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| Exhibit | Description |
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| Manual Exhibit 2-7-A - | Policy and Procedure for Clients' Rights to Access, Inspect, and Obtain a Copy of Their Protected Health Information |
| Manual Exhibit 2-7-B - | Policy and Procedure for Matters Related to Accounting of Disclosures of Protected Health Information |
| Manual Exhibit 2-7-C - | Policy and Procedure for the Transmittal of Confidential Communication by Alternate Means or to an Alternate Location |
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| Manual Exhibit 2-7-M - | Policy and Procedure for Use and Disclosure of Protected Health Information for Involvement in the Client's Care and for Notification Purposes |
| Manual Exhibit 2-7-N - | Policy and Procedure for Maintenance, Use, and Disclosure of Psychotherapy Notes |
| Manual Exhibit 2-7-O - | Policy and Procedure for Use and Disclosure of Protected Health Information for Research Purposes |
| Manual Exhibit 2-7-P - | Policy and Procedure for Request for Restriction(s) on the Use and Disclosure of Protected Health Information |
| Manual Exhibit 2-7-Q - | Policy and Procedure for Disclosure of Protected Health Information of Un-Emancipated Minors |
| Manual Exhibit 2-7-R - | Policy and Procedure for Verification of Identity Prior to Disclosure of Protected Health Information |
| Manual Exhibit 2-7-S - | Policy and Procedure for the Use and Disclosure of Protected Health Information for Emancipated Minors and Adults with Personal Representatives or Legal Guardians |
| Manual Exhibit 2-7-T - | Policy and Procedure for the Disclosure of Protected Health Information to Law Enforcement Officials |

2-7.1 INTRODUCTION

A.Purpose. The purpose of this chapter is to provide instructions and guidance regarding the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and the Privacy Act requirements.

B.Background. This chapter contains the Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedures developed to achieve compliance with the HIPAA Privacy Rule, NW BOCES Notice of Privacy Practices (NPP) or “Notice,” including the use of new forms and the instructions for completing them, and sending or receiving confidential information by facsimile.

The HIPAA Privacy Rule requires NW BOCES to implement new procedures for protecting protected health information (PHI) created or received by NW BOCES, or in its direct possession or control. The implementation of these new procedures requires the use of newly developed HIPAA-specific forms.

The HIPAA Privacy Rule requires that NW BOCES provide all beneficiaries (individuals) with a Notice specifying how their personal PHI may be used and disclosed, how the individual can get access to such information, and the obligations NW BOCES has to clients regarding the use and disclosure of such information. In addition, NW BOCES must attempt to obtain acknowledgment from the client(s) they have received the Notice prior to NW BOCES providing treatment to the extent possible.

Client health information must be transmitted in accordance with the requirements of *5 United States Code* (U.S.C.), Section 552a, the Privacy Act of 1974, as amended; *45 Code of Federal Regulations* (CFR) Part 160 the HIPAA General Administrative Requirements; and 45 CFR Part 164, Security and Privacy Rule. Note: Due to the complex and distinct issues related to computer-based electronic transmission of health information, this chapter is not intended to address the safeguards necessary to ensure the confidentiality of that particular form of health information transmission. These safeguards can be found in 45 CFR 164.308; 45 CFR 164.310; 45 CFR 164.312; and 45 CFR 164.530(c)(1)-(2).

C.Authority.

- (1) Privacy Act of 1974 as amended, 5 U.S.C., Section 552a;
- (2) General Administrative Requirements, 45 CFR, Part 160; and
- (3) The HIPAA Security and Privacy Rule, 45 CFR, Part 164.

D.Policy. It is the policy of NW BOCES to:

- (1) fully comply with the requirements of the HIPAA General Administrative Requirements, the Privacy Rule, and the Privacy Act,
- (2) provide every client who receives services at an NW BOCES facility with a copy of the Notice of Privacy Practices or NW BOCES “Notice,”

(3)ask the client to acknowledge receipt when given a copy of NW BOCES “Notice,” and

(4)ensure the confidentiality of all client records transmitted by facsimile.

2-7.2 RESPONSIBILITIES

A.Director, NW BOCES. NW BOCES Administrative Director administratively ensures that NW BOCES is in compliance with all requirements of the HIPAA legislation.

2-7.3 DEFINITIONS

A.Accounting of Disclosures. NW BOCES, with respect to each system of records under its direct control (i.e., Privacy Act System of Record 09-17-0001, Medical, Health and Billing Records) must keep a record of the date, nature, and purpose of each disclosure of a record to any person or agency under subsection (b) of the Privacy Act (5 U.S.C. 552a) and the name and address of the person or agency to whom the disclosure is made. An accounting need not be kept of intra-agency disclosures and Freedom of Information Act disclosures. This record must be kept for 5 years or the life of the record; whichever is longer, after the disclosure for which the accounting has been made. An individual (beneficiary) is entitled, upon request, to get access to this disclosure record of his or her own personal records with the exception for disclosures made under subsection (b) (7) of the Privacy Act (as a result of civil or criminal law enforcement activity). NW BOCES must inform any person or other agency about any correction or notation of dispute made by NW BOCES in accordance with subsection (d) of the Privacy Act (Access of Records) of any record that has been disclosed to the person or agency if an accounting of the disclosure was made. This is a mandatory reporting requirement and may be recorded utilizing NW BOCES Form 505, Disclosure Accounting Record or the Resource and Client Management System Release of Information software application.

B.Designated Record Set. A designated record set means:

(1)A group of records maintained by or for a covered entity that includes:

a.the medical, health, and billing records about individuals maintained by or for a covered health care provider;

b.the enrollment, payment, claims adjudication, and case, or medical management record systems maintained by or for a health plan; or

c.used, in whole, or in part, by or for the covered entity to make decisions about individuals.

(2)For purposes of this paragraph, the term “records” means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a covered entity.

C.Facility Directory. In the Privacy Rule and for NW BOCES purposes, this applies only to directories at inpatient facilities.

D.Health Information. The official definition means any information, whether oral or recorded in any form or medium, that:

- (1)is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
- (2)relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

E.Highly Sensitive Health Information. Highly sensitive health information is any PHI relating to:

- (1)The diagnosis, treatment, or referral for the Human Immunodeficiency Virus or other sexually transmitted diseases.
- (2)The diagnosis, treatment, or referral for cancer or other life-threatening illnesses.
- (3)The diagnosis, treatment, or referral for treatment of sexual assault/abuse, mental illness, and/or alcohol or substance abuse.

F.Individually Identifiable Health Information. Individually identifiable health information is information that is a subset of health information, including:

- (1)demographic information collected from an individual;
- (2)demographic information that is created or received by a health care provider, health plan, employer, or health care clearinghouse;
- (3)demographic information that relates to the past, present, or future physical or mental health or condition of an individual;
- (4)the provision of health care to an individual; or
- (5)the past, present, or future payment for the provision of health care to an individual; and
- (6)that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

G.Notice of Privacy Practices. The Notice of Privacy Practices or “Notice” is a document describing:

- (1)How an individual’s PHI, which is created and maintained by or for NW BOCES may be used and disclosed by NW BOCES.
- (2)The individual’s rights, including how to access PHI.
- (3)NW BOCES responsibilities with respect to PHI.

H.Protected Health Information. Protected health information means individually identifiable health information:

(1)Except as provided in paragraph (2) of this definition, that is:

- a.transmitted by electronic media;
- b.maintained in electronic media; or
- c.transmitted or maintained in any other form or medium.

(2)Protected health information excludes individually identifiable health information in:

- a.education records covered by the Family Educational Rights and Privacy Act, as amended (20 U.S.C.1232g);
- b.records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and
- c.employment records held by a covered entity in its role as employer.

I.Psychotherapy Notes. This means 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 separate from the rest of the individual's medical record. Psychotherapy notes exclude 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, treatment plan, symptoms, prognosis, and progress to date.

2-7.4 PROCEDURES

A.Designation of Privacy Official. NW BOCES shall designate a Privacy Official who shall be responsible for development of local policies and procedures for HIPAA Privacy compliance within the Service Unit. The Privacy Official must be knowledgeable of HIPAA Privacy Rule requirements; HIPAA complaint processes and procedures; and capable of resolving HIPAA privacy issues. The Privacy Official may be the same individual designated to carry out the responsibilities of the Privacy Act (these two regulations may overlap in regards to PHI).

B.Training. All NW BOCES facilities must provide initial HIPAA Privacy overview training to all employees, volunteers, and on-site contractors. New employees must receive training as soon as possible, but no later than 30 days after official date of hire. Function-specific training must also be provided to other categories of staff such as health information management staff, business office staff, and nursing and medical staff. Training must also be provided to designated staff when policies and procedures are revised. Privacy training provided to staff shall be documented in their personnel file and maintained in writing or electronically for 6 years.

C.Safeguards. NW BOCES shall put in place policies and procedures to safeguard PHI in accordance with the Privacy Act and the HIPAA Privacy and Security regulations for both electronic and paper records to include administrative, technical and physical safeguards. Examples:

- (1) Administrative safeguards include policies related to orientation and termination policies, incident reporting policies, access, contingency, and disaster recovery.
- (2) Technical safeguards include user access and restrictions, user monitoring, authentication, and password issuance.
- (3) Physical safeguards include physical access control before, during, and after business hours, document shredding policies, and medical record removal from a facility.

D.Complaints. All complaints regarding HIPAA Privacy and Privacy Act violations shall be addressed to the Administrative Director or designee. Complaints must be documented, maintained, and filed, and include a brief explanation of resolution, if any. Note: Individuals may also file complaints directly to the Secretary, Department of Health and Human Services (HHS).

E.Sanctions. All NW BOCES facilities shall develop appropriate policies and procedures using current NW BOCES policies and procedures, other Federal statutes including employee Standards of Conduct (5 CFR Part 2635); Privacy Act (45 CFR Appendix A -Part 5b); HIPAA Privacy Rule (45 CFR Part 164), and any other personnel system policies.

- (1) Employees must be made aware of these policies and procedures during training. Sanctions could range from warning to termination depending on the level of violation.
- (2) If applicable, facilities must document that the sanctions are applied.

F.Prohibited Sanctions. NW BOCES shall not invoke sanctions against employees, volunteers, and/or on-site contractors under the following conditions:

(1) Whistleblower. If an employee discloses PHI provided he or she believes in good faith that the facility is in violation of HIPAA or other clinical or health care standards or that facility activities or conditions could potentially endanger a client (or clients), employee, or member of the public, so long as the disclosure is made to:

- a. a healthcare oversight authority, law enforcement agency, or public health authority authorized by law to investigate such violations or an accreditation organization for the purpose of reporting the failure to meet standards or misconduct by NW BOCES; or
- b. an attorney retained by the employee for the purpose of determining his or her legal options with regards to an NW BOCES facility's conduct.

(2) Law Enforcement. Disclosure by an employee (member of the workforce) who is a victim of a crime to a law enforcement official provided that PHI disclosed is about the suspected criminal and PHI disclosed is limited to the following:

- a. Name and address
- b. Date and place of birth
- c. Social Security Number
- d. ABO blood type and Rh factor
- e. Type of injury

f. Date and time of treatment

g. Date and time of death, if applicable

h. A description of distinguishing physical appearance including height, weight, gender, race, hair or eye color, and the presence or absence of facial hair, scars, and tattoos.

G. Mitigation. When NW BOCES becomes aware of possible violation of the use or disclosure of PHI by one or more of its employees or by a business associate, the facility shall take reasonable steps to ensure mitigation of the disclosure or violation. For example, when PHI has been improperly disclosed, steps shall be taken to mitigate its improper use based on knowledge on how such information might be used.

H. Refraining From Intimidating or Retaliatory Acts. NW BOCES shall not intimidate, threaten, coerce, discriminate against, or take retaliatory action against clients for exercising their rights under the HIPAA Privacy Rule, or against any person including employees, volunteers, and on-site contractors, for participating in any process established for:

(1) filing privacy complaints with the Secretary, HHS;

(2) testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing related to the Privacy Rule; or

(3) opposing any act or unlawful practice under the Privacy Rule and the manner of opposition is reasonable and does not involve a disclosure of PHI not permitted.

I. Waiver of Rights. Individuals shall not be required to waive their rights under the HIPAA Privacy Rule in any NW BOCES facility, including, but not limited to, their rights to file a complaint with the Secretary, HHS, as a condition for the provision of treatment, payment, eligibility (Contract Health Service), or other benefits.

**POLICY AND PROCEDURE FOR CLIENTS' RIGHTS TO ACCESS, INSPECT,
AND OBTAIN A COPY OF THEIR PROTECTED HEALTH INFORMATION**

1. **PURPOSE.** The purpose of Manual Exhibit 2-7-A is to specify Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedures regarding the rights of clients, under certain circumstances, to access, inspect, and obtain a copy of their Protected Health Information (PHI).
2. **POLICY.** It is NW BOCES policy to provide clients or their personal representatives the maximum rights under these statutes and regulations to access, inspect, and obtain copies of their PHI that is maintained in a PASOR and/or a HIPAA Privacy Rule-designated record set. With respect to access by or on behalf of unemancipated minors, please refer to the Manual Exhibit 2-7-Q, "Policy and Procedure on Protected Health Information of Unemancipated Minors."
3. **PROCEDURES FOR ACCESS WHEN RECORDS ARE SUBJECT TO THE PRIVACY ACT.** In most instances, client medical records will be subject to both the Privacy Act and the HIPAA Privacy Rule. Because the HHS Privacy Act regulations and the HIPAA Privacy Rule have different procedures governing client access to medical records, NW BOCES is required to choose the procedure that provides the client with the greatest access to his or her own PHI. Because the Privacy Act access procedures provide the client with greater access to his or her own PHI than the HIPAA Privacy Rule access procedures do, NW BOCES must follow the Privacy Act access procedures when determining whether to provide a client with access to his or her PHI.

The following procedures shall be used when a client whose records are subject to the Privacy Act makes a request to access, inspect, and/or obtain a copy of their PHI. In all other instances, the service unit shall follow the procedures set forth in Sections 5 and 6 below.

A. Making the Initial Request.

- (1) **Request Must be Made in Writing.** A client must submit a written request to NW BOCES Administrative Director.
- (2) **Confirming Client's Identity.** The identity of the individual requesting access to a client's records shall be determined in accordance with the instructions contained in Manual Exhibit 2-7-R, "Policy and Procedures for Verification of Identity Prior to Disclosure of Protected Health Information."
- (3) **Client Must Designate a Representative.** At the time of the request for PHI, the client must designate, in writing, a representative willing to review the record and inform the client of its contents at the representative's discretion. The representative may be a physician, other health professional, or other responsible individual.
- (4) **Authorizing a Third Party to Accompany Client During a Meeting.** If the client requests access to his or her PHI, and is accompanied by another individual, the client must affirmatively authorize the presence of the other individual during any discussion of a record to which access is requested.
- (5) **Requesting Copies.** In addition to requesting notification and access to records, the client may request copies be made of such records in accordance with the fee schedule set forth at 45 CFR 5b.13.

