



LAKEMARY
CENTER

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

Privacy Practices Procedure Manual

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Privacy Practices Procedures Manual

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PURPOSE

The Privacy Rule protects individually identifiable health information from uses and disclosures that unnecessarily compromise the privacy of an individual. The Rule is carefully designed to protect the privacy of health information, while allowing important health care communications to occur.

INTENDED AUDIENCE

This information applies to all Lakemary staff, volunteers, trainees, interns, health representatives and business associates, granted access to Protected Health Information (PHI).

ENFORCEMENT

All supervisors are responsible for enforcing these procedures. Individuals who violate these procedures will be subject to the appropriate and applicable disciplinary process, up to and including termination or dismissal.

DEFINITIONS

Authorization: An authorization allows for the use and disclosure of PHI for purposes other than Treatment, Payment, and health care Operations (TPO).

Authorized User: An individual that is granted access to PHI for individuals served through an authorization, IRB waiver or who is performing an activity related to health care operations.

Authorized Records Technician: An Authorized Records Technician (ART) is a Lakemary staff person (i.e., Medical Records Coordinator, Children's Case Management, SFL Coordinator, Adult Social Services Coordinator, Executive Team Member) who is privileged to release information. All requests for release of information shall be directed to an ART. When an ART has questions concerning the release of information, they shall consult with the Medical Records Coordinator.

Breach: A breach is, generally, an impermissible use or disclosure under the Privacy Rule that compromises the security or privacy of the protected health information such that the use or disclosure poses a significant risk of financial, reputational, or other harm to the affected individual.

There are three exceptions to the definition of "breach." The first exception applies to the unintentional acquisition, access, or use of protected health information by a workforce member acting under the authority of a covered entity or business associate. The second exception applies to the inadvertent disclosure of protected health information from a person authorized to access protected health information at a covered entity or business associate to another person authorized to access protected health information at the covered entity or business associate. In both cases, the information cannot be further used or disclosed in a manner not permitted by the Privacy Rule. The final exception to breach applies if the covered entity or business associate has a good faith belief that the unauthorized individual, to whom the impermissible disclosure was made, would not

have been able to retain the information.

Business Associate: a person or entity who provides certain functions, activities, or services (i.e., consultant contracts: psychiatrist, dietitian, school, accrediting agency, licensing agency, electronic medical records entity, etc.) for or to Lakemary, involving the use and/or disclosure of PHI. A business associate is not a Lakemary employee.

Convenience Copies of Records (CCR): These records are commonly referred to as shadow records. They are service records maintained by a provider or department that includes only copies of original information that has already been included in the Individual Service Record. These records have no record retention schedule. These records never contain original documents. The CCR must be secured in locked file and/or locked offices. The ART's and Health Information Custodians will advise the Medical Records Coordinator of CCR location.

Counseling/Psychotherapy Notes: These records (sometimes referred to as progress notes) are used by a therapist/case worker to document impressions about the individual served. These notes often contain details of therapy process which may not be appropriate for the medical record. Providers use these notes for review, analysis and to help plan future sessions for individual, group or family counseling.

Correction of PHI. Individuals should be provided with a timely means to dispute the accuracy or integrity of their individually identifiable health information, and to have erroneous information corrected or to have a dispute documented if their requests are denied.

Designated Record Set: The designated record set includes all of the individual components of the Individual Service Record. The Components include the Unit File, Health Clinic (or Medical File), Behavioral Incident Reports, Service Logs and billing records of individuals served. Additionally, the designated electronic record set includes any records that Lakemary or a Business Associate has used while making health care decisions. For example, records from non-Lakemary sources used to make health care or service decisions.

Disclosure: The release, transfer, provision of access to, or divulge in any other manner, PHI held by Lakemary Center, Inc.

Lakemary may, without the individual's authorization:

- Use or disclose protected health information for its own treatment, payment, and health care operations activities. For example:
 - Lakemary may use protected health information about an individual to provide health care to the individual and may consult with other health care providers about the individual's treatment.
 - Lakemary may disclose protected health information about an individual

- as part of a claim for payment to a health plan.
- Lakemary may disclose protected health information for the treatment activities of any health care provider (including providers not covered by the Privacy Rule). For example:
 - Lakemary may disclose an individual served health care instructions to a nursing home to which the individual is transferred.
- Lakemary may disclose protected health information to another covered entity or a health care provider (including providers not covered by the Privacy Rule) for the payment activities of the entity that receives the information. For example:
 - Lakemary may give an individual's served payment information to an ambulance service provider that transported the individual to the hospital in order for the ambulance provider to bill for its treatment.
- Lakemary may disclose protected health information to another covered entity for certain health care operation activities of the entity that receives the information if:
 - Each entity either has or had a relationship with the individual who is the subject of the information, and the protected health information pertains to the relationship.
 - The disclosure is for a quality-related health care operations activity (i.e., the activities listed in paragraphs (1) and (2) of the definition of "health care operations" at 45 CFR 164.501) or for the purpose of health care fraud and abuse detection or compliance. For example: Lakemary may disclose protected health information to a health plan for the plan's Health Plan Employer Data and Information Set (HEDIS) purposes, provided that the health plan has or had a relationship with the individual who is the subject of the information.

