the extent these activities do not fall within the definition of treatment.
- 8) **Medical Emergency**: Medically necessary care which is immediately needed to preserve life, prevent serious impairment to bodily functions, organs, or parts, or prevent placing the physical or mental health of the patient in serious jeopardy.
- 9) **Mental Health Records**: Information, whether oral or recorded, that relates to the past, present, or future mental health or condition of an individual.
- 10) **Minnesota Health Records Act**: Minnesota Statutes sections 144.291–144.298.
- 11) **Payment**: Payment means:
- (i) The activities undertaken by:
 - (A) Except as prohibited under 45 CFR § 164.502(a)(5)(i), a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or
 - (B) A health care provider or health plan to obtain or provide reimbursement for the provision of health care; and
 - (ii) The activities in section (i) of this definition relate to the individual to whom health care is provided and include, but are not limited to:
 - (A) Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts), and adjudication or subrogation of health benefit claims;
 - (B) Risk adjusting amounts due based on enrollee health status and demographic characteristics;
 - (C) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess of loss insurance), and related health care data processing;
 - (D) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;
 - (E) Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and

(F) Disclosure to consumer reporting agencies of any of the following protected health information relating to collection of premiums or reimbursement:

- (1) Name and address;
- (2) Date of birth;
- (3) Social security number;
- (4) Payment history;
- (5) Account number; and
- (6) Name and address of the health care provider and/or health plan.

12) **PHI**: Protected health information as defined in 45 C.F.R. 160.103.

13) **Psychotherapy Notes**: Notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record. Psychotherapy notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: Diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

14) **Qualified Service Organization**: An individual or entity who:

- (i) Provides services to a part 2 program, such as data processing, bill collecting, dosage preparation, laboratory analyses, or legal, accounting, population health management, medical staffing, or other professional services, or services to prevent or treat child abuse or neglect, including training on nutrition and child care and individual and group therapy, and
- (ii) Has entered into a written agreement with a part 2 program under which that individual or entity:
 - (A) Acknowledges that in receiving, storing, processing, or otherwise dealing with any patient records from the part 2 program, it is fully bound by the Part 2 regulations; and
 - (B) If necessary, will resist in judicial proceedings any efforts to obtain access to patient identifying information related to substance use disorder diagnosis, treatment, or referral for treatment except as permitted by the Part 2 regulations.

15) **Regulations**: the HIPAA Privacy Rule ("Privacy Rule"), HIPAA Security Rule ("Security Rule"), and the HIPAA Breach Notification Rule ("Breach Notification Rule"), which are codified in 45 C.F.R. Parts 160 and 164.

- 16) **Related Health Care Entity**: An Affiliate of the provider releasing the health records.
- 17) **Secretary**: The Secretary of the United States Department of Health and Human Services
- 18) **Substance Use Disorder**: A cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite significant substance-related problems such as impaired control, social impairment, risky use, and pharmacological tolerance and withdrawal. This definition does not include tobacco or caffeine use.
- 19) **Treating Provider Relationship**: Means that, regardless of whether there has been an actual in-person encounter:
- (i) A patient is, agrees to, or is legally required to be diagnosed, evaluated, and/or treated, or agrees to accept consultation, for any condition by an individual or entity, and;
 - (ii) The individual or entity undertakes or agrees to undertake diagnosis, evaluation, and/or treatment of the patient, or consultation with the patient, for any condition.
- 20) **Treatment**: The provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.
- 21) **Withdrawal Management**: The use of pharmacotherapies to treat or attenuate the problematic signs and symptoms arising when heavy and/or prolonged substance use is reduced or discontinued
- 22) **Workforce**: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such covered entity or business associate, whether or not they are paid by the covered entity or business associate.