(6) Maintaining Copy of Requests for Access. All requests, designations, and correspondence relating to the client's request for access should be maintained in a client's medical record.

B. Time Period to Act on Request. When a client makes a request to access, inspect, and obtain a copy of their PHI, NW BOCES Administrative Director or his or her designee must act upon the request:

- (1) within 30 days of receipt of the written request if the information is maintained or accessible onsite or
- (2) within 60 days if it is not maintained or accessible onsite.

C. Extension. A one-time 30-day extension is permitted to complete action on a written request. A written statement signed by NW BOCES Administrative Director or his or her designee describing the reason(s) for the delay and a date by which action on the request will be completed must be provided to the client (or the client's personal representative, if applicable) within the 30-day or 60-day time frame.

D. Access Granted in Whole or in Part. A client must be granted direct access to his or her PHI if NW BOCES Administrative Director or designee determines that direct access is not likely to have an adverse effect on the client.

- (1) If direct access is granted, in whole or in part, NW BOCES Administrative Director designee shall inform the client in writing that he or she may inspect and/or obtain a copy of his or her PHI.
- (2) NW BOCES is only required to produce the PHI once per request even if the record is maintained in more than one location or in more than one designated set of records.
- (3) NW BOCES must provide the information in the requested form or format if it is readily producible. If it is not, NW BOCES must produce a readable hard copy in another form or format upon which both the client and NW BOCES have agreed.
- (4) Subject to the client's agreement in advance, a summary or an explanation of the PHI may be provided in lieu of the underlying information, but the client retains the right of access to both summaries and underlying information.
- (5) When a copy is provided, the date on which the copy is delivered must be entered in the client's chart.
- (6) Access must be provided at a mutually convenient time and place for inspection or copying. If requested, NW BOCES must mail the PHI, but may charge a cost-based fee for copying, in addition to postage.

E. Access Denied in Whole or in Part.

- (1) If NW BOCES Administrative Director or designee believes that he or she is not qualified to determine, or if he or she does determine, that direct access by the client of the PHI is likely to have an adverse effect on the client, then the applicable record must be sent to the client's designated representative, and the client will be notified in writing that the record has been sent to the designated representative.

(2) If NW BOCES sent the record to the client's designated representative, the designated representative should consider whether there would be any adverse effects on the client.

(3) The client will be allowed access to his or her record consistent with a determination by the client's designated representative of the manner of disclosure, if any, that would limit any likely adverse effect on the client.

F. Denial of Access of Information Compiled in Reasonable Anticipation of Litigation. In no event shall NW BOCES provide a client, or a client's designated representative, with access to information compiled in reasonable anticipation of, or for use in, civil, criminal, or administrative actions or proceedings. In such instances, the client should be notified in writing of the Agency's decision to deny access to such information on the grounds that such information was compiled in reasonable anticipation of, or for use in, civil, criminal, or administrative actions or proceedings, citing 5 U.S.C. § 552a(d)(5).

Note: This type of information should not be filed in the client's medical record. Should such information be found in the client's medical record, contact NW BOCES Administrative Director.

6. PROCEDURES FOR ACCESS TO DECEASED CLIENT RECORDS OR RECORDS OF NON-U.S. CITIZENS WHO ARE NOT LAWFULLY ADMITTED FOR PERMANENT RESIDENCE. The medical records of certain clients are expressly exempted from coverage under the Privacy Act: namely, medical records of deceased clients, and medical records of clients who are neither U.S. citizens nor aliens lawfully admitted for permanent residence in the United States. The procedures for handling such requests are set forth in this Section 5 and, for requests for access to the medical records of deceased clients by individuals who are the deceased client's personal representative, in Section 6 below.

A. Making the Initial Request.

(1) Request Must be in Writing. A client (or the client's legal representative or other third party seeking access to a deceased client's PHI) must submit a written request to NW BOCES Administrative Director or designee of the facility that maintains the PHI, specifying the records the individual would like notification of or access to.

(2) Authorizing a Third Party to Accompany Client During a Meeting. If the client requests access to his or her record, and is accompanied by another individual, the client must affirmatively authorize the presence of the other individual during any discussion of a record to which access is requested.

(3) Confirming Client's Identity. The identity of the individual requesting access to a client's records shall be determined in accordance with the instructions contained in Manual Exhibit 2-7-R "Policy and Procedures for Verification of Identity Prior to Disclosure of Protected Health Information."

(4) Determining Whether Individual is a Deceased Client's Personal Representative. If an individual is seeking access to the records of a deceased client on the basis that he or she has the legal authority to act on behalf of the deceased client or the deceased client's estate, the facility must first determine if the individual is the "personal representative" of the deceased

client as that term is defined in the HIPAA Privacy Rule, 45 CFR § 164.502(g)(4). In making this determination, the facility should follow the procedures set forth in Manual Exhibit 2-7-S, "Policy and Procedures for the Use and Disclosure of Protected Health Information for Emancipated Minors and Adults with Personal Representatives or Legal Guardians." If the individual is deemed to be the client's personal representative, the request for access shall be processed in accordance with the procedures set forth in this Section 5. If the individual is deemed to be the deceased client's personal representative, the request shall be processed in accordance with the procedures set forth in Section 6 below.

- (5) Access to PHI in the Format Requested. NW BOCES may provide access to the PHI in the form or format requested by the individual, if the facility where the record resides has the capability to produce it in the format requested. For example, if an individual requests a record in a compact disc (CD) format, it may be copied to a CD if the facility has the capability to do so.

Note: Request to send PHI information via e-mail shall not be honored until NW BOCES develops policy and procedures for e-mail receipt and transmission of PHI.

- (6) Maintaining Copy of the Request. All requests, designations, and correspondence relating to a client's request for access should be maintained in the client's medical record.

B. Time Period to Act on Request. When a client or the client's personal representative makes a request to access, inspect, and obtain a written copy of their PHI, NW BOCES Administrative Director or his or her designee must act upon the request:

- (1) within 30 days of receipt of the request if the information is maintained or accessible onsite or
- (2) within 60 days if it is not maintained or accessible onsite.

C. Extension. A one-time 30-day extension is permitted to complete action on the written request. A written statement signed by NW BOCES Administrative Director or his or her designee describing the reason(s) for the delay and a date by which action on the request will be completed must be provided to the client (or the client's personal representative, if applicable) within the 30-day or 60-day time frame.

D. Access Granted in Whole or in Part.

- (1) If direct access is granted, in whole or in part, NW BOCES Administrative Director or designee shall inform the client in writing that he or she may inspect and/or obtain a copy of his or her PHI.
- (2) NW BOCES is only required to produce the PHI once per request even if the record is maintained in more than one location or in more than one designated set of records.
- (3) NW BOCES must provide the information in the requested form or format if it is readily producible. If it is not, NW BOCES must produce a readable hard copy in another form or format upon which both the client and NW BOCES have agreed.
- (4) Subject to the client's agreement in advance, a summary or an explanation of the PHI may be provided in lieu of the underlying information, but the client retains the right of access to both summaries and underlying information.

(5) Access must be provided at a mutually convenient time and place for inspection or copying. If requested by the client or his or her personal representative, NW BOCES shall copy and mail the PHI, but may impose a reasonable, cost-based fee for copying and postage. (See the fee schedule at 45 CFR 5b.13.)

(6) NW BOCES may provide access to the PHI in the form or format requested by the individual, if the facility where the record resides has the capability to produce it in the format requested. For example, if an individual requests record in a CD format, it may be copied to a CD if the facility has the capability to do so.

Note: Request to send information via e-mail shall not be honored at this time until NW BOCES develops policy and procedures for e-mail receipt and transmission of PHI.

(7) When a copy is provided, the date on which the copy is delivered must be entered in the client's chart.

E. Access Denied in Whole or in Part. In some instances, a request for access, either by the client or by his or her personal representative, will need to be denied. Under the HIPAA Privacy Rule, certain denials are unreviewable, while others require NW BOCES Administrative Director or (his or her designee) to provide the client (or his or her personal representative) with the right to request review of the initial denial decision. The grounds for denial that are unreviewable are set forth in section 6E(1) below, while the grounds for reviewable denials are set forth in section 6E(2) below. All requests for access that are denied, whether in whole or in part and for any reason (unreviewable or reviewable denials) must be processed pursuant to the procedures set forth in Section 6E(3) below. Additionally, access denials must comply with the review procedures set forth in Section 6E(4) below.

(1) Unreviewable Grounds for Denial. The following grounds for denial of a request for access are unreviewable:

a. The records requested are "psychotherapy notes." (See Manual Exhibit 2-7-N, "Policy and Procedure for Maintenance, Use, and Disclosure of Psychotherapy Notes" - Definitions.)

b. NW BOCES may deny access to information compiled in reasonable anticipation of, or for use in, civil, criminal, or administrative actions or proceedings.

Note: This type of information should not be filed in the client's medical record. Should such information be found in the client's record, contact NW BOCES Administrative Director.

c. NW BOCES may deny an individual's access to his or her PHI that is contained in records that are subject to the Privacy Act if the denial of access under the Privacy Act would meet the requirements of that law.

d. NW BOCES may deny an individual's access to his or her PHI if the PHI was obtained from someone other than NW BOCES under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

e. NW BOCES may deny a request to access PHI because NW BOCES does not maintain the requested PHI. However, if NW BOCES knows where it is maintained, NW BOCES shall inform the client where the PHI is maintained and direct the request

to that site.

(2)Reviewable grounds for denial. NW BOCES may deny a client access to PHI in the following circumstances, provided that the client is given a right to have such denials reviewed pursuant to the procedures set forth in Section 6E(3) below:

- a. 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;
- b. 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 such other person; or
- c. 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 such personal representative is reasonably likely to cause substantial harm to the individual or another person.

(3)Procedures to Follow in the Event of a Denial of Access. If access is denied for any reason, NW BOCES Administrative Director or (his or her designee) must use the following procedures:

- a. NW BOCES Administrative Director or (his or her designee) must, to the extent possible, give the individual access to any PHI requested that is not subject to the denial decision.
- b. NW BOCES Administrative Director or (his or her designee) must provide a timely, written denial, written in plain language that includes:
 - (i) the basis for the denial;
 - (ii) if applicable, a statement of the individual's rights to request a review of the denial decision: and
 - (iii) a description of the facility's complaint procedures.

(4)Review of Denial Requested. If the individual has requested a review of a reviewable denial decision, then the facility must designate a licensed health care professional to act as a reviewing official, and promptly refer the request to such designated health professional for his or her review. That official must not have participated in the facility's original decision to deny access. The designated reviewing official must, within a reasonable period of time, determine whether or not to grant the individual the requested access, and the facility shall promptly provide the individual with written notice of such determination. The individual may not request further review of any determination upholding the original denial.

7. PROCEDURES FOR ACCESS TO DECEASED CLIENT RECORDS BY PERSONS WHO ARE NOT THE DECEASED CLIENT'S PERSONAL REPRESENTATIVE. In those instances where an individual who has requested access to PHI of a deceased client is determined not to be the deceased client's personal representative or guardian such requests shall be denied.

POLICY AND PROCEDURE FOR MATTERS RELATED TO ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

1. **PURPOSE.** The purpose of Manual Exhibit 2-7-B is to specify Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedures for making and accounting of (documenting) disclosures and for receiving and processing requests by clients for an accounting of Protected Health Information (PHI) disclosures.
2. **POLICY.** Unless a client requests an accounting of disclosures for a shorter period of time, a client has the right to request and receive (with certain exceptions) an accounting of disclosures of PHI about the client made by NW BOCES, including disclosures to or by its “business associates,” as defined at 45 CFR § 160.103, in the 5 years prior to the date on which the accounting is requested or for the life of the record, whichever is longer.
3. **PROCEDURES.** The following procedures shall be used to make an accounting and to respond to client requests for an accounting of disclosures of PHI.

A. **Disclosures That Do Not Require an Accounting.** The following disclosures do not require an accounting to the client:

(1) Disclosures to officers and employees of the Department of Health and Human Services (HHS) who have a need to know the Information for the performance of their duties, including, but not limited to the performance of treatment, payment, or health care operations that are required in order to investigate or determine compliance with the Privacy Act and Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule requirements.

(2) Disclosures to the client.

(3) Disclosures pursuant to the client’s written authorization.

Note: These disclosures are reported as First Party Requests under the Freedom of Information Act (FOIA) reporting requirements.

(4) Disclosures required under the FOIA.

Note: These disclosures are reported as Third Party Requests under the FOIA reporting requirements.

B. **Disclosures That DO Require an Accounting.** All other areas other than those listed above.

Northwest Wyoming Board of Cooperative Educational Services Privacy Act Routine Uses from the System of Records Medical, Health, and Billing Records:

(1) Records may be disclosed to Federal and non-Federal (public or private) health care providers that provide health care services to NW BOCES individuals for purposes of planning for or providing such services or reporting results of medical examination and treatment.

- (2) Records may be disclosed to Federal, State, local, or other authorized organizations that provide third-party reimbursement or fiscal intermediary functions for the purposes of billing or collecting third-party reimbursements. Relevant records may be disclosed to debt collection agencies under a business associate agreement arrangement directly or through a third party.
- (3) Records may be disclosed to State agencies or other entities acting pursuant to a contract with Centers for Medicare and Medicaid Services (CMS), for fraud and abuse control efforts, to the extent required by law or under an agreement between NW BOCES and respective State Medicaid agency or other entities
- (4) Information from records, such as information concerning the commission of crimes, suspected cases of abuse (including child, elder and sexual abuse), neglect, sexual assault or domestic violence, births, deaths, alcohol or drug abuse, immunizations, cancer, or the occurrence of communicable diseases, may be disclosed to public health authorities or other appropriate government authorities, as authorized by Federal, State, or local law or regulation of the jurisdiction in which the facility is located.
- (5) Information may be disclosed regarding suspected cases of child abuse to:
 - (a) Federal or State agencies that need to know the information in the performance of their duties, and
 - (b) members of community child protection teams for the purposes of investigating reports of suspected child abuse, establishing a diagnosis, formulating or monitoring a treatment plan, and making recommendations to the appropriate court. Community child protection teams are comprised of child protection service agencies, the judicial system, and law enforcement agencies.
- (6) NW BOCES may disclose information from these records in litigations and/or proceedings related to an administrative claim when:
 - (a) NW BOCES has determined that the use of such records is relevant and necessary to the litigation and/or proceedings related to an administrative claim and that such disclosure is compatible with the purpose for which the records were collected.
 - (b) In the litigation and/or proceedings related to an administrative claim described in subsection (a) above, information from these records may be disclosed to a court in response to an order of a court, provided that the covered entity discloses only the information expressly authorized by such order.
- (7) Records may be disclosed under a business associate agreement to a NW BOCES contractor for the purpose of computerized data entry, medical transcription, duplication services, or maintenance of records contained in this system.
- (8) Records may be disclosed under a personal services contract or other agreement to student volunteers, individuals working for NW BOCES, and other individuals performing functions for NW BOCES who do not technically have the status of agency employees, if they need the records in the performance of their agency functions.
- (9) Records regarding specific medical services provided to unemancipated minors may be

disclosed to the unemancipated minor's parent or legal guardian who previously consented to those specific medical services, to the extent permitted under 45 CFR § 164.502(g).