Electronic Mail (email): Any message, image form, attachment, data, or other communication sent, received, or stored within an electronic mail system.

Electronic Mail System: Any computer software application that allows electronic mail to be communicated from one computing system to another.

Emergency Preparedness. All electronic health records (E H R) are hosted by and maintained through a contract with the E.H.R. provider.

Fundraising. Fundraising for benefit of the covered entity is a health care operation, therefore health care providers do NOT need to obtain patient authorization to use the six categories of patient health information listed below for fundraising purposes. **[45 CFR § 164.501]**.

- Patient demographic data
- Health insurance status
- Dates of patient health care services

- General department of service information
- Treating physician information
- Outcome information

Fundraising Opt Out: An opt-out provision is a statement, written or oral, provided to former patients that describes how they can discontinue receiving fundraising materials and solicitations from the health care provider or supporting foundation. HIPAA regulations mandate that an opt-out provision must be included with each fundraising communication or materials a health care provider or supporting foundation makes to former patients (including telephone solicitations). The opt-out must:

- Be a clear and conspicuous part of the materials sent to the patient.
- Be written in clear, plain language.
- Describe a simple, not unduly burdensome means to opt-out from receiving any further fundraising materials or communications.

Sample language: *If you do not want to receive future fundraising requests supporting [Name of Entity and/or name of specific campaign], please check the box on the enclosed printed, pre-addressed and pre-paid card and mail In the alternative, you can call our telephone number [either the local numbers [list] or our toll free number [list] and leave a message identifying yourself and stating that you do not want to receive fundraising requests. There is no requirement that you agree to accept fundraising communication from us, and we will honor your request not to receive any [more altogether or more with respect to the identified campaign] fundraising communications from us after the date we receive your decision.*

Health Clinic File. See Medical File.

Health Information Custodian

Each client service location where records are maintained at Lakemary Center shall have an individual assigned to serve as Health Information Custodian. This individual shall monitor records procedures and consult as needed with the Medical Records Coordinator to assure that policies and procedures governing protected health information are followed.

Health Information Technology. Health information technology (health IT) involves the exchange of health information in an electronic environment. Widespread use of health IT within the health care industry will improve the quality of health care, prevent medical errors, reduce health care costs, increase administrative efficiencies, decrease paperwork, and expand access to affordable health care. It is imperative that the privacy and security of electronic health information be ensured as this information is maintained and transmitted electronically.

Individual Service Record: The Individual Service Record includes all the file volumes used for service documentation at Lakemary. The Individual Service Record is designed to contain the written interpretations of all significant information gathered for an individual receiving any service provided by Lakemary. The Individual Service Record includes the Unit File, Health Clinic (or Medical File), Behavioral Incident Reports, Service Logs, and Convenience Copies: these records may be in electronic or paper form. Many of these files may be combined in one electronic health record. Individual Service Records have a permanent retention schedule.

Limited Data Set: Protected health information (PHI) that excludes the direct identifiers listed below for the individual or of relatives, employers, or household members of the individual.

- i. Names;
- ii. Postal address information, other than town or city, State, and zip code;
- iii. Telephone numbers;
- iv. Fax numbers;
- v. Electronic mail addresses;
- vi. Social security numbers;
- vii. File record numbers;
- viii. Health plan beneficiary numbers;
- ix. Account numbers;
- x. Certificate/license numbers;
- xi. Vehicle identifiers and serial numbers, including license plate numbers;
- xii. Device identifiers and serial numbers;
- xiii. Web Universal Resource Locators (URLs);
- xiv. Internet Protocol (IP) address numbers;
- xv. Biometric identifiers, including finger and voice prints; and
- xvi. Full face photographic images and any comparable images.

Marketing: Marketing involves communication about a service that encourages recipients to purchase or use the service, unless the communication is made:

1. For services provided to an individual;
2. For case management or care coordination for the individual, or to direct or recommend alternative services, providers, or service settings.
3. Pursuant to an arrangement between Lakemary and any other entity whereby Lakemary discloses PHI to the other entity, in exchange for direct or indirect remuneration, for the other entity or its affiliate to make a communication about its own service that encourages recipients of the communication to use that service. This part of the definition to marketing has no exceptions. The individual must authorize these marketing communications before they can occur.