- (10) Records may be disclosed to an individual having authority to act on behalf of an incompetent individual concerning health care decisions, to the extent permitted under 45 CFR § 164.502(g).
- (11) Information may be used or disclosed from a NW BOCES directory in response to an inquiry about a named individual from a member of the general public to establish the individual's presence (and location when needed for visitation purposes) or to report the individual's condition while in treatment (e.g., satisfactory or stable), unless the individual objects to disclosure of this information. NW BOCES may provide the religious affiliation only to members of the clergy.
- (12) Information may be disclosed to a relative, a close personal friend, or any other person identified by the individual that is directly relevant to that person's involvement with the individual's care or payment for health care.

Information may also be used or disclosed in order to notify a family member, personal representative, or other person responsible for the individual's care, of the individual's location, general condition or death,

If the individual is present for, or otherwise available prior to, a use or disclosure, and is competent to make health care decisions:

- (a) may use or disclose after the facility obtains the individual's consent.
- (b) provides the individual with the opportunity to object and the individual does not object, or
- (c) it could reasonably infer, based on professional judgment, which the individual does not object.

If the individual is not present, or the opportunity to agree or object cannot practicably be provided due to incapacity or emergent circumstances, a NW BOCES health care provider may determine, based on professional judgment, whether disclosure is in the individual's best interest, and if so, may disclose only what is directly relevant to the individual's health care.

- (13) Records may be disclosed to Federal and non-Federal protection and advocacy organizations that serve youth for the purpose of investigating incidents of abuse and neglect of individuals with developmental disabilities (including mental disabilities), as defined in 42 U.S.C. §§10801-10805(a)(4) and 42 CFR §§ 51.41-46, to the extent that such, disclosure is authorized by law and the conditions of 45 CFR § 1386.22(a)(2) are met.
- (14) Records of an individual may be disclosed to a correctional institution or a law enforcement official, during the period of time the individual is either an inmate or is otherwise in lawful custody, for the provision of health care to the individual or for health and safety purposes. Disclosure may be made upon the representation of either the institution or a law enforcement official that disclosure is necessary for the provision of health care to the individual, for the health and safety of the individual and others (e.g., other inmates,

employees of the correctional facility, transport officers), and for facility administration and operation. This routine use applies only for as long as the individual remains in lawful custody, and does not apply once the individual is released on parole or placed on either probation or on supervised release, or is otherwise no longer in lawful custody.

(15)Records including client name, date of birth, Social Security Number (SSN) gender and other identifying information may be disclosed to the Social Security Administration (SSA) as is reasonably necessary for the purpose of conducting an electronic validation of the SSN(s) maintained in the record to the extent required under an agreement between NW BOCES and SSA.

(16)Records may be disclosed to a public or private covered entity that is authorized by law or charter to assist in disaster relief efforts (e.g., the Red Cross, Federal Emergency Management Administration), for purposes of coordinating information with other similar entities concerning an individual's health care, payment for health care, notification of the individual's whereabouts and his or her health status or death.

C.How to Make an Accounting (i.e., Document a Disclosure).

(1)Disclosures of PHI that are subject to an accounting should be recorded.

(2)Each accounting (which will be given to the client upon written request) must be in writing, include disclosures to and by NW BOCES contractors and include each disclosure:

a.date of the disclosure;

b.name and address of the person or organization receiving the PHI;

c.a brief description of the PHI disclosed, e.g., immunization record

d.a brief statement of the purpose of the disclosure (or include a copy of the written request for disclosure, if appropriate); and

e.Accountings of oral disclosures of PHI should also include the name, signature and title of staff that made the oral disclosure.

(3)If, during the period covered by the accounting, NW BOCES has made multiple disclosures of PHI to the same client or entity for a single purpose, the accounting may be documented on the first disclosure (or authorization), the frequency or number of disclosures made during the accounting period and the date of the last disclosure during the accounting period.

(4)NW BOCES must provide the first accounting to a client in any 12 month period without charge.

D. Responding to Client Requests for an Accounting of Disclosures.

(1)A request for an accounting of disclosures must be in writing. The request should be submitted to NW BOCES Administrative Director.

(2)When a client requests an accounting of disclosures, the client must present valid identification unless the client is personally known to the employee responding to the client request.

(3) NW BOCES must act on the request no later than 60 days after receipt of the request, and may extend this time for an additional 30 days, so long as it informs the client in writing of the reason(s) for the delay and the date by which the client can expect the accounting. The explanation sent to the client must be retained in the client's medical record.

E. Temporary Suspensions of Accounting for Disclosures to Health Oversight Agencies or Law Enforcement Officials.

(1) A health oversight Agency or a law enforcement official may submit a written statement to request NW BOCES to suspend a client's right to receive an accounting of disclosures. The written statement must specify:

a. the reason that an accounting to the client would be likely to impede the Agency or official's duties.

b. how long the right to receive an accounting must be suspended.

(2) If NW BOCES agrees to suspend a client's right to receive an accounting of disclosures:

a. During the period of suspension, any disclosures requiring an accounting must still be recorded.

b. At the end of the suspension of access, a client's right to receive an accounting is reinstated.

(3) A health oversight Agency or a law enforcement official may request a temporary suspension orally. If the request is made orally, NW BOCES must:

a. document the identity of the Agency or official who made the request and

b. must exclude the disclosure(s) for no longer than 30 days from the date of the request, unless a written request is provided during that time.

(4) If the Agency or official provides a written request that meets the requirements of E(1) (of this section), NW BOCES must temporarily suspend the client's right to an accounting for the time period specified in the written request.

POLICY AND PROCEDURE FOR THE TRANSMITTAL OF
CONFIDENTIAL COMMUNICATION BY ALTERNATE MEANS OR TO AN
ALTERNATE LOCATION

1. **PURPOSE.** The purpose of this Manual Exhibit is to publish the policy and procedure for allowing clients to request the transmission of protected health information (PHI) by alternate means or to an alternate location.

2. **POLICY.** An individual has the right to request the transmission of PHI by alternate means or to an alternate location if the individual makes a written request and the request is reasonable.

3. **DEFINITIONS.**
 - A. **Alternate Means.** Alternate means are methods of sending confidential communications that are different from the usual methods e.g., registered mail, facsimile, e-mail (if encrypted/secured). etc.

 - B. **Alternate Location.** Alternate location means an address different from that listed as the mailing address in NW BOCES record. For example, the client can ask NW BOCES to contact him or her at work, instead of at home, or vice versa.

 - C. **Confidential Communications.** Confidential communications means transmission of a client's PHI from NW BOCES.

4. **PROCEDURES.** The following procedures will be used when clients request transmission of PHI by alternate means or to an alternate location.
 - A. All requests for confidential communications to be sent by alternate means or to an alternate location shall be in writing and must describe the alternate means or the alternate location.

 - B. The Administrative Director or designee will approve or disapprove all requests. Whenever possible, the decision will be given to the client prior to the client leaving the facility. The Administrative Director or designee will approve the request if it is reasonable.

 - C. A written request must be completed to ensure appropriate documentation.

 - D. Requests will be filed or documented in the medical record after the client: has been notified of the decision.

NW BOCES

Request for Confidential Communication by Alternate Means or to an Alternate Location

I, _____ ; Date of Birth _____
request for alternate means of communication of my health information that are different from the usual method, e.g., regular mail, facsimile, address, e-mail (if encrypted/secured), etc. *I understand that request for communication by alternate means or to an alternate location is applicable only to information held by NW BOCES and disclosure by alternate means may not be protected and could endanger me. I also understand that request for email and or fax communication may be intercepted by others and NW BOCES is not responsible if such intercepts occur.*

Please describe in detail your proposed alternate means or to an alternate location for receiving communications from NW BOCES:

Alternate Mailing
Address _____ Alternate
Phone Number: _____
Other Alternate Means _____

This request applies to the following information:

....Today's Date of Service only.
....From.....To.....
....From.....Until Further Notice

Client Signature or Personal Representative

(For NW BOCES use only)

Request Approved.....Denied.....
If denied, reason for denial (check one): Request is not reasonable to accommodate
..... Alternate address or contact not provided
..... Failure to provide information on how payment will be made
(if applicable)
..... Other (Please Explain)

Signature of Employee Title Date

POLICY AND PROCEDURE FOR USE OR DISCLOSURE OF HEALTH INFORMATION
PURSUANT TO AUTHORIZATION OR VALID WRITTEN REQUEST

1. PURPOSE. The purpose of Manual Exhibit 2-7-D is to publish the policy and procedure for disclosing protected health information (PHI) pursuant to the client's authorization or a valid written request in accordance with the Privacy Act of 1974, as amended, 5 *United States Code* (U.S.C.) 552a; the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, 45 *Code of Federal Regulations* (CFR) Parts 160 and 164; Confidentiality of Alcohol and Drug Abuse Client Records, 42 CFR Part 2; Confidentiality of Mental Health Records, 42 CFR Part 51; and the Freedom of Information Act, 5 U.S.C. 552.

2. POLICY It is Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy that a client must complete and sign a written request for authorization for use or disclosure of health information prior to disclosing health information for any purpose.
 - A. A valid written request from the client may also be honored.
 - B. Authorization for use and disclosure of PHI is not required to be completed for disclosures for which authorization is not required.

3. PROCEDURE. The following procedures will be used when clients authorize disclosures of PHI and will govern how disclosure of PHI will be accomplished for valid authorizations or written requests received by NW BOCES. Adherence to the following procedures is required.
 - A. Only authorizations with valid signatures will be processed by NW BOCES.
 - B. An individual may authorize a release of PHI by completing and signing the authorization.
 - C. Blanket authorization (no specified individual or organization or for a time period which exceeds one year) or duplicated authorizations will not be honored.
 - D. The authorization will terminate one year from the date of signature unless the client specifies a different expiration date or expiration event.
 - E. A written request must identify the individual and description of the information desired, such as date of visit or diagnosis/condition. The request must contain the name and address of the requester, date of birth, signature for comparison purposes, and date.
 - F. If the authorization or written request does not contain sufficient information that identifies the client or description of the information requested, the requestor may be contacted for additional specific information in order to process the request.
 - G. Any additional information received will be documented, dated, and initialed on the original written request.
 - H. Verification of the individual requesting disclosure must be performed or comparison of the signature located in the record.

I.If the authorization is signed by a personal representative of the individual, a description of such representative authorized to act for the individual should be documented. Legal documents must be filed into the client's medical record.

J.Information disclosed shall be accompanied by the following re-disclosure statement:

“This information, except for Alcohol and Drug Abuse Record as defined in 42 CFR Part 2, may be subject to re-disclosure by the recipient and may no longer be protected by the Health Insurance Portability and Accountability Act Privacy Rule (45 CFR Part 164) of 1996 and the Privacy Act of 1974 as amended. “

L.A copy of the signed authorization must be provided to the individual and the signed authorization or valid written request must be filed in the client's medical record.

POLICY AND PROCEDURE FOR REQUESTS FOR CORRECTION/AMENDMENT OF
PROTECTED HEALTH INFORMATION

1. PURPOSE. To establish the policy and procedures for receiving and processing requests for correction/amendment of protected health information (PHI).

2. POLICY. Pursuant to the requirements set forth in the Privacy Act as amended, 5 U.S.C. 552a and the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, 45 CFR Parts 160 and 164, every client receiving healthcare services at an Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) facility has the right to request corrections or amendments to his or her PHI contained in NW BOCES Privacy Act System of Records (NW BOCES Medical, Health, and Billing Records System Number 09-17-0001) that was created or received by NW BOCES.

3. REQUEST FOR CORRECTION/AMENDMENT OF PHI. A client who believes that his or her health information is inaccurate or incomplete may submit a request to NW BOCES Administrative Director or his or her designee for correction/amendment of the record in question.
 - A. The client must complete a written request for Correction/Amendment of Protected Health Information.
 - B. The Administrative Director or designee receiving the written request will date the form.
 - C. The client must receive a date stamped copy of the completed form as an acknowledgment of the receipt of the request within 10 working days.
 - D. If a decision on the request for correction/amendment can be made within 10 working days of NW BOCES' receipt of the request, then NW BOCES will simultaneously notify the client of the receipt of the client's correction/amendment request and of its decision within that 10-day period.
 - E. The Administrative Director or designee in consultation with the appropriate staff member will review the request for correction/amendment and will inform the client in writing within 60 days after receipt of the request, of approval or denial of the request for correction/amendment. NW BOCES may extend the time frame one time only for no more than 30 days if it informs the client in writing prior to the expiration of the initial 60 day time frame of the reasons for the delay and the date by which NW BOCES will act on the request. Approvals shall be processed in accordance with the procedures set forth in Section 5 below. Denials shall be processed in accordance with the procedures set forth in Sections 6 and 7 below.
 - F. The form will be filed at the site of the contested entry in the medical record and maintained for the life of the medical record.

5. APPROVAL OF REQUEST FOR CORRECTION/AMENDMENT OF PHI.
 - A. Approved Correction. If the request for correction is approved, the health information will be corrected as follows:
 - (1) No erasure or other obliteration shall be made.

(2)Incorrect data shall be lined out with a single line.

(3)The date of correction, the signature of the person making the correction, the corrected information, and the reason for the correction shall he added.

(4)The above is also required for preservation of the health record to meet retention guidelines.

B.Individual Agreement. Subject to the client’s prior agreement, NW BOCES shall make reasonable efforts to inform and provide the corrected/amended information within a reasonable time:

(1)to persons/organizations that NW BOCES knows received the information in the past and who may have relied or may foreseeably rely on such information to the detriment of the client; and

(2)to those persons/organizations identified by the client as having received the health information and needing the correction/amendment.

(3)When such information is sent, it should be accompanied by a statement, “This is a correction/amendment to the information that was previously sent on _____ date.”

C.Documentation. Disclosure of the corrected/amended health information will be documented.

D.Notification. The client will be notified in writing that the request for correction/amendment of the health information has been approved.

6. DENIAL OF CORRECTION/AMENDMENT OF PHI.

If the request for correction/amendment is denied, in whole or in part, the Administrative Director or designee will document the denial and a copy of the form will be sent to the client within the time period set forth in Section 4E above. The original form will be filed in the client’s medical record. NW BOCES will only deny a request for correction/amendment for the following reasons:

A.The health information is not part of the client’s designated record set.

B.NW BOCES did not create the record.

C.The record is not available to the client for inspection under applicable Federal law.

D.The record is accurate and complete.

When the client is notified of the denial of his or her request, he or she also will be notified of applicable appeal rights, as described below.

7. APPEAL RIGHTS.

A.For Clients Who Are Not U.S. Citizens or are Aliens Admitted for Permanent Residence. If the client is not a U.S. citizen or an alien admitted for permanent residence and the request for

correction/amendment is denied, he or she may submit to the Administrative Director or designee a written statement disagreeing with the denial and the basis of such disagreement within 30 days of the denial. The law does not allow any further appeal.

- (1) NW BOCES has the right to prepare a written rebuttal to any statement of disagreement and provide a copy of any rebuttal statement to the client. Any written rebuttal prepared by NW BOCES is not subject to correction or amendment.
- (2) If the client has submitted a statement of disagreement, NW BOCES must include such statement or an accurate summary thereof with any subsequent disclosure of the health information to which the disagreement relates.
- (3) If the client has not submitted a written statement of disagreement, NW BOCES must include the client's request for correction/amendment and its denial, or any accurate summary of such information, with any subsequent disclosure of the health information only if the client has requested such action.

B. For Clients Who Are U.S. Citizens or are Aliens Admitted for Permanent Residence. If the client is a U.S. citizen or an alien admitted for permanent residence, he or she may appeal the denial to amend the requested information to the Administrative Director within 30 days of the denial.

- (1) The Administrative Director must act on the appeal within 30 working days of the client's appeal, unless the Administrative Director or extends the period for up to an additional 30 working days for good cause. The Administrative Director will inform the client in writing of any extension of the appeal period and the reason(s) for the delay.
- (2) When an appeal is denied, the Administrative Director will inform the client in writing of the reasons for the denial, and advise the client of his or her rights to submit a written statement of disagreement and to seek judicial review of the denial.
- (3) If the client elects not to appeal, he or she may submit a statement of disagreement.
- (4) If the client submits a written statement of disagreement, such statement, along with a statement of NW BOCES Administrative Director's reasons for denying the appeal (if an appeal was filed) will be provided to previous recipients of the disputed record where an accounting of the previous disclosure was made.

8. PERMANENT RECORD. Any written statement or statement of disagreement by the client, any response by NW BOCES, and any other document pertaining to the appeal will become part of the client's permanent medical record.
9. COMPLAINTS. If the client has a complaint about NW BOCES policies and procedures regarding health information, he or she may file such a complaint with the Administrative Director or his or her designee or with the Secretary, HHS Washington, D.C. 20201.

NW BOCES, Administrative Director

PO Box 112; 250 E. Arapahoe; Thermopolis, WY 82443

307-864-2171

POLICY AND PROCEDURE FOR DE-IDENTIFICATION OF
PROTECTED HEALTH INFORMATION AND SUBSEQUENT RE-IDENTIFICATION

1. PURPOSE. To publish the Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedures for determining when health information is not individually identifiable or for the de-identification of protected health information (PHI), and for any subsequent re-identification.
2. POLICY. NW BOCES may determine when health information is not individually identifiable or when to de-identify PHI for disclosures other than healthcare purposes in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, 45 CFR Parts 160 and 164. NW BOCES may also determine when it is necessary to re-identify previously de-identified PHI and must comply with the terms of this policy to adequately de-identify PHI and to ensure proper re-identification of PHI.
3. DEFINITIONS.
 - A. De-identification. De-identification is the process by which PHI is rendered individually unidentifiable through the removal of such identifiers described in the “Procedures” section of this policy or through a determination based upon statistical and scientific methods.
 - B. Re-identification. Re-identification is the process of assigning a code or other means of record identification in order to allow de-identified PHI to be retrieved/identified by NW BOCES but still maintaining the anonymity of the client(s) described in the “Procedures” section below.
4. PROCEDURES.
 - A. De-identification. The following procedures shall be used to de-identify PHI or to determine when health information is not individually identifiable.
 - (1) The determination of whether health information is individually identifiable or whether PHI may be de-identified will occur when there is no "need to know"; the identity of the client. This determination will be made on a case-by-case basis depending on the nature of the request. Examples may be situations related to research or a cancer registry where there is no “need to know” the identity of the client.
 - (2) NW BOCES may determine that health information is not individually identifiable in the following two ways:
 - a. If a health care professional de-identifies client records (including electronic records) containing PHI by removing the following identifiers of the client or of the client's relatives, employers, or household members:
 - (i) names;
 - (ii) all elements of a street address, city, county, precinct, and zip code.
 - (iii) all elements of dates (except year) for dates directly related to the client, (e.g., birth date, admission/discharge dates, date of death);

- (iv) all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;
- (v) telephone numbers;
- (vi) fax numbers;
- (vii) e-mail address;
- (viii) social security numbers;
- (ix) medical record numbers;
- (x) health plan beneficiary numbers;
- (xi) account numbers;
- (xii) certificate/license numbers;
- (xiii) license plate numbers, vehicle identifiers, and serial numbers;
- (xiv) device identifiers and serial numbers;
- (xv) Uniform Resource Locator (URL) address(es);
- (xvi) Internet Protocol (IP) address numbers;
- (xvii) biometric identifiers, including finger, and voice prints;
- (xviii) full face photographic images and comparable images; and
- (xix) any other unique identifying number except as created by NW BOCES to re-identify the information.

This determination also requires that NW BOCES does NOT have actual knowledge that the remaining information could be used alone or in combination with other information to identify the client.

b. If a person with knowledge and experience of generally accepted statistical and scientific methods for rendering information not individually identifiable, designated by NW BOCES Administrative Director or his or her designee (or through a business associates contract), applies such methods and determines that the risk is very small that the information could be used alone, or in combination with other available information, by an anticipated recipient of such information to identify the client. This designated person with knowledge and experience of statistical and scientific methods must document the methods and results of the analysis that justify the determination.

(3) De-identification will be performed at the origin of the data, or, in the case of the determination made by the designated person named in 5A(2)a above, where such person is located, as appropriate.

(4)Hard copy PHI will be de-identified by obliterating (making unreadable and unrecognizable the individual identifier(s) The original(s) should not be modified.

B.Re-identification. The following procedures will be used to re-identify previously de-identified PHI:

(1)NW BOCES may assign a code or other means of record identification to allow de-identified information to be re-identified by NW BOCES, provided that;

a.such code is not derived from or related to information about the client (e.g., code is not derived from the client's name, social security number, medical record number, etc. as defined in 45 CFR 164.5 14(b));

b.such code is not capable of being used to identify the client;

c.NW BOCES does not use or disclose the code for any other purpose; and

d.NW BOCES does not disclose the mechanism for re-identification (tables, algorithms, etc.) that could be used to link the code with the client.

(2)A re-identification code does not constitute a "unique, identifying number, characteristic, or code."

POLICY AND PROCEDURE FOR USE AND DISCLOSURE FOR DIRECTORY PURPOSES

1. **PURPOSE.** To publish Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedure for using and disclosing protected health information (PHI) for directory purposes.
2. **POLICY.** An NW BOCES facility may maintain a directory of inpatients and disclose limited PHI from that directory without the individual or guardian's written authorization, provided the individual or guardian was informed of the intended use or disclosure in advance and had the opportunity to agree to or prohibit or restrict the use or disclosure.

The PHI that may be disclosed from a directory is limited to the individual's name, the individual's location in the facility, and the individual's condition (e.g., stable), described in general terms that do not communicate specific information. An individual's religious affiliation may be disclosed only to clergy, if the client has not objected to such disclosure.

3. **PROCEDURES.** The following procedures shall be used for using and disclosing information for directory purposes:
 - A. Any restriction(s) on the use or disclosure of an individual's PHI will be noted and such information will not be disclosed from the facility's directory of clients.
 - B. If there are no stated restrictions to the release of an individual's PHI, the facility may disclose the individual's name, location within the facility, and condition in general terms upon request, by name of individual. Religious affiliation may also be disclosed to clergy who request such information, but clergy need not ask by client's name.
 - C. If the individual is incapacitated or in emergency treatment and does not have the opportunity to restrict or prohibit some or all of the uses or disclosures, the facility may disclose some or all of the directory information if such disclosure is consistent with any previously stated preferences. Any disclosure of directory information about an individual who has not had an opportunity to agree or object to the use or disclosure must be in the individual's best interest. NW BOCES facility must provide the individual with an opportunity to agree or object to any releases of his or her directory information as soon as the individual resumes making his or her health care decisions.

POLICY AND PROCEDURE FOR THE USE AND DISCLOSURE OF
PROTECTED HEALTH INFORMATION DURING A DISASTER
AND FOR DISASTER RELIEF PURPOSES

1. PURPOSE. To publish Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedure on the use and disclosure of protected health information (PHI) during a disaster and for disaster relief purposes.
2. POLICY. NW BOCES may use or disclose PHI during a disaster and disaster relief to government agencies (Federal, State, or local) engaged in disaster relief activities, as well as to private disaster relief or disaster assistance organizations (e.g., Red Cross and Salvation Army) authorized by law or by its charter to assist in disaster relief efforts, for the purposes of coordinating such efforts to allow them to carry out their responsibilities.
- 3or. DISASTER. For the purpose of this policy, a disaster is any event that overwhelms normal medical capability of the local facility and that triggers mass casualty medical readiness of the facility. A disaster may be declared by the facility leadership or by the Federal, State, or local government.
5. PROCEDURES. The following procedures shall be used when using and disclosing PHI during a disaster and for disaster relief purposes.
 - A.Notification. NW BOCES may use and disclose PHI for the purpose of notification (or assisting in the notification, identification, or location) of a family member, personal representative of the client, or another person responsible for the care of the client, of the client's location, general condition, or death.
 - B.Uses and Disclosures when Client is Present. If the client is present and/or available and can make health care decisions, NW BOCES will release the information if NW BOCES:
 - (1) obtains the client's agreement;
 - (2) provides the client the opportunity to object to the disclosure, and the client does not express an objection; or
 - (3) reasonably infers from the circumstances, based upon the exercise of professional judgment that the client does not object to the disclosure.
 - C.Limited Uses and Disclosures when the Client is not Present. When the client is not present or when opportunity to agree or object is not possible or practicable due to the client's incapacity or emergency condition, an NW BOCES provider, using his or her professional judgment, may determine that the use or disclosure is in the best interests of the client, and only use or disclose PHI that is directly relevant to the government agency's or disaster relief organization's involvement with the client's health care.
 - D.Compliance. NW BOCES must comply with the requirements of 5B and 5C, above, to the extent that it determines that the requirements do not interfere with the ability to respond to the

emergency circumstance.

(1)Verification Procedure for Verification of Identity Prior to Disclosure of PHI. The verification procedure for verification of identity should be completed prior to disclosing PHI.

(2)Disclosures for Disaster Relief. Disclosures for disaster relief should be documented.

POLICY AND PROCEDURE FOR SENDING AND RECEIVING

PROTECTED HEALTH INFORMATION BY FACSIMILE

1. PURPOSE. To publish Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedures for transmitting client medical and/or protected health information (PHI) by facsimile (FAX) which will best safeguard the confidentiality of such records. Due to the complex and distinct issues related to computer-based electronic transmission of PHI and/or client medical information this manual exhibit is not intended to address the safeguards necessary to ensure the confidentiality of that particular form of client health information or client medical information transmission.
2. POLICY. It is policy of NW BOCES to ensure that client PHI sent or received by NW BOCES facilities are handled in a manner that protects against unauthorized disclosure of such PHI to third parties.
3. RESPONSIBILITIES. It shall be the responsibility of all NW BOCES staff to ensure compliance with the policy and procedures published in this manual exhibit.
4. BACKGROUND. The fax machine is a widely used means to instantly send and receive written documentation. Understandably, fax machines are now used regularly to transmit PHI, as they are important tools used both to assist in the provision of client care and to facilitate the medical billing process. While no common methods of transmission of client PHI are infallible with respect to security, the transmission of client PHI via fax machines raises legitimate concerns regarding the confidentiality of PHI. Without proper safeguards to ensure that PHI is faxed in accordance with strict protocols, there is significant risk that the confidentiality of those records will be compromised. In accordance with the express requirements set forth in the Privacy Act, it is incumbent upon NW BOCES to “establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated embarrassment, inconvenience, or unfairness to any individual on whom information is obtained.” (5 U.S.C. §552a(e)(10)) This policy is intended to establish such appropriate administrative, technical, and physical safeguards for the faxing of client PHI.
5. DEFINITIONS.
 - A. Medical Records. Covers the same categories of records as those identified as being part of NW BOCES Privacy Act System of Records, Medical, Health, and Billing Records, 09-17-0001,70 Fed. Reg. 77405 (December 30,2005) and a corrected notice of February 9, 2006 (71 Fed. Reg. 6781).
 - B. Emergency Medical Condition. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:
 - (1)placing the health of the individual (or, with respect to a pregnant woman, the health of the

(1)placing the health of the individual (or, with respect to a pregnant woman, the health of the

woman or her unborn child) in serious jeopardy;

(2)serious impairment to bodily functions; or

(3)serious dysfunction of any bodily organ or part.

C.FAX Activity Confirmation Report. A Fax Activity Confirmation (FAC) Report is a document automatically generated by the fax machine that confirms whether the fax transmission has been successful and which prints the destination fax number.

D.FAX Activity Report Journal. The fax Activity Report Journal (ARJ) is a manually generated log that may be used to identify how each incoming fax was handled, confirm the successful transmission of each outgoing fax, and/or identify any errors that have occurred in the sending or receiving of faxes.

E.Highly Sensitive Client Health and/or Medical Information. Any client PHI relating to:

(1)testing for Human Immunodeficiency Virus (HIV) or other sexually transmitted diseases, or treatment related to HIV or other sexually transmitted diseases:

(2)testing for cancer or other life-threatening illnesses; or

(3)the diagnosis, treatment, or referral for treatment of sexual abuse/assault mental illness and/or alcohol or substance abuse.

6. PROCEDURES.

A.Mail. All NW BOCES facilities are encouraged to send and receive client PHI by mail whenever practical.

B.Fax Machines. The use of fax machines to send and receive client PHI pose certain risks of improper disclosure of confidential client information. Whenever it is necessary to fax client PHI, the transmission of client PHI by fax should be limited to the minimum amount necessary to accomplish the intended purpose. Furthermore, the means by which client information is to be transmitted depends on the clinical circumstances. In any case involving a question as to the appropriateness of using the fax machine to transmit client PHI, the appropriate clinician shall make the final determination. Strict adherence to the following fax procedures is required:

(1)Prohibition Against Faxing Certain Highly Sensitive PHI. Except in cases where an NW BOCES provider has determined that the transmission of PHI by fax is necessary to assist in the treatment of the emergency medical condition, "highly sensitive client health information or client medical information" (as defined in section 4E above) shall not be faxed by the facility, but instead must be sent by inter-office mail, regular or express mail in an envelope marked "**CONFIDENTIAL: TO BE OPENED BY ADDRESSEE ONLY.**" If a request to fax highly sensitive PHI is made in connection with any legal proceeding, the appropriate service unit employee should immediately contact the applicable Office of General Counsel for advice and assistance.

(2)Authorized Personnel. Only individuals authorized pursuant to the policies and procedures of NW BOCES shall fax, or accept by fax, client PHI.