Lakemary Center does not sell PHI to a business associate or any other third part for that party's own purposes.

Medical File: Medical File and Health Clinic File are interchangeable terms. The Medical File is designed to provide documentation of health care services provided to the individual by Lakemary and other health care providers.

Minimum Necessary: When using or disclosing PHI or when requesting PHI from another service provider or service organization, Lakemary must limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request. Minimum Necessary does not apply in the following circumstances:

1. Disclosures by a service provider for the delivery of services
2. Uses and Disclosures based upon a valid consent to use and disclose PHI for treatment, payment and health care operations or a valid authorization to use and disclose PHI,
3. Disclosures made to the Secretary of Health and Human Services,
4. Uses and disclosures required by law or directed by agencies responsible for licensure or administrative oversight of Lakemary operations, and
5. Uses and disclosures required by other sections of the HIPAA privacy regulations.

Minor: an individual under the age of 18 and has not been legally emancipated by a court and is:

1. not legally or previously married;
2. not serving in the armed forces;
3. not presently an offender in the Kansas Department of Corrections or other correctional facility; or
4. not at least 16 years old **and** living away from home and managing his or her own financial affairs.

Notice: Any use or disclosure of protected health information for treatment, payment, or health care operations is consistent with Lakemary's notice of privacy practices. Lakemary provides the individual with adequate notice of its privacy practices, including the uses or disclosures that Lakemary may make of the individual's information and the individual's rights with respect to that information.

Payment: Any activities undertaken either by a health plan or by a health care provider to obtain premiums determine or fulfill its responsibility for coverage and the provision of benefits or to obtain or provide reimbursement for the provision of services. These activities include but are not limited to:

1. Determining eligibility, and adjudication or subrogation of benefit claims,
2. Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, and related health care processing,
3. Review of healthcare services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges,
4. Utilization review activities, including pre-certification and preauthorization services, concurrent and retrospective review of services,
5. Disclosure to consumer reporting agencies of certain PHI relating to collection of premiums or reimbursement.

Personal Representative: A personal representative would include an individual who has authority, by law or by agreement, from the individual receiving treatment, to act in the place of the individual. This includes parents, legal guardians or properly appointed agents, such as those identified in documents like Durable Power of Attorney, Medical Power of Attorney, individuals designated by state law, or agencies assigned to care for Children in Need of Care (Primary Contract Agencies).

PHI: Personal Health Information

Protected health information (PHI) means individually identifiable health information. It does not include individually identifiable health information in education records covered by the Federal Educational Rights and Privacy Act (FERPA)

- Names;
- Postal address information, other than town or city, State, and zip code;
- Telephone numbers;
- Fax numbers;
- Electronic mail addresses;
- Social security numbers;
- File record numbers;
- Health plan beneficiary numbers;
- Account numbers;
- Certificate/license numbers;
- Vehicle identifiers and serial numbers, including license plate numbers;
- Device identifiers and serial numbers;
- Web Universal Resource Locators (URLs);
- Internet Protocol (IP) address numbers;
- Biometric identifiers, including finger and voice prints; and
- Full face photographic images and any comparable images.

Privacy Officer: a Lakemary staff person(s) who are assigned to the implementation of these procedures.

Professional Need to Know: A required level of access to specific and limited information necessary to complete assigned work.

Qualified Protective Order: Means, with respect to PHI requested under this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

1. Prohibits the parties from using or disclosing the PHI for any purpose other than the litigation or proceeding for which such information was requested; and

2. Requires the return to Lakemary or destruction of the PHI (including all copies made) at the end of the litigation or proceeding.

Record: Any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated.

Referring Service Provider/Agency: The source behind a particular episode of health care. The referring service provider or agency may be a prior or ongoing provider of services to the individual or may be an agency responsible for custody and oversight of care, e.g. Primary Contract Agency such as St. Francis.

Restriction: An agreed upon limitations on use and disclosure of PHI about an individual to carry out Treatment, Payment or health care operations (TPO) and disclosures for involvement in the individual's care. For instance, Lakemary may use and disclose PHI for TPO but the individual served may request Lakemary not to use or disclose PHI for other instances.

Reporting A Breach. The breach notification interim final rule requires **covered entities** to provide the Secretary with notice of breaches of unsecured protected health information (45 CFR 164.408). The number of individuals affected by the breach determines when the notification must be submitted to the Secretary. Please review the procedures for submitting breach notifications.

Revocation: An individual exercises the right to void a prior authorization to use and disclose PHI. After the revocation, Lakemary may no longer use or disclose PHI without the individual's authorization. However, Lakemary will not be liable for a use or disclosure of an individual's PHI after a revocation, if Lakemary in good faith based its actions upon a prior authorization and has already acted in reliance upon the authorization.