(3)Location of FAX Machine. The fax machine shall be physically located so that:

- a.It is not in a public area.
- b.Its use can be monitored by the person(s) designated by the facility to conduct such monitoring.
- c.Only authorized staff can have direct access to the fax machine.

C.FAX Cover Page. Before transmitting any client PHI, the sender must fill out a fax cover page containing, at a minimum, the following information:

(1)Facility's identification

(2)Date of transmission

(3)Number of pages being transmitted (including cover page)

(4)To:

- a.Authorized receiver's name
- b.Authorized receiver's telephone number
- c.Authorized receiver's fax number

(5)From:

- a.Sender's name
- b.Provider's name (if applicable)
- c.Sender's telephone number
- d.Sender's fax number

(6)Remarks on Special Instructions (if appropriate)

(7)Confidentiality Statement. *"This fax is intended only for the use of the person or office to which it is addressed and contains privileged or confidential information protected by law. All recipients are hereby notified that inadvertent or unauthorized receipt does not waive such privilege and that unauthorized dissemination, distribution, or copying of this communication is prohibited. If you have received this fax in error, please destroy the attached document(s) and notify the sender of the error by calling 307-864-2171.*

D.Sending Information. Whenever the facility's authorized fax user(s) intends to send a fax, he or she shall comply with the following:

- (1)Telephone the receiving facility to inform them that client PHI are being faxed, confirm the fax number, and determine whether the fax machine is located in a secured area. If the fax machine is not in a secured area, request the authorized individual at the receiving facility to stand by the receiving facility's fax machine.

- (2) Reconfirm the destination fax number prior to transmission by checking the telephone number displayed on the fax machine screen before transmitting the fax.
- (3) Confirm the success of the transmission by calling the intended recipient or by checking the FAX Report.
- (4) In the event that the fax is erroneously transmitted to the wrong fax number and the sender is aware that this error has occurred, he or she should immediately contact the erroneous recipient and request that the fax be destroyed by shredding.
- (5) A copy of the fax cover page, or equivalent documentation, shall be placed in the client's medical record. The fax cover page, or equivalent documentation, shall include confirmation of receipt of fax.

E. Receiving Information. Whenever the facility's authorized fax user(s) receives an incoming client PHI fax, he or she shall comply with the following:

- (1) Remove the faxed PHI from the fax machine as soon as possible, once he or she is aware that the fax has been received.
- (2) Count the number of pages received to verify the number of pages against the fax cover page. If page(s) are missing, the sender must be contacted and requested to retransmit the document.
- (3) Read the fax cover page and follow any instructions.
- (4) Notify the intended recipient that a fax was received.
- (5) Unless the faxed PHI will at all times remain in a secured area, the faxed PHI must be hand delivered or placed in a sealed envelope and delivered to the intended recipient as soon as possible.
- (6) If a fax has been erroneously transmitted to an NW BOCES facility, the recipient of the fax shall inform the sender of the error. The fax must then be destroyed by shredding.

POLICY AND PROCEDURE FOR CREATING A LIMITED DATA SET

1. PURPOSE. To publish Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedure for creating a limited data set for the use or disclosure of protected health information (PHI) only for the purposes of research, public health, or health care operations.
2. POLICY. For purposes of research, public health, or health care operations, NW BOCES may disclose information that is not fully de-identified if it creates a limited data set that complies with the terms of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, 45 CFR 164.514(e). Any use or disclosure by NW BOCES must be made pursuant to a data use agreement with the recipient of the limited data set. All use or disclosures must be made in accordance with the Manual Exhibit No. 2-7-K, "Policy and Procedure for Limiting the Use or Disclosure of PHI to the Minimum Necessary."
3. DEFINITIONS.

A. Health Care Operations. Health care operations means any of the following activities of the covered entity to the extent that the activities are related to covered functions:

- (1) 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; 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 clients with information about treatment alternatives; and related functions that do not include treatment;
- (2) 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;
- (3) Underwriting, premium rating, and other activities relating 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;
- (4) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
- (5) 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
- (6) 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 policyholders, plan sponsors, or other customers, provided that protected health information is not disclosed to such policyholder, plan sponsor, or customer;
- c. Resolution of internal grievances;
- d. The sale, transfer, merger, or consolidation of all or part of a covered entity 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 45 CFR § 164.514, creating de-identified health information or a limited data set, and fundraising for the benefit of the covered entity.

B. Limited Data Set. A limited data set is PHI that excludes specified identifiers such as, the client's name, provider name, chart number, social security number, etc.), but that can still potentially be linked to a particular client because it contains dates (including birth date, admission date, discharge date, and date of death) and/or information about the client's city, state, or nine-digit zip code.

C. Public Health Activities. Public health activities are generally authorized by law through a public health authority or other appropriate authority for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions and to include receiving reports of child abuse or neglect.

D. Public Health Authority. Public health authority means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority that is responsible for public health matters as part of its official mandate.

E. Protected Health Information. Protected health information means individually identifiable health information:

(1) Except as provided in paragraph, of this definition, that is:

- a. Transmitted by electronic media;
- b. Maintained in electronic media; or
- c. Transmitted or maintained in any other form or medium.

(2) Protected health information excludes individually identifiable health information in:

- a. Education records covered by the Family Educational Right and Privacy Act, as

amended, 20 United States Code (U.S.C.) 1232g;

b. Records described at 20 U.S.C. 1232g (a)(4)(B)(iv); and

c. Employment records held by a covered entity in its role as an employer.

F. Research. Research means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.

4. PROCEDURES.

The following procedures shall be used to create a limited data set, which may be created only for the purposes of research, public health, or health care operations.

A. Information Not Permitted in a Limited Data Set. A limited data set is composed of PHI that excludes the following direct identifiers of the client or relatives, employers, or household members of the client:

- (1) Names
- (2) Postal Address (may retain city, State, and nine-digit zip code)
- (3) Telephone numbers
- (4) FAX numbers
- (5) Electronic mail address
- (6) Social security numbers
- (7) Medical record numbers
- (8) Health plan beneficiary numbers
- (9) Account numbers
- (10) Certificate/license numbers
- (11) Vehicle identifiers and serial numbers, including license plate numbers
- (12) Device identifiers and serial numbers
- (13) Web Uniform Resource Locators (URLs)
- (14) Internet Protocol (IP) address numbers
- (15) Biometric identifiers, including finger and voice prints
- (16) Full face photographic images and/or any comparable images.

B. Information Permitted in a Limited Data Set. A limited data set may contain:

- (1) Dates of admission and discharge, as well as dates of birth and death
- (2) Nine-digit zip codes, city, and state information.

C. Disclosure. In order to create a limited data set, NW BOCES may use or disclose PHI pursuant to a data use agreement with a business associate for such purpose, whether or not the limited data set is to be used by NW BOCES.

D. Agreement. A limited data set recipient must agree, in writing, to use or disclose the information only for the purposes of research, public health, or health care operations. A written data use agreement (See Appendix 1) between NW BOCES and the limited data set recipient must also:

- (1) Establish the permitted uses and disclosures of the information.
- (2) Prevent and not authorize the limited data set recipient to use or further disclose the information in any manner that NW BOCES could not use or disclose.
- (3) Establish who is permitted to use or disclose the limited data set.
- (4) Provide that the limited data set recipient will:
 - a. Not use or further disclose the information other than as permitted by the data use agreement or as otherwise required by law.
 - b. Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by the data use agreement.
 - c. Report to NW BOCES (individual to be named in the agreement) any improper use or disclosure of the information in writing not provided for by its data use agreement of which it becomes aware.
 - d. Ensure that any agents, including a subcontractor, to whom written requests provides the limited data set agrees to the same restrictions and conditions that apply to the limited data set recipient with respect to such information.
 - e. Not identify the information or contact the clients.

E. Compliance. If NW BOCES becomes aware of a pattern of activity or practice of the recipient of the limited data set that constitutes a material breach or violation of the data use agreement, NW BOCES must take reasonable steps to cure the breach or end the violation, as applicable. If the steps are unsuccessful, NW BOCES must:

- (1) Discontinue use and disclosure of PHI to the recipient.
- (2) Report the problem to the Secretary, Department of Health and Human Services.

F. NW BOCES as Recipient of Limited Data Set. NW BOCES must comply with the terms of any limited data set agreement under which it receives information.

G. Questions. Specific questions regarding the implementation of this policy should be directed to NW BOCES Administrative Director Privacy Act/ HIPAA Privacy Advocate.

POLICY AND PROCEDURE FOR LIMITING THE USE OR DISCLOSURE OF AND
REQUESTS FOR PROTECTED HEALTH INFORMATION
TO THE MINIMUM NECESSARY

1. **PURPOSE.** To publish the Northwest Wyoming BOCES (NW BOCES) policy and procedures for limiting protected health information (PHI) to the minimum necessary:
 - A. The use or disclosure of PHI; and
 - B. All PHI requested by NW BOCES from other health care providers and health plans.
2. **POLICY.** The medical record shall be maintained confidentially and shall not be disclosed except as provided by the Privacy Act of 1974 as amended, 5 United States Code (U.S.C.) 552a; the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule (45 CFR Parts 160 and 164); the Freedom of Information Act as amended (5 U.S.C. 552); and other relevant Federal laws and guidance.
3. **RESPONSIBILITIES.**
 - A. **NW BOCES Administrative Director.** The Administrative Director or his or her designee shall identify, in writing, individual staff or classes of staff who have a need to know for access to PHI in order to perform their official duties.

The Administrative Director or designee shall identify, in writing, the category or categories of PHI for each staff person or class of staff who have a need to know for access, and any conditions appropriate for such access.
 - B. **Designated NW BOCES Staff Person.** The responsible NW BOCES staff person, as designated by the Administrative Director shall monitor compliance with the “minimum necessary” requirements.
5. **PROCEDURES.** NW BOCES must make reasonable efforts to limit the use or disclosure of PHI to the minimum necessary in order to accomplish the intended purpose of the use, disclosure, or request.
 - A. **Minimum Necessary Requirement.** The “minimum necessary” requirement does not apply to:
 - (1) disclosures to or requests by a healthcare provider for treatment purposes;
 - (2) disclosures to the client;
 - (3) uses or disclosures made pursuant to a valid authorization signed by the client or personal representative, so long as the use or disclosure is consistent with the authorization;
 - (4) uses or disclosures that are required by federal law, including applicable provisions of the HIPAA Privacy Rule;
 - (5) disclosures to the Secretary, HHS, required under HIPAA Privacy Rule for enforcement purposes.
 - B. **Reasonable Requests for Disclosures.** Although NW BOCES retains the right to make its own minimum necessary determination for disclosures, NW BOCES may rely on the judgment of the party requesting the disclosure as to the minimum amount of information needed, when the request is reasonable and made by:

- (1) A public official for a disclosure permitted under 45 CFR §164.512 (Uses and disclosures for which an authorization or opportunity to agree or object is not required), if such official represents that the information requested is the minimum necessary for the stated purpose;
- (2) Another covered health care provider, health plan, or health care clearinghouse;
- (3) A professional who is an employee or contractor (business associate) of NW BOCES, for the purpose of providing professional services to NW BOCES, if the professional represents that the information requested is the minimum necessary for the stated purpose; or
- (4) A researcher with appropriate documentation from an Institutional Review Board.

C. Requesting PHI.

- (1) When requesting PHI from other covered entities, NW BOCES must limit any such request to that which is reasonably necessary to accomplish the purpose for which NW BOCES is making the request.
- (2) For requests made on a routine and recurring basis, NW BOCES must limit the PHI requested to the amount reasonably necessary to accomplish the purpose for which the request is made.
- (3) All other requests must be reviewed on an individual basis to determine that the PHI sought is limited to the information reasonably necessary to accomplish the purpose for which the request is made.
- (4) The entire medical record shall only be disclosed when specifically justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.

POLICY AND PROCEDURE FOR PROVIDING NORTHWEST WYOMING BOARD OF COOPERATIVE EDUCATIONAL SERVICES NOTICE OF PRIVACY PRACTICES

1. PURPOSE. To publish Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedure for providing the “Notice of Privacy Practices,” (Notice) to all clients.
2. AUTHORITY. 45 Code of Federal Regulations (CFR) 164.520
3. POLICY. It is NW BOCES policy to provide adequate notice of its uses and disclosures of protected health information (PHI) and of the individual’s rights and NW BOCES’ legal duties with respect to PHI to its beneficiaries.
4. PROCEDURES.
 - A.Display. NW BOCES shall prominently and clearly display NW BOCES “Notice,” (see Appendix 1) in every service unit and treatment facility and on NW BOCES Web site at <http://www.nwboces.com> In addition, NW BOCES may prominently display NW BOCES Notice in other public places within its facilities.
 - B. Request. Any individual, whether or not a client, has the right to request and receive a copy of NW BOCES Notice at any time.
 - C.Initial Visit. After December, 2010, all clients, including both new and established clients, shall be provided a copy of the Notice at their first visit to a NW BOCES facility:
 - (1)The Client Registration Office or other appropriate department will provide a copy of the current Notice to the client.
 - (2)A staff member will briefly summarize the purpose of the Notice, in a statement such as the following: “The purpose of the Notice is to inform you of the uses and disclosures which NW BOCES may make of your protected health information, and it tells you of your rights and NW BOCES’ legal duties with respect to such information.”
 - (3)The client does not have to read the Notice, instead an alternate means may be used to communicate the content, e.g., a video shown in the waiting room or a staff member or accompanying family member may read the Notice to the client.
 - (4)The staff member must ask the client if he or she has any questions.
 - (5)The staff member should answer any questions as best he or she can and refer unanswered questions to the service unit Privacy Official or designee.
 - (6)Ask the client to acknowledge receipt of the Notice by signing the Acknowledgment of Receipt of NW BOCES Notice of Privacy Practices.

- a.If the client refuses to sign the Acknowledgement form, document the efforts made to obtain the acknowledgment and reason(s) why it was not obtained.
- b.If the client cannot be provided with the Notice at the initial visit due to incapacitation or emergency, document the reason on the acknowledgment form. A NW BOCES staff member shall provide the client with the Notice and have the client sign the acknowledgment form as soon as the client is no longer incapacitated or the emergency situation has passed.
- c.If another individual is acting as the client’s representative in making healthcare decisions on behalf of the client, provide that person with the Notice and have that person sign the acknowledgment form.

D.Signatures. The acknowledgement form must be signed and dated by the appropriate NW BOCES staff.

- (1)File the signed “Acknowledgement of Receipt of NW BOCES Notice of Privacy Practices” into the client’s medical record.
- (2)If the Notice is revised by a material change, the revised Notice must be posted in clear and prominent locations in every service unit and treatment facility, on its web site, and in other public places, easily accessible on or after the effective date of the revision. The revised Notice will also be given to all clients who come into the facility after the effective date of the revision. The revised Notice will be posted on NW BOCES website within the 60 days of a material revision.

Manual Exhibit 2-7-L
Appendix 1

Northwest Wyoming Board of Cooperative Educational Services

Notice of Privacy Practices

"THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY."

SUMMARY OF YOUR PRIVACY RIGHTS

I. Understand Your Medical Record/Information. Each time you receive services at Northwest Wyoming BOCES (NW BOCES) a record of your treatment is made. Typically, this record contains your test results, diagnoses, treatment, and a plan for future care. This information, often referred to as your medical record, serves as a:

- Plan for your care and treatment.
- Communication source between health care professionals and the IEP team.
- Tool with which we can check results and continually work to improve the care we provide.
- Means by which Medicare, Medicaid, or private insurance payers can verify the services billed.
- Tool for education of health care professionals.
- Source of information for public health authorities charged with improving the health of the people.
- Source of data for medical research, facility planning and marketing.
- Legal document that describes the care you receive.

Understanding what is in your medical record and how the information is used helps you to:

- Ensure its accuracy.
- Better understand why others may review your health information.
- Make an informed decision when authorizing disclosures.

II. Your Medical Record/Information Rights. Although your medical record is the physical property of NW BOCES, the information belongs to you. You have the right to:

- Inspect and receive a copy of your medical record.
- Request a restriction on certain uses and disclosures of your health information. For example, you may ask that we not disclose your health information and/or treatment to a family member. NW BOCES is not required to agree to your request; but if we do, we will comply with your request unless the information is needed to provide you with emergency services.
- Request a correction/amendment to your medical record if you believe the health information we have about you is incorrect or incomplete, we may amend your record or include your statement of disagreement.

- Request confidential communications about your health information. You may ask that we communicate with you at a location other than your home or by a different means of communications such as telephone or mail.
- Receive a listing of certain disclosures NW BOCES has made of your health information upon request. This information is maintained for 5 years or the life of the record, whichever is longer.
- Revoke your written authorization to use or disclose health information. This does not apply to health information already disclosed or used or in circumstances where NW BOCES have taken action in reliance on your authorization or the authorization was obtained as a condition of obtaining insurance coverage and the insurer has a legal right to contest a claim under the policy or the policy itself.
- Obtain a paper copy of NW BOCES Notice of Privacy Practices upon request.
- Obtain a paper copy of NW BOCES Medical, Health and Billing Records, System, upon request.

III. Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) Responsibilities. NW BOCES is required by law to:

- Maintain the privacy of your health information.
- Inform you about our privacy practices regarding health information we collect and maintain about you.
- Notify you if we are unable to agree to a requested restriction.
- Accommodate reasonable requests you may have to communicate health information by alternative means or at alternative locations.
- Honor the terms of this Notice or any subsequent revisions of this Notice.

NW BOCES reserves the right to change its privacy practices and to make the new provisions effective for all protected health information (PHI) it maintains. NW BOCES will post any revised Notice of Privacy Practices at public places within its health care facilities and on its web site at <http://www.nwboces.com/> and you may request a copy of the Notice.

NW BOCES understands that health information about you is personal and is committed to protecting your health information. **NW BOCES will not use or disclose your health information without your permission, except as described in this notice and as permitted by the Privacy Act and NW BOCES Medical, Health and Billing Records.**

IV. How NW BOCES may use and disclose health information about you.

The following categories describe how we may use and disclose health information about you.

We Will Use and Disclose Your Health Information to Provide Your Treatment. For example:

- Your personal information will be recorded in your medical record and used to determine the course of treatment for you. Your health care provider will document in your medical record his or her instructions to members of your healthcare team. The actions taken and the observations made by the members of your healthcare team will be recorded in your medical record so your health care provider will know how you are responding to treatment.
- If NW BOCES refers you to another health care facility NW BOCES may disclose your health information to that health care provider for treatment decisions.
- If you are transferred to another facility for further care and treatment, NW BOCES may disclose information to that facility to enable them to know the extent of treatment you have received and other information about your condition.
- Your health care provider(s) may give copies of your health information to others (health care professionals, personal representative, etc.) to assist in your treatment.

We Will Use and Disclose Your Health Information for Payment Purposes. For example:

- If you have private insurance, Medicare, or Medicaid coverage, a bill will be sent to your health plan for payment. The information on or accompanying the bill will include information that identifies you, as well as your diagnosis, procedures, and supplies used for your treatment.
- If NW BOCES refers you to another health care provider, NW BOCES may disclose your health information with that provider for health care payment purposes.

We Will Use and Disclose Your Health Information for Health Care Operations. For example:

- We may use your health information to evaluate your care and treatment outcomes with our quality improvement team. This information will be used to continually improve the quality and effectiveness of the services we provide.

Business Associates. NW BOCES provides some healthcare services and related functions through the use of contracts with business associates. When these services are contracted, NW BOCES may disclose your health information to business associates so that they can perform their jobs. We require our business associates to protect and safeguard your health information in accordance with all applicable Federal laws.

Directory. If you are admitted to NW BOCES, NW BOCES may use or disclose your name, general condition, religious affiliation, and location within our facility, for facility directory purposes, unless you notify us that you object to this information being listed. NW BOCES may provide your religious affiliation only to members of the clergy.

Notification. NW BOCES may use or disclose your health information to notify or assist in the notification of a family member; personal representative or other authorized person(s) responsible for your care, unless you notify us that you object.

Communication with Family. All NW BOCES health providers may use or disclose your health information to others responsible for your care unless you object. For example, NW BOCES may provide your family members, other relatives, close personal friends, or any other person you identify, with health information that is relevant to that person's involvement with your care or payment for

such care.

Adults and Emancipated Minors with Personal Representatives or Legal Guardians. NW BOCES shall treat a personal representative or legal guardian of any such individual who has been declared incompetent due to physical or mental incapacity by a court of competent jurisdiction for the purposes of the use and disclosure of PHI as it relates to such personal representation.

Interpreters. In order to provide you proper care and services, NW BOCES may use the services of an interpreter. This may require the use or disclosure of your personal health information to the interpreter.

Research. NW BOCES may use or disclose your health information for research purposes based on your written authorization.

Uses and Disclosures about Decedents. NW BOCES may use or disclose health information about decedents to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law. NW BOCES also may disclose health information to funeral directors consistent with applicable law as necessary to carry out their duties. In addition, NW BOCES may disclose protected health information about decedents where required under the Freedom of Information Act or otherwise required by law.

Treatment Alternatives and Other Health-related Benefits and Services. NW BOCES may contact you to provide information about treatment alternatives or other types of health-related benefits and services that may be of interest to you.

Food and Drug Administration. NW BOCES may use or disclose your health information to the Food and Drug Administration (FDA) in connection with a FDA-regulated product or activity. For example, we may disclose to the FDA information concerning adverse events involving food, dietary supplements, product defects, or problems, and information needed to track FDA-regulated products or to conduct product recalls, repairs, replacements, or lookbacks (including locating people who have received products that have been recalled or withdrawn), or post marketing surveillance.

Public Health. NW BOCES may use or disclose your health information to public health or other appropriate government authorities as follows:

- (1) NW BOCES may use or disclose your health information to government authorities that are authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, or conducting public health surveillance, investigations, and interventions;
- (2) NW BOCES may disclose your health information to government authorities that are authorized by law to receive reports of child abuse or neglect; and
- (3) NW BOCES may disclose your health information to government authorities that are authorized by law to receive reports of other abuse, neglect, or domestic violence as required by law, or as authorized by law if NW BOCES believes it is necessary to prevent serious harm. Where authorized by law, NW BOCES may disclose your health information to an individual who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition.

Law Enforcement. NW BOCES may use or disclose your health information for law enforcement

activities as authorized by law or in response to a court of competent jurisdiction.

Health Oversight Authorities. NW BOCES may use or disclose your health information to health oversight agencies for activities authorized by law. These oversight activities may include: Investigations, audits, inspections, and other actions. These are necessary for the government to monitor the health care system, government benefit programs, and entities subject to government regulatory programs and/or civil rights laws for which health information is necessary to determine compliance. NW BOCES is required by law to disclose protected health information to the Secretary, HHS, to investigate or determine compliance with the HIPAA privacy standards.

Compelling Circumstances. NW BOCES may use or disclose your health information in certain other situations involving compelling circumstances affecting the health or safety of an individual. For example, in certain circumstances:

- (1) NW BOCES may disclose limited protected health information where requested by a law enforcement official for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person;
- (2) If you are believed to be a victim of a crime, a law enforcement official requests information about you and we are unable to obtain your agreement because of incapacity or other emergency circumstances, we may disclose the requested information if we determine that such disclosure would be in your best interests;
- (3) NW BOCES may use or disclose protected health information as we believe is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person;
- (4) NW BOCES may use or disclose protected health information in the course of judiciary and administrative proceedings if required or authorized by law;
- (5) NW BOCES may use or disclose protected health information to report a crime committed on NW BOCES health facility premises or when NW BOCES is providing emergency health care;
- (6) NW BOCES may use or disclosure PHI during a disaster and for disaster relief purposes; and
- (7) NW BOCES may make any other disclosures that are required by law.

Non Violation of this Notice. NW BOCES is not in violation of this Notice or the HIPAA Privacy Rule if any of its employees or its contractors (business associates) disclose protected health information under the following circumstances:

1. Disclosures by Whistleblowers. If a NW BOCES employee or contractor (business associate) in good faith believes that NW BOCES has engaged in conduct that is unlawful or otherwise violates clinical and professional standards or that the care or services provided by NW BOCES has the potential of endangering one or more clients or members of the workplace or the public and discloses such information to:

- a. A Public Health Authority or Health Oversight Authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions, or the suspected violation, or an appropriate health care accreditation organization for the purpose of reporting the allegation

of failure to meet professional standards or misconduct by NW BOCES; or

- b. An attorney on behalf of the workforce member, or contractor (business associate) or hired by the workforce member or contractor (business associate) for the purpose of determining their legal options regarding the suspected violation.

2. Disclosures by Workforce Member Crime Victims. Under certain circumstances, a NW BOCES workforce member (either an employee or contractor) who is a victim of a crime on or off NW BOCES facility' premises may disclose information about the suspect to law enforcement official provided that:

- a. The information disclosed is about the suspect who committed the criminal act.
- b. The information disclosed is limited to identifying and locating the suspect.

Any other uses and disclosures will be made only with your written authorization, which you may later revoke in writing at any time. (Such revocation would not apply where the health information already has been disclosed or used or in circumstances where NW BOCES has taken action in reliance on your authorization or the authorization was obtained as a condition of obtaining insurance coverage and the insurer has a legal right to contest a claim under the policy or the policy itself.)

To exercise your rights under this Notice, to ask for more information, or to report a problem contact NW BOCES Administrative Director:

NW BOCES PO Box 112 Thermopolis, WY 82443 307-864-2171

If you believe your privacy rights have been violated, you may file a written complaint with the above individual(s) or the Secretary, Health and Human Services, Washington, D.C. 20201. There will be no retaliation for filing a complaint.

Effective Date: December 17, 2010
(Replaces _____)

Acknowledgment of Receipt of NW BOCES Notice of Privacy Practices

I hereby acknowledge receipt of Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) Notice of Privacy Practices at:

NW BOCES PO Box 112 Thermopolis, WY 82443 307-864-2171

Signature Client

Date

Signature of Client Personal Representative
(State relationship to Client)

Date

Or Witness (if signature is by thumbprint or mark)

Date

Signature and Title of NW BOCES Employee

For Clients Unable to Acknowledge Receipt

I hereby certify that the client was unable to acknowledge receipt of NW BOCES Notice of Privacy Practices because:

Signature of NW BOCES Staff

Date

POLICY AND PROCEDURE FOR USE AND DISCLOSURE OF
PROTECTED HEALTH INFORMATION FOR INVOLVEMENT IN THE CLIENT'S CARE
AND FOR NOTIFICATION PURPOSES

1. PURPOSE. To publish the Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedure on the uses and disclosures of protected health information (PHI) for involvement in the client's care and for notification purposes.
2. POLICY. NW BOCES may use or disclose to family members, relatives or close personal friend or any other person identified by the client, PHI directly relevant to that person's involvement in the client's health care or payment.
3. PROCEDURES.
 - A.Notification. NW BOCES may use or disclose PHI to notify or assist in the notification of (including identifying or locating) a family member, personal representative, or another person responsible for the care of the client, of the client's location, general condition, or death.
 - B.Uses or Disclosures When the Client is Present. If the client is present and/or available and can make health care decisions, NW BOCES may release the information if it:
 - (1) obtains the client's agreement;
 - (2) provides the client the opportunity to object to the disclosure, and the client does not express an objection; or
 - (3) reasonably infers from the circumstances, based upon the exercise of professional judgment that the client does not object to the disclosure.
 - C.Limited Uses or Disclosures When the Client Is Not Present. When the client is not present or when opportunity to agree or object is not possible or practicable due to the client's incapacity or emergency condition, the following procedures shall be used:
 - (1) A NW BOCES provider, using his or her professional judgment, may determine that the use or disclosure is in the best interests of the client, and only use or disclose PHI that is directly relevant to the person's (family member, friend, spouse, personal representative, etc.) involvement.
 - (2) A NW BOCES provider, using his or her professional judgment and experience with common practice, may make inferences as to the client's best interests and allow the client's family member or personal representative to pick up filled prescriptions, medical supplies, X-rays, or other forms of PHI.
 - D.Verification of identity should be completed prior to disclosing PHI of a client. (See Manual Exhibit 2-7-R)
 - E.Disclosures for notification purposes should be noted. (See Manual Exhibit 2-7-B)

POLICY AND PROCEDURE FOR MAINTENANCE, USE AND DISCLOSURE
OF PSYCHOTHERAPY NOTES

1. **PURPOSE.** To publish the Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedure on the maintenance, use, and disclosure of psychotherapy notes.
2. **POLICY.** All psychotherapy notes recorded on any medium (i.e., paper, electronic), by a mental health professional, such as, a psychologist or psychiatrist must be kept by the author and filed separately from the rest of the client's medical record to maintain a higher standard of protection.
3. **DEFINITION.** Psychotherapy notes means process notes (not progress 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 for his or her use only, and are separated from the rest of the client's medical record.
4. **PROCEDURES.** Psychotherapy notes may be used or disclosed following the procedures below:
 - A.**Disclosure Authorization.** When disclosing psychotherapy notes to the client or to another individual, written authorization for use and disclosure of health information must be dated, signed by the client or legal guardian (if the client is a minor or incompetent), or the client's personal representative, and request for psychotherapy notes must be checked. The authorization should not be used in conjunction with other disclosures or uses.
 - B.**Authorization Not Required.** An authorization is not needed to use or disclose psychotherapy notes for:
 - (1)Providing treatment, payment, or health care operations:
 - a.use or disclosure by the originator of the notes for treatment;
 - b.use or disclosure for mental health training programs under supervision within NW BOCES facility; or
 - c.use or disclosure by NW BOCES in a legal action or other proceedings brought by the client, in consultation with the Office of General Counsel;
 - d.use or disclosure that is required by law, authorized disclosure to a health oversight authority with respect to the oversight of the originator of the psychotherapy notes, or the use or disclosure to report a serious and imminent threat to the health and safety of the client or a third party;
 - e.use or disclosure required by the Secretary, Department of Health and Human Services, to investigate NW BOCES facility compliance with the Privacy Act and Health Insurance Portability and Accountability Act Privacy Rule; or
 - f.use or disclosures to medical examiners or coroners about deceased clients to determine identity, cause of death, or to perform other duties as authorized by law.