Service Logs: Service Logs document the services provided, and time spent on services for case management, and outpatient therapies.

Service Operations: Certain administrative, financial, legal, and quality improvement activities of a covered entity that are necessary to run its business and to support the core functions of treatment and payment. These activities, which are limited to the activities listed in the definition of "health care operations" at 45 CFR 164.501, include:

1. Conducting quality assessment and improvement activities, population-based activities relating to improving services or reducing cost of providing services, case management and care coordination, contacting individuals served with information about service alternatives, and related functions that do not involve direct services,
2. Reviewing the competence or qualifications of service providers, evaluating practitioner and provider performance, conducting training programs in which students or trainees learn under supervision to practice or improve their skills as

service providers, 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,
4. Conducting or arranging for health care review, licensure or administrative 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, development or improvement of methods of payment or covered policies,
6. Business management and general administrative activities:
 - Management activities related to HIPAA compliance,
 - Customer Service,
 - Resolution of internal grievances,
 - Sale, transfer, merger, or consolidation of covered entities,
 - Creating de-identified health information or limited data set,

Super-Confidential Information: Information pertaining to substance abuse, mental health conditions, HIV testing, sexually transmitted diseases, and genetic information, as defined and protected by specific federal and state laws and regulations.

Treatment and/or Habilitation Services: The provision, coordination, or management of health care related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to an individual served; or for the referral of an individual served for services from one service provider to another.

Unit File: The Unit File contains documentation of services provided by Lakemary, individual evaluations, as well as correspondence and other documents related to TPO.

Use (with respect to individually identifiable health information): The sharing, employment, application, utilization, examination, or analysis of PHI held by Lakemary.

PROCEDURES

1.1 General Procedure on Uses and Disclosures of PHI

Lakemary employees may use and disclose PHI only as permitted or required by the federal privacy regulations (i.e., treatment, payment, healthcare operations, etc.) and any relevant Kansas laws.

1. Use and Disclosures:

Uses and disclosures that do not require written authorization are described below under Privacy Requirements; all other uses and disclosures require written authorization.

- a. All Lakemary record disclosures must be submitted to the Medical Records Coordinator.
- b. The Medical Records Coordinator will verify release authorization, as applicable.
- c. Upon verification of release authorization, as applicable, the Medical Records Coordinator will release the minimum necessary to the requester.
- d. The Medical Records Coordinator will maintain an electronic record of all disclosures of information contained in the health care record to a third party, including the purpose of the disclosure request.

2. Information Subject to More Stringent Laws

Health information that is subject to specific privacy rules mandated by state or federal laws (mental health, substance abuse, STD, HIV/AIDS, genetic information) will only be used and disclosed in accordance with those laws.

3. Treatment, Payment, and Service Operations

Lakemary will use and disclose PHI for treatment, payment, and service operations in accordance with applicable federal laws as well as state regulations and laws. As applicable, more stringent state laws will preempt HIPAA rules.

4. Organized Health Care Arrangement

Lakemary participates in an organized health care arrangement with business associates and covered entities and will routinely disclose PHI about person supported to the other associates in the arrangement for treatment, payment, and service operations.

5. Disclosing PHI to Other Covered Entities

Lakemary may disclose PHI it creates, receives, and maintains to other entities outside of Lakemary's organized health care arrangement.

- a. Upon request, to a health care provider who is providing treatment to the patient.
- b. Upon written authorization by the patient or medical representative for any other purpose.

Acknowledgements

Except in emergency care situations, Lakemary must make a good faith effort to obtain a written acknowledgment of receipt of the Notice of Privacy Practice provided in accordance with Use of

Notice of Privacy Practices for PHI, and if not obtained, document good faith efforts to obtain such acknowledgment and the reason why the acknowledgment was not obtained.

Lakemary may use and disclose certain PHI without the written consent or authorization to release the information from the individual. The individual must be informed in advance of the use or disclosure and have the opportunity to agree, prohibit, or restrict the disclosure. Lakemary may orally inform the individual of the permitted uses and disclosures and obtain the individual's agreement or objection to a use or disclosure permitted by these procedures. In some circumstances, Lakemary may use and disclose certain information without consent, authorization, or oral agreement as outlined within these procedures, see 1.2 Permitted Uses and Disclosures of PHI, and 1.2.h Persons Supported Authorization

1.2 Permitted Uses and Disclosures of PHI:

Lakemary may use and disclose PHI as necessary for:

1. Delivery of treatment (including health, mental health, and/or emergency treatment).
2. Health oversight agency for oversight activities authorized by law.
3. Lakemary services, payment, or service operations.
4. Payment activities of another covered entity or service provider.
5. Healthcare operation activities of another covered entity or health care provider, if each entity has or had a relationship with the individual who is the subject of the PHI being requested, and disclosure is:
 - a. for a purpose listed in the definition of health care operations; or,
 - b. for the purpose of health care fraud and abuse detection or compliance.
6. Another covered entity that participates in an organized healthcare arrangement with Lakemary for any health care operation activities of the organized health care arrangement.

In order for Lakemary to use and disclose PHI for purposes other than those listed above, see Uses and Disclosures of PHI Based on Persons Supported Authorization and Use and Disclosure for Public Health and Safety.

1.2.a Counseling/ Psychotherapy Notes

Neither a person supported, nor their guardian has the right to inspect or obtain a copy of Counseling/ Psychotherapy Notes. Neither a person supported, nor their guardian has the right to request a review when access is denied. A person supported or their guardian can access a summary of counseling or psychotherapy progress upon request.

Summary information regarding counseling shall also be provided in Progress Notes and the Narrative Notes which will be placed in the individual's file.

Lakemary will not release Counseling/Psychotherapy notes, except in specific situations or as required by law. Situations in which Lakemary may release Counseling/Psychotherapy notes are as follows. In these situations, neither the person supported, nor their guardian needs to provide authorization for disclosure:

1. To defend a legal action brought by the person supported.
2. To Department of Health and Human Services to determine compliance with the privacy rule.
3. By a health oversight agency for a lawful purpose related to oversight of a counselor.
4. 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.
5. To law enforcement in instances of permissible disclosure related to a serious or imminent threat to the health or safety of a person or the public.
6. For court orders or subpoenas.
7. As otherwise required by law.

Other than as noted above, Counseling / Psychotherapy Notes are not to be included as PHI that may be disclosed, unless authorization is obtained for such use or disclosure.

1.2.b Deceased Individuals

As a general rule, Lakemary personnel shall not disseminate PHI, unless an individual with authority to request the information has requested it and has obtained a valid authorization from the individual. However, PHI may be used or disclosed to coroners, medical examiners, or funeral directors.

Although no authorization is required, these disclosures must be tracked to account for the disclosure.

Coroners and Medical Examiners

Lakemary may disclose PHI 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.

Funeral Directors

Lakemary may disclose PHI to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If necessary for funeral directors to carry out their duties, Lakemary may disclose the PHI prior to, and in reasonable anticipation of, the individual's death.

1.2.c Family and Friends – Individual Care and Notification Purposes

Lakemary may use and disclose certain PHI without the written consent or authorization to release the information from the individual. The individual must be informed in advance of the use or disclosure and have the opportunity to agree, prohibit, or restrict the disclosure. Lakemary may orally inform the individual of the permitted uses and disclosures and obtain the individual's agreement or objection to a use or disclosure permitted by these procedures. In some circumstances, Lakemary may use and disclose certain information without consent, authorization, or oral agreement as outlined within these procedures. Authorized Records Technician and Health Information Custodians must document the agreement, prohibition, or restriction in the service record.

Involvement in the Individual's Care and Notification Purposes

Lakemary may disclose to an authorized family member, other relative, a close personal friend of the individual, or any other person identified by the individual, the PHI directly relevant to such person's involvement with the individual's care or payment related to the individual's services. Lakemary may use or disclose PHI to notify or to assist in the notification of a family member, a personal representative of the individual, or another person responsible for the care of the individual of the individual's location, general condition, or death. Lakemary can also use and disclose PHI in these circumstances for identifying or locating the types of persons mentioned above. In order for Lakemary to use or disclose PHI for these purposes, the individual's presence is a determining factor. The following processes outline how Lakemary may use and disclose PHI for these purposes.

Uses and Disclosures with the Individual Present

If the individual is present for, or otherwise available prior to, a use or disclosure and has the capacity to make health care decisions, Lakemary may use or disclose the PHI if it:

1. Obtains the individual's agreement;
2. Provides the individual with the opportunity to object to the disclosure, and the individual does not express an objection; or
3. Reasonably infers from the circumstances, based on the exercise of professional judgment, that the individual does not object to such disclosure.

Limited Uses and Disclosures when the Individual is not Present

If the individual is not present or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the individual's incapacity or an emergency circumstance, Lakemary may, in exercise of professional judgment, determine whether the disclosure is in the best interests of the individual and, if so, disclose only the PHI that is directly relevant to the person's involvement with the individual's health care. Lakemary may use professional judgment and its experience with common practice to make reasonable inferences of the individual's best interest in allowing a person to act on behalf of the individual to pick up filled prescriptions, medical supplies, service documentation, or other similar forms of PHI.

1.2.d Fundraising and Marketing

In general, Protected Health Information (PHI) of a person supported may not be used for fundraising purposes without specific authorization from the person supported or their personal representative. Lakemary fundraising personnel may only use and disclose dates of treatment and demographic information in connection with fundraising activities unless they obtain specific authorization from persons supported granting more expansive use of their PHI. Demographic information generally includes name, address, other contact information, age, gender and ethnicity.