5. EXCLUSIONS.

A. Psychotherapy notes do not include:

- (1) medication prescription and monitoring;
- (2) counseling session start and stop times;
- (3) the modalities and frequencies of treatment furnished;
- (4) results of clinical tests; and
- (5) any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

POLICY AND PROCEDURE FOR USE AND DISCLOSURE OF
PROTECTED HEALTH INFORMATION FOR RESEARCH PURPOSES

1. PURPOSE. To publish the Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedures on how NW BOCES may use or disclose protected health information (PHI) for research purposes without authorization by a client.
2. POLICY. It is the policy of NW BOCES to use or disclose PHI for research purposes in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and the Privacy Act. For research purposes and educational materials, follow the Department of Health and Human Services, National Institute of Health research guidelines.
3. PROCEDURES. The following procedures will be used for the use or disclosure of PHI for research purposes.

A.Institutional Review Board. Upon receipt of the Institutional Review Board (IRB) Approval of Waiver of Authorization, NW BOCES will use or disclose PHI for research when its IRB has approved, in whole or in part, a waiver of the client's authorization for its use or disclosure.

B.Documentation of Waiver Approval. Documentation of IRB approval of waiver must include the following:

(1)Identification. A statement identifying the IRB and the PHI for which the use or disclosure has been determined to be necessary by the IRB.

(2)Date of Action. Date on which the alteration or waiver of authorization was approved.

(3)Waiver Criteria. The IRB must include a statement that has determined that the alteration or waiver, in whole or in part, of authorization satisfies the following criteria:

a. Use or disclosure of PHI involves no more than minimal risk to the privacy of individuals based on, at least, the presence of the following elements:

(i) An adequate plan to protect the identifiers from improper use and disclosure, including reasonable administrative, technical and physical safeguards against unauthorized use and disclosure.

(ii) An adequate plan to destroy the identifiers at the earliest opportunity consistent with conduct of the research, unless there is a health or research justification for retaining the identifiers or such retention is otherwise required by law; and

(iii) Adequate written assurances that the PHI will not be reused or disclosed to any other person or entity, except as required by law for authorized oversight of the research study if personal identifiers are removed at the earliest opportunity consistent with the oversight activity or for other research for which the use or disclosure of PHI would be permitted under the HIPAA Privacy Rule, the Privacy Act and any other applicable law.

b. The research could not practicably be conducted without the alteration or waiver; and

c. The research could not practicably be conducted without access to and use of the PHI.

C. Review/Approval Process. The IRB chair, or designee, shall sign a statement that the alteration or waiver of authorization was reviewed and approved under either normal or expedited review procedures. The statement shall also set out that the IRB followed the requirements of the Common Rule (45 CFR Part 46) as applicable.

D. Reviews Prior To Research. The NW BOCES facility may allow PHI to be reviewed in preparation for research if the researcher represents that:

- (1) The use or disclosure is sought solely to review PHI as necessary to prepare a research protocol or for similar purposes in preparation for research;
- (2) No PHI will be removed from the facility by the researcher in the course of the review; and
- (3) The PHI for which use or disclosure is sought is necessary for the research purposes.

E. Research Involving Decedents' PHI.

- (1) NW BOCES may use or disclose PHI if the researcher represents that:
 - a. the use or disclosure is sought solely for research on the PHI of decedents; and
 - b. the PHI for which use or disclosure is sought is necessary for the research purposes.
- (2) NW BOCES may require the researcher to provide documentation of the subject individuals' death.

POLICY AND PROCEDURE FOR REQUEST FOR RESTRICTION(S) ON THE
USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

1. PURPOSE. To publish Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedure on the rights of clients to request restriction(s) of the use or disclosure of their protected health information (PHI).
2. POLICY. Under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, clients have the right to request restrictions on the use or disclosure of their PHI to carry out treatment, payment and health care operations, in client directory, and disclosures to relatives, family members, personal representatives, close friends, health care givers, and any other person involved in the client's care or payment who is identified by the client.
NW BOCES is not required to agree to the request. However, a client still may object to the disclosure of information for the in client directory and to relatives, friends, and others involved in client care under 45 CFR 164.510(b) (See Manual Exhibit 2-7-M, "Policy and Procedures for Uses and Disclosures of Protected Health Information for Involvement in the Client's Care and for Notification Purposes.")
3. PROCEDURES. The following procedures will govern how restrictions will be requested and processed.
 - A. The request for restriction must be in writing. The client is not required to provide a reason for the request.
 - B. NW BOCES Administrative Director or his or her designee, in consultation with an appropriate official, must review the request, before the client is notified of the decision, except for acceptance of the request to omit PHI from directories. NW BOCES is not required to agree to the requested restriction. Before agreeing to the restriction, NW BOCES must attempt to contact the Office of General Counsel.
 - C. If NW BOCES agrees to a restriction, PHI may not be used or disclosed by NW BOCES or its Contractor(s) (Business Associate(s)) in violation of such restriction, except if the restricted PHI is needed by NW BOCES or another health care provider to provide emergency treatment of the client.
 - D. If NW BOCES agrees to a restriction the restriction will be processed accordingly and subsequently filed in the medical record.
 - E. If NW BOCES disagrees (or denies) to a restriction, the restriction will be processed accordingly and subsequently filed in the medical record.
 - F. If restricted information is disclosed to a health care provider for emergency treatment, NW BOCES must request that the receiving health care provider not further use or disclose the PHI, using the following language:

“This is restricted information, provided for the purpose of emergency treatment, which should not be further disclosed or used without the permission of the client to whom the information pertains.”

G.A restriction agreed to by NW BOCES shall not prevent the use or disclosures for which authorization is not required as outlined in NW BOCES "Notice," examples of which may include the following:

- (1)to a client who requests access to their PHI about themselves;
- (2)required by the Secretary, Department of Health and Human Services, to investigate or determine compliance by NW BOCES with the HIPAA Privacy Rule;
- (3) for in client directory where the client has not objected to such uses or disclosures;
- (4)required by law;
- (5)for public health activities;
- (6)about victims of abuse, neglect or domestic violence;
- (7)for health oversight activities;
- (8)for judicial and administrative proceedings;
- (9)for law enforcement purposes;
- (10) for research purposes;
- (11)to avert a serious threat to health or safety;
- (12)for specialized government functions;
- (13)for workers' compensation.

H.If NW BOCES has agreed to a requested restriction, it may terminate its agreement if:

- (1)the client agrees to or requests the termination in writing.
- (2)NW BOCES informs the client that it is terminating the agreement, in which case the termination will be effective with respect to PHI created or received after NW BOCES has so informed the client.
- (3)When the client is informed that it is terminating the agreement, the method of informing, together with the date and signature of the Administrative Director or designee, shall be noted in the file.

POLICY AND PROCEDURE FOR DISCLOSURE OF PROTECTED HEALTH
INFORMATION OF UN-EMANCIPATED MINORS

1. **PURPOSE.** To publish Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedure for disclosing and providing access to protected health information (PHI) of un-emancipated minors.
2. **POLICY.** The NW BOCES Administrative Director or designee shall be responsible for determining whether or not to release the PHI of an un-emancipated minor to the minor or to the minor's parent or legal guardian. In all cases, whether a client is a minor and whether a minor is emancipated shall be determined by applicable law. If it is unclear which applies, consult the Office of General Counsel (OGC).
3. **PROCEDURES.** The following procedures will govern how health information of un-emancipated minors will be disclosed:

A. Requests By Un-emancipated Minors.

- (1) A minor who requests access to his or her health information shall, at the time of the request, designate a personal representative in writing (e.g., physician or other health representative or responsible person), who would be willing to review the record and inform the minor of its contents.
- (2) Upon receipt of request and designation of a personal representative, the NW BOCES Administrative Director will review the request to determine whether direct access to his or her health information if it is determined that direct access is not likely to have an adverse effect on the minor.
- (3) If the NW BOCES Administrative Director believes he or she is not qualified to determine, or has determined, that access by the minor is likely to have an adverse effect on the minor, the record will be sent to the designated personal representative. The minor will be informed in writing that the record has been sent. The minor will be allowed access to his or her record consistent with a determination by the Administrative Director of the manner of disclosure, if any, that would limit any likely adverse effect on the minor.

B. Requests by a Parent, Legal Guardian or Individual Acting in Loco Parentis.

- (1) At the time of request, the parent, legal guardian, or individual acting in loco parentis, shall designate in writing a health professional (other than a family member) to whom any records will be sent.
- (2) If the disclosure of the record would constitute an invasion of the minor's privacy, that fact will be brought to the attention of the designated health professional who will be asked to consider the effect that disclosure of the record to the parent, legal guardian, or individual acting in loco parentis would have on the minor in determining whether the record should be made available to the parent, legal guardian, or individual acting in loco parentis.
- (3) In cases in which the minor's record is sent to the designated health professional, the requestor will be notified of this action, and reasonable efforts will be made to inform the minor.

- (4) Where the state law for where the treatment facility is located prohibits disclosure of a minor's PHI to the parent, legal guardian, or individual acting in loco parentis of the minor, NW BOCES shall not disclose the minor's PHI to the parent, guardian, or individual acting in loco parentis.
- (5) Where the state law for where the treatment facility is located permits or requires disclosure of a minor's PHI to the parent, legal guardian, or individual acting in loco parentis of the minor, or there is no state law, NW BOCES may disclose the minor's PHI to the parent or legal guardian, or individual acting in loco parentis following the above procedures, unless:
 - a. The parent, legal guardian, or individual acting in loco parentis lacks authority to act on behalf of the minor (for example, where parental rights have been terminated).
 - b. A physician or health professional determines that disclosure of the PHI to the parent, legal guardian, or individual acting in loco parentis would constitute an unwarranted invasion of the minor's privacy (in writing), and there is a reasonable belief that such disclosure might endanger or cause harm to the minor, or such disclosure would otherwise not be in the best interest of the minor.
 - c. The minor has consented to a health care service for which parental consent is not required under the state law for which the treatment is provided, and the minor has not requested that the parent, legal guardian, or individual acting in loco parentis be treated as his or her personal representative.
 - d. The parent, legal guardian, or individual acting in loco parentis agrees to an agreement of confidentiality between NW BOCES and the minor. Such an agreement should be documented in the minor's medical record.
 - e. The Privacy Act otherwise prohibits the disclosure.

C. Requests by Other Third Parties.

- (1) Subpoena/Court Order. Upon receipt of a subpoena/court order for a minor's medical record, the Area HIM Consultant must be consulted before any release is made.
- (2) Law Enforcement. Requests from law enforcement will be accomplished pursuant to the requirements of the law enforcement exception contained in the Privacy Act, 5 U.S.C. §552a (b)(7) and the HIPAA Privacy Rule, 45 CFR §164.512 (f)(1)(ii)(C).
- (3) Law Firms or Insurance Companies. A signed authorization by the minor client must accompany the request. An authorization from the parent or legal guardian will not be accepted. If the parent or legal guardian wishes to disclose medical records to a third party (e.g., attorney or insurance company), then the parent or legal guardian must request access to the minor's medical record following the procedures in section B, above. Upon the receipt of the minor's medical record, the parent or legal guardian may disclose it to the third party. Records of alcohol and drug abuse treatment are covered by 42 CFR Part 2.
- (4) Medical Examiners. Medical Examiners may access relevant health information about deceased minors necessary for the performance of their duties as required by law.

D. Content and Documentation of Requests for Access or Disclosure.

(1) All requests must contain the following:

- a. Signature of the minor client and/or the parent or legal guardian, as appropriate;
- b. Date of signature;
- c. Description of information requested; and
- d. Purpose of the disclosure.

Note: Although a state law may permit a parent or legal guardian to have access to an in-emancipated minor's medical record, the Privacy Act prohibits a parent or legal guardian to authorize a disclosure by NW BOCES of an un-emancipated minor's medical record to a third party. (See Section C(3) above.)

(2) The written request will be filed in the minor client's medical record.

(3) The information released will be documented in the accounting of disclosure log either manually or electronically.

(4) All requests for notification or access to a minor's record will comply with the Manual Exhibit 2-7-R.

E. Procedures Governing Access to/Disclosure of a Minor's Alcohol/Drug Abuse Records.

(1) If state law does not require parental or legal guardian consent for the minor to receive alcohol/drug abuse treatment, written authorization for disclosure may be given by, and access may be provided to, the minor client only.

(2) If state law requires the parent, legal guardian, or other person authorized by law to consent for the minor to receive alcohol/drug abuse treatment, written authorization for disclosure of the minor's records must be given by both the minor and the parent/legal guardian or other person authorized under state law to act on behalf of the minor client.

(3) Where state law requires parental consent to alcohol/drug abuse treatment, a minor's application for such treatment may be communicated to the parent, legal guardian, or other authorized person only if;

a. the minor has given written consent to the disclosure of the application; or

b. the minor lacks the capacity to make a rational choice regarding such consent (e.g., due to extreme youth or mental or physical condition).

(4) Alcohol/drug abuse records may only be disclosed pursuant to the minor client's authorization (and/or authorization of parent or legal guardian as determined by state law), Federal court orders, and in other limited circumstances. Such records shall NOT be disclosed pursuant to a law enforcement request. Any requests for disclosure of a minor's alcohol/drug abuse records should be reviewed in consultation with OGC.

POLICY AND PROCEDURE FOR VERIFICATION OF IDENTITY PRIOR TO
DISCLOSURE OF PROTECTED HEALTH INFORMATION

1. PURPOSE. To publish Northwest Wyoming Board of Cooperative Educational Services (NW BOCES) policy and procedure for verifying the identity or authority of any person requesting protected health information (PHI) prior to the disclosure of such PHI.

2. POLICY. NW BOCES will verify the identity of any person requesting PHI and the authority of any such person to have access to the requested PHI, if the identity or such authority is not known to NW BOCES.

3. DISCLOSURE. In all cases, any disclosure of PHI will be made in accordance with Manual Exhibit 2-7-D, "Policy and Procedure for the Use or Disclosure of Protected Health Information Pursuant to Authorization or Valid Written Request"; Manual Exhibit 2-7-K, "Policy and Procedure for Limiting the Use or Disclosure of Protected Health Information to the Minimum Necessary"; and Manual Exhibit 2-7-Q, "Policy and Procedure for Protected Health Information of Un-emancipated Minors."
 - A.Client. A client may request that PHI pertaining to him or her be released to themselves or others they specify.

 - B.Guardians. Guardians may request the release of PHI on behalf of the client.

 - C.Representatives. Representatives of hospitals, clinics, and health centers may request the release of PHI.

 - D.Law Enforcement Officials. Law enforcement officials and other individuals may request PHI of a client.