Information about the department in which a person supported services also cannot be used for fundraising purposes without the prior authorization of the person supported, if that information would reveal or could reveal the nature of the diagnosis, services or treatment that the individual received.

Lakemary personnel and affiliated fundraising associates MAY:

- Use basic demographic information of the person supported to solicit gifts.
- Access dates of service to the individual.
- Use public information outside its internal database to send fundraising requests, without fear of violating these procedures.

Lakemary personnel and affiliated fundraising associates MUST:

- Provide a “Notice of Privacy Practices” to any individuals they may be planning to contact. Persons supported may receive a Notice of Lakemary Privacy Practices by visiting the Lakemary website or calling (866) 557-0700. An opt-out provision shall also be provided along with the initial fundraising letter sent describing how individuals may decline to receive further fundraising materials. See: Notice of Privacy Practices (Appendix #5).
- Exclude information about diagnosis, nature of services, or treatment in any solicitation.
- Remove that information immediately from the mailing list upon receipt of an opt out request.
- Sign an appropriate business associate agreement before disclosing PHI to consultants or outside entities for fundraising activities (See 3.1 Business Associates with Access to PHI). This contract is not necessary should Lakemary employees or an institutionally related foundation perform the fundraising, which includes nonprofit foundations that raise only a portion of funds for Lakemary.

After Notice of Privacy Practices is sent, information that CAN be used for fundraising without authorization or consent includes:

- Name
- Address
- Other contact information (such as email, phone etc.)
- Age
- Gender
- Date of service

Information that CANNOT be used without authorization:

- Diagnosis
- Nature/Type of services

When a prospective contributor voluntarily discloses information about diagnosis and treatment to a member of Lakemary's fundraising staff, that information can then be used for other fundraising purposes.

Marketing:

Lakemary or its personnel may not disclose, use, sell or coerce an individual to consent to the disclosure, use, or sale of PHI for marketing purposes without the authorization of the Person supported or personal representative of the individual who is the subject of the PHI. Lakemary personnel shall not disclose PHI to any non-affiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer

1.2.eSpecialized Government Functions

As a general rule, Lakemary personnel may not disseminate PHI, unless it is requested by the individual to whom the PHI belongs, and a valid authorization has been obtained.

However, PHI may be used or disclosed without authorization for specialized government functions. These specialized government functions include:

4. Armed Forces personnel, the Red Cross, or other authorized agents of the Armed Forces, if deemed necessary by appropriate military command;
5. authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities;
6. authorized federal officials for the provision of protecting the President or foreign heads of state;
7. the Department of State to make medical suitability determinations;
8. a correctional institution or a law enforcement official with lawful custody of an inmate if necessary for the health and safety of such individual, other inmates, officers or other employees at the correctional institution;
9. governmental programs providing public health benefits and governmental agencies administering such programs.

Military and Veterans Activities

1. Lakemary may use and disclose the PHI of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command.
2. Lakemary may use and disclose the PHI of individuals who are foreign military personnel to their appropriate foreign military authority for the same purposes for which uses and disclosures are permitted for Armed Forces personnel under the same guidelines that apply to US Armed Forces.

National Security and Intelligence Activities

Lakemary may disclose PHI to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by law.

Correctional Institutions and Other Law Enforcement Custodial Situations

1. Lakemary may disclose PHI to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual PHI, if the institution or official represents that such PHI is necessary for:
 - a) The provision of health care to such individuals;
 - b) The health and safety of such individual or other inmates;
 - c) The health and safety of the officers or employees of or others at the correctional institution;
 - d) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;
 - e) Law enforcement on the premises of the correctional institution; and
 - f) The administration and maintenance of the safety, security, and good order of the correctional institution.
2. Any component of Lakemary that is affiliated with a correctional institution may use PHI of individuals who are inmates for any purpose for which such PHI may be disclosed.

For the purposes of this provision, an individual is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.

1.2.f Health and Human Services (HHS)

As a general rule, Lakemary personnel may not disseminate PHI, unless it is requested by the individual to whom the PHI belongs, and a valid authorization has been obtained. However, an exception will be granted for PHI used or disclosed to Health and Human Services (HHS), if necessary to determine whether Lakemary is in compliance with the HIPAA Privacy Standards.

Complaints to HHS:

Right to File a Complaint. A person who believes any Lakemary department or personnel are not complying with required HIPAA privacy standards may file a complaint with HHS.

Requirements for Filing Complaints. Complaints must:

10. be in writing, either on paper or electronically.
11. name Lakemary as the subject of the complaint and describe the acts or omissions believed to be in violation, and
12. filed within 180 days of when the complainant knew or should have known that the act or omission occurred

Investigation. Lakemary personnel should anticipate that HHS may investigate complaints filed under these procedures. Such investigations may include a review of the pertinent policies, procedures, or practices of Lakemary and of the circumstances regarding any alleged acts or omissions concerning compliance.

Responsibilities of Lakemary Personnel if HHS Investigates a Complaint.

Lakemary personnel must keep proper records and upon request of HHS submit compliance reports whereby HHS can ascertain whether Lakemary has complied with the HIPAA privacy standards. Any requests from HHS must be forwarded to the Lakemary Privacy Officer(s). During an investigation or compliance review, Lakemary personnel must cooperate with HHS.

1. Lakemary must permit access by HHS during normal business hours to its facilities, books, records, accounts, and other sources of information, including PHI, that are pertinent to ascertaining compliance with the requirements. If HHS determines that serious circumstances exist, Lakemary personnel must permit access by HHS at any time and without notice.
2. If any information required of Lakemary is in the exclusive possession of any other agency, institution, or person and the other agency, institution, or person fails or refuses to furnish the information, Lakemary must so certify and set forth what efforts it has made to obtain the information.

1.2.g Health Oversight Reporting

As a general rule, Lakemary personnel may not disseminate PHI, unless it is requested by the individual to whom the PHI belongs, and a valid authorization has been obtained. However, Lakemary may disclose PHI without an authorization to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:

13. The service delivery system;
14. Government benefit programs for which health information is relevant to beneficiary eligibility;
15. Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or
16. Entities subject to civil rights law for which health information is necessary for determining compliance.

Such disclosures need to be reviewed and approved by an Authorized Records Technician. The disclosure approval must be routed to the Medical Records Coordinator for scanning purposes.

Exception to Health Oversight Activities

The following scenario is NOT to be considered health oversight activity: The individual is the subject of the investigation or activity, **and** the investigation or other activity is **not** directly related to:

1. The receipt of services;
2. A claim for public benefits related to health (e.g. claims for Food Stamps); or
3. Qualification for, or receipt of, public benefits or services when the health of the person supported is integral to the claim for public benefits or services.

Joint Activities or Investigations

If a health oversight activity or investigation is related to a claim for public benefits not related to health, the joint activity or investigation shall be considered a health oversight activity for purposes of these procedures.

Disclosures by Whistleblowers

All Lakemary personnel are strongly encouraged to report conduct that is unlawful or otherwise violates professional or clinical standards to HIPAA Privacy Officers; which are the Medical Records Coordinator and/or COO (Chief Operating Officer). Lakemary is not considered to have violated the requirements of these procedures if a member of its workforce or a business associate discloses PHI, provided that:

1. The workforce member or business associate believes in good faith that Lakemary has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services, or conditions provided by Lakemary potentially endangers one or more person supported, workers, or the public; and
2. The disclosure is to:
 - a) A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of Lakemary;
 - b) An appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by Lakemary; or
 - c) An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to the conduct described above.

Disclosures by Lakemary Personnel who are Victims of a Crime

Lakemary is not considered to have violated the requirements of these procedures, with just cause, if a member of its workforce who is the victim of a criminal act discloses PHI of the suspected perpetrator to a law enforcement official, provided that:

1. The PHI disclosed is about the suspected perpetrator of the criminal act; and
2. The PHI disclosed is limited to:
 - a) Name and address;
 - b) Date and place of birth;
 - c) Social security number;
 - d) Type of injury;
 - e) Date and time of treatment;
 - f) Date and time of death, if applicable; and
 - g) Description of distinguishing physical characteristics, including height,

weight, gender, race, hair and eye color, presence or absence of facial hair, scars and tattoos.

1.2.h Persons Supported Authorization

Confidentiality of service information is the right of each person supported seeking services through Lakemary. All protected service information (both written and verbal) is strictly confidential. Use and disclosure of PHI based on authorization by the person supported or their personal representative shall be done only after completion of a valid authorization and obtaining the signature of the person supported or their health representative.

Core Elements of a Valid Authorization

A valid authorization must contain at least the following elements and must be written in plain language:

1. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.
2. The name or other specific identification of the person or class of persons, authorized to make the requested use or disclosure.
3. The name or other specific identification of the person or class of persons, to whom Lakemary may make the requested use or disclosure.
4. Description of each purpose of the requested use and disclosure. The statement “at the request of the individual” is sufficient description when an individual initiates the authorization and does not, or elects not to, provide a statement of purpose.
5. An expiration date or event that relates to the authorization, but not to exceed one (1) year from the original date of authorization.
6. A statement of the individual’s right to revoke the authorization in writing and the exceptions to the right to revoke, together with a description of how the individual may revoke the authorization.