4. PROCEDURES. The following procedures shall be used to verify the identity of any person, entity, or organization requesting PHI.
 - A.Request Made in Person by the Client. If the identity of the client requesting PHI is personally known to the responsible NW BOCES staff member, the client's representation regarding their identity will be sufficient verification if it is reasonable under the circumstances. Otherwise, the client's identity shall be verified through the following methods:
 - (1)Provide one piece of tangible identification (preferably picture (I.D.), such as, the individual's driver's license, military identification card, employment identification card/badge, passport, or alien registration card. If a client is requesting his or her own PHI, the name on the identification must match the name of the client whose record is being sought. If the client's name has been legally changed, evidence documenting the name change must be presented. Additionally, the client shall provide particulars which can be verified by information already included in the record, such as place of birth, names of parents, an occupation, rank attained in Uniformed Services, or specific times the client received medical treatment.

- (2) If the client cannot produce identification, in addition to providing the particulars noted above, they shall certify in writing that they are the individual who they claim to be, and they understand that the knowing and willful request for or acquisition of a record under false pretenses is a criminal offense under the Privacy Act and subject to a fine of not more than \$5,000. (5 U.S.C. 552a)

B. Request Made In Person by an Individual (Third-Party).

- (1) If a request is made by a law enforcement official, the official must verify his or her identity by producing a badge, official identification, or some other identification that shows that the law enforcement official has the authority to accept the PHI on behalf of the law enforcement agency. The law enforcement official must also produce the law enforcement request or court order requesting the release of PHI if it is not already on file. See Manual Exhibit 2-7-T, "Policy and Procedure for the Disclosure of Protected Health Information to Law Enforcement Officials."
- (2) If a client authorizes in writing PHI to be disclosed to an attorney, and the attorney comes to NW BOCES in person to pick up the records, the attorney must present valid photo identification and authority (e.g., business card) that is consistent with the client authorization regarding to whom the PHI may be disclosed. If a representative of the attorney comes in the attorney's place, the representative must submit proof that the representative has authority to act on behalf of the attorney (e.g., agreement between a records company and an attorney). This provision also applies to client authorizations to disclose PHI to an insurance company representative.
- (3) If a client authorizes (in writing) PHI to be disclosed to another individual (e.g., family member or friend), the individual must verify his or her identity with photo identification that matches the client authorization to whom the PHI may be disclosed.

C. Requests Made In Person by Parents, Legal Guardians, or Other Personal Representative. An individual who makes a request for PHI on behalf of a minor, a person who is legally incompetent, or another individual, shall verify that he has authority to act by providing a copy of a birth certificate, a court order, or other competent evidence of the relationship or authority, e.g., health care power of attorney, in addition to verifying his own identity with photo identification (unless personally known to NW BOCES employee), unless the responsible NW BOCES staff person can establish that evidence of the relationship or authority has previously been provided. The staff making the verification must initial and date the form.

D. Request Made by Mail.

- (1) If the client is requesting PHI to be sent to them, verify that the name, address, particular information, and signature on the request are the same as those in the client file. Maintain the request in the medical record and release the PHI.
- (2) If the client is requesting PHI to be sent to another individual verify the identity in accordance with B(1) above and release the information only to the name and address of the individual authorized to receive the PHI. Maintain the request in the medical record and release the PHI.
- (3) If another individual requests (including requests by law enforcement, attorneys, or insurance company representatives) PHI of a client, the requestor must include documentation of authority (e.g., law enforcement requests must be on letterhead, requests by attorneys must

include a completed client authorization verified in accordance with B(1) above).

Maintain the request in the medical record and release the PHI. See Manual Exhibit 2-7-T, "Policy and Procedure for the Disclosure of Protected Health Information to Law Enforcement Officials."

- (4) If there is any variation, the responsible NW BOCES staff person shall obtain from the requestor an explanation and documentation in a form that complies with this Manual Exhibit. For example, a requestor who is a guardian must supply a birth certificate, a court order, or other competent evidence of the authority or relationship; a name change must be documented. The type of documentation provided and the date of request shall be noted in the client medical record by the NW BOCES staff member.

E. Request by a Healthcare Provider.

(1) Telephone Request Made for Emergency Treatment Purposes.

- a. Obtain the provider's name, facility name, location, and the telephone number of the requesting entity, and verify the identity of the requesting individual by telephoning the number provided.
- b. Document the call and the individual, who received the call on the provider's behalf; this serves as identification verification.
- c. Document the information being sought or requested.
- d. Document the reason for the request.
- e. Provide only the PHI that the requesting entity indicates is necessary to be provided by telephone at that time. Provide the rest of the requested PHI by the same means as it would be provided to the requesting entity in a non-emergent circumstance.

Note: Do not withhold if the entire record is required for medical treatment purposes.

F. Requests by Subpoena/Court Order. Process the request under the guidance provided through consult with the NW BOCES Attorney.

POLICY AND PROCEDURE FOR THE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR EMANCIPATED MINORS AND ADULTS WITH PERSONAL REPRESENTATIVES OR LEGAL GUARDIANS

1. PURPOSE. To publish Northwest Wyoming Board of Cooperative Educational Services(NW BOCES) policy and procedure for the use and disclosure of protected health information (PHI) of emancipated minors and adults with personal representatives, including legal guardians, pursuant to the requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Privacy Rule, 45 Code of Federal Regulations (CFR) Parts 160 and 164; the Privacy Act of 1974 as amended, 5 United States Code (U.S.C.) §552a; the Health and Human Services (HHS) Privacy Regulations, 45 CFR Part 5b; and the Confidentiality of Alcohol and Drug Abuse Client Records, 42 CFR Part 2.

NOTE: This policy does not govern the procedures to follow in cases involving requests for access to the PHI of an unemancipated minor by the parent, personal representative or legal guardian of such unemancipated minor. In those instances, follow the procedures set forth in Manual Exhibit 2-7-Q, “Policy and Procedure for Protected Health Information of Unemancipated Minors.”

2. POLICY. Except as expressly provided in this policy, NW BOCES shall treat a personal representative of an emancipated minor or adult the same as the emancipated minor or adult for the purposes of the use and disclosure of PHI as it relates to such personal representation.

(5 U.S.C. § 552a (h); 45 CFR §§5b.10; and 45 CFR § 164.502(g) (1), (2), (5))

3. DEFINITION.

A. Personal Representative. Any person who, under applicable law, has authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care. A personal representative may include, but is not necessarily limited to, the legal guardian of any such individual who has been declared incompetent due to physical or mental incapacity by a court of competent jurisdiction. (5 U.S.C. 552a (h); and (45 CFR § 164.502(g)(2))

4. PROCEDURES. The following procedures shall be used when determining whether to disclose PHI to a personal representative of an emancipated minor or adult:

A. Confirming the Status of the Personal Representative. Before disclosure of the PHI of an adult or emancipated minor may be made to any individual claiming to have authority to access such PHI as the personal representative of such individual, the facility must obtain adequate documentation to support the determination that the requestor has the authority under applicable law to act as the client’s personal representative. See Manual Exhibit 2-7-R, “Policy and Procedure on Verification of Identity Prior to Disclosure of Protected Health Information.” NW BOCES Administrative Director may contact the appropriate Office of General Counsel (OGC) where there is doubt regarding an individual’s personal representative status, including whether a court of competent jurisdiction has appointed the individual to serve as the client’s legal guardian.

B. Disclosure of PHI to Personal Representatives. If the Administrative Director determines that an individual is the personal representative of an emancipated minor or adult, then the service unit must treat the personal representative as the client for purposes of access under HIPAA Privacy Rule and the Privacy Act. Any requests for access by the personal representative shall be handled

pursuant to NW BOCES policy governing access to client medical records, Manual Exhibit 2-7-A, "Policy and Procedure for Clients' Rights to Access, Inspect, and Obtain a Copy of Their Protected Health Information."

C.Exceptions. NW BOCES does not have to inform the personal representative of an emancipated minor or an adult that it made a disclosure of the individual's PHI to a government authority which is authorized by law to receive reports of abuse, neglect or domestic violence, if it reasonably believes the personal representative is responsible for the abuse, neglect or other injury and, in the exercise of its professional judgment, it believes that informing the legal representative would not be in the best interests of the individual. (45 CFR § 164.512(c)(1) and (2)(ii))

D.Requests for Disclosure of Alcohol/Drug Abuse Records. Requests by a personal representative for access to records governed by the Confidentiality of Alcohol and Drug Abuse Client Records, 42 CFR Part 2, shall only be released in compliance with those regulations.

E.Accounting Requirements. Any PHI released to a personal representative (First party requestor) will be documented. See Manual Exhibit 2-7-B, "Policy and Procedure for Matters Related to Accounting of Disclosures of Protected Health Information."

POLICY AND PROCEDURE FOR THE DISCLOSURE OF PROTECTED HEALTH INFORMATION TO LAW ENFORCEMENT OFFICIALS

1. PURPOSE. To publish Northwest Wyoming BOCES (NW BOCES) policy and procedure on the disclosure of protected health information (PHI) to law enforcement agencies. This policy is not applicable to disclosures governed by the Federal Confidentiality of Alcohol and Drug Abuse Client Records regulations, 42 Code of Federal Regulations (CFR) Part 2.

2. POLICY. It is NW BOCES policy to disclose PHI to law enforcement agencies in accordance with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule; and the Privacy Act of 1974 as amended. NW BOCES may disclose PHI to law enforcement agencies under certain conditions and certain situations as outlined below.

3. PROCEDURES.

A.Law Enforcement Requests. NW BOCES will from time to time receive requests from Federal or State law enforcement officials to release PHI that is in the possession of NW BOCES to such law enforcement officials. These may arise in a number of circumstances, including but not limited to: child abuse and neglect; domestic violence; sexual assault; and criminal vehicular assault. The Privacy Act of 1974, as amended, 5 U.S.C. § 552a (b)(7); the HHS Privacy Act regulations, 45 CFR § 5b.9(b)(7); and the HIPAA Privacy Rule, 45 CFR § 164.512(f)(1), generally authorize the release of PHI to law enforcement officials if the activity is required or authorized by law and if the law enforcement request meets the following basic criteria:

(1)The request is in writing;

(2)the request identifies the specific nature of the law enforcement activity (for example: investigation of sexual assault, child abuse, etc.);

(3)the facility is able to determine that the information sought is relevant and material to the particular law enforcement inquiry;

(4)de-identified information could not be used;

(5)the request is specific and limited in scope to the extent possible; and

(6)the request is signed by the head of the law enforcement agency.

B.Special Circumstances. While the appropriate personnel at NW BOCES may generally release PHI to law enforcement officials pursuant to a law enforcement request that meets the requirements set forth in section (A) (1)-(6) above, in some instances the law enforcement request will need to satisfy certain additional criteria set forth in the HIPAA Privacy Rule before PHI can be released to law enforcement officials. This section sets forth those instances where such additional requirements must be satisfied before NW BOCES may release PHI to law enforcement officials.

(1)Identifying or locating a suspect, fugitive, missing person, etc. NW BOCES may disclose PHI in response to an otherwise valid law enforcement request for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that the facility

may disclose only the following information:

- a. Name and address;
- b. date and place of birth;
- c. social security number;
- d. ABO blood type and rh factor;
- e. type of injury;
- f. date and time of treatment;
- g. date and time of death, if applicable; and
- h. a description of distinguishing physical characteristics, including height, weight, gender, race, hair color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

Except as permitted in subsections 4B(1)a-h above, NW BOCES may not disclose for the purposes of identification or location any PHI related to the individual's DNA or DNA analysis, dental records, or typing, samples, or analysis of body fluids or tissue.

(2) Victims of a crime. Except for disclosures required by law, NW BOCES may disclose PHI in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, if:

- a. The individual agrees to the disclosure; or
- b. NW BOCES is unable to obtain the individual's agreement because of incapacity or other emergency, and:
 - (i) The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;
 - (ii) The law enforcement official represents that current, ongoing law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and
 - (iii) the disclosure is in the best interests of the individual as determined by NW BOCES, in the exercise of professional judgment.

C. Disclosures of PHI to Law Enforcement Official that do not Require a Law Enforcement Request. The HIPAA Privacy Rule, 45 CFR 164.512(1)(4)-(6), provides several instances where NW BOCES may voluntarily disclose PHI to law enforcement officials even in the absence of a law enforcement request for such records. NW BOCES may proactively disclose PHI to law enforcement officials without first receiving a request from a law enforcement official if:

(1) Decedents. NW BOCES may disclose PHI on a deceased individual to law enforcement official for the purpose of alerting law enforcement of the death of the individual if the

facility has a suspicion that such death may have resulted from criminal conduct.

(2)Crime on Premises. NW BOCES may disclose to a law enforcement official PHI that the facility believes in good faith constitutes evidence of criminal conduct that occurred on the facility's premises.

(3)Reporting a Crime in Emergencies. NW BOCES while providing emergency health care in response to a medical emergency, other than such emergency on its own premises, may disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

- a. The commission and nature of a crime;
- b. The location of such crime or of the victim(s) of such crime; and
- c. The identity, description, and location of the perpetrator of such crime.

D. Members of NW BOCES Workforce Who Are Victims of Crime. Members of NW BOCES workforce who are victims of a crime may disclose PHI to law enforcement officials under certain conditions regardless of whether the crime has occurred at NW BOCES or off premises. NW BOCES is not in violation of the HIPAA Privacy Rule if its workforce members who are victims of a crime disclose PHI to law enforcement officials provided that:

(1) the PHI disclosed is about the suspected perpetrator of the criminal act: and (2) the information provided is limited to the following information about the perpetrator:

(2) the information provided is limited to the following information about the perpetrator:

- a. name and address;
- b. Date and place of birth
- c. Social security number;
- d. ABO Blood type and rh factor;
- e. type of injury;
- f. date and time of treatment;
- g. date and time of death, if applicable; and
- h. the description of distinguishing characteristics (height, weight, eye and hair color, etc.)

E. Verification of Identity of Law Enforcement Official. A law enforcement official must verify his or her identity by producing a badge, official identification, or some other identification that shows that the law enforcement official has the authority to accept the PHI on behalf of the law enforcement agency. See Manual Exhibit 2-7-R, "Policy and Procedure for Verification of Identity Prior to Disclosure of Protected Health Information."

F. Temporary Suspensions of Accounting for Disclosures to Law Enforcement Officials.

- (1) A law enforcement official may request NW BOCES to suspend a client's right to receive an accounting of disclosures if the agency or official provides a written statement that such an accounting to the client would be reasonable likely to impede the agency or official's duties. The agency or official must specify how long to suspend the accounting. During the period of accounting, any disclosures requiring an accounting must still be accounted (documented). At the end of the suspension: a client's right to receive an accounting is reinstated.
- (2) If the request for temporary suspension is made orally, NW BOCES must document the identity of the agency or official who made the request must exclude the disclosure(s) for no longer than 30 days from the date of the request, unless a written request is provided during that time. If the agency or official provides a written request that meets the requirement of 4D(1) above, NW BOCES must temporarily suspend the client's right to an accounting for the time period specified in the written request.

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