7. A statement that the information used or disclosed pursuant to the authorization may be subject to re-disclosure by the recipient and no longer be protected by the HIPAA Privacy Regulations.
8. Signature of the individual and the date.
9. If a personal representative of the individual signs the authorization, a description of individual's authority to act for the individual.
10. If the authorization is for marketing, Lakemary must include a statement acknowledging if direct or indirect remuneration is given to Lakemary.

The authorization may contain elements or information in addition to the required elements, provided that such additional elements or information are not inconsistent with the required elements.

Compound Authorizations

An authorization for use and disclosure of PHI may not be combined with any other document to create a compound authorization.

Conditioning Treatment upon an Authorization

Lakemary may not condition treatment on an authorization except in the event of the provision of services that are solely for the purpose of creating PHI for disclosure to a third party on the provision of an authorization to such third party (e.g., disability evaluation).

Defective Authorizations

An authorization is considered defective and invalid if any material information in the authorization is known to be false by Lakemary or its employees or if any of the following defects exist:

1. The expiration date has passed, or the expiration event is known by the covered entity to have occurred;
2. The authorization has not been filled out completely with respect to an element described as a core element;
3. The authorization is known by the covered entity to have been revoked;
4. The authorization violates the compound authorizations requirement or the prohibition of authorizations requirement.
5. Any material information in the authorization is known by Lakemary to be false.

Authorizations Requiring Special Instructions:

Authorizations and Counseling / Psychotherapy Notes

For specific rules governing the use and disclosure of counseling / psychotherapy notes, see 1.2 Permitted Uses and Disclosures, 1.2.a Counseling / Psychotherapy Notes section.

Authorizations for Marketing and Fundraising Purposes

For specific rules governing the use and disclosure of PHI for marketing and fundraising purposes, see 1.2 Permitted Uses and Disclosures, 1.2.d Fundraising and Marketing section.

Revocation of Authorizations

For specific rules governing the Revocation of Authorizations, see 5.1 Revocation of Authorization to Release PHI.

Personal Representatives, Minors, and Deceased Individuals

For information regarding who the proper person is to sign authorizations for the release of information about incapacitated individuals, minors, and deceased individuals, see 1.2 Permitted Uses and Disclosures of PHI, 1.2.k Personal Representatives/Minors and Deceased Individuals section.

See: Authorization for Release Form (Appendix #1).

1.2.i Judicial or Administrative Proceedings

As a general rule, Lakemary personnel may not disseminate PHI without authorization, unless it is requested by the individual to whom the PHI belongs, and a valid authorization has been obtained. However, PHI may be used or disclosed for judicial or administrative proceedings if the use or disclosure is made in response to a court order, administrative tribunal order, subpoena, discovery request, or other lawful process. All requests of this type should be forwarded to an Executive Team Member. Authorized Records Technician and Health Information Custodian are not permitted to release PHI in such situations, without approval by an Executive Team Member.

Permitted disclosures Lakemary may use or disclose PHI in the course of any judicial or administrative proceeding if:

1. The disclosure is in response to an order of a court or administrative tribunal, provided that Lakemary discloses only the PHI expressly authorized by such order; or
2. In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal (such as a subpoena from the Kansas Department of Health and Environment), if:
 - a) Lakemary receives satisfactory assurance from the party seeking the information that reasonable efforts have been made to ensure that the subject of the requested PHI has been given **notice** of the request (with an affidavit from the requesting party); or
 - b) Lakemary receives satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to secure a **qualified protective order** that meets the requirements of this section (in Definitions above).
3. Lakemary receives satisfactory assurances from a party seeking PHI along with a written statement and accompanying documentation demonstrating that:
 - a) The party requesting such information has made a good faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address);
 - b) The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual to raise an objection to the court or administrative tribunal; and
 - c) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:

- i) No objections were filed; or
 - ii) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.
4. Lakemary receives satisfactory assurances from a party seeking PHI including a written statement and accompanying documentation demonstrating that:
- a) The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or
 - b) The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal.

Notwithstanding this section, Lakemary has the option to disclose PHI in response to lawful process without receiving full satisfactory assurance, if Lakemary of its own accord makes reasonable efforts to: provide notice to the individual sufficient to meet the requirements of this section or to seek a qualified protective order.

1.2.j Limited Data Sets

Lakemary may use or disclose a limited data set that meets the definition above and that includes the requirements of these procedures if Lakemary enters into a data use agreement with the limited data set recipient. Disclosures of a limited data set are exempt from Accounting of Disclosures.

Permitted Purposes

Lakemary may use or disclose a limited data set only for the purposes of research, public health, or health care operations. Lakemary may use PHI to create a limited data set or Lakemary may disclose PHI to a business associate in order to create a limited data set. Business associates may not disclose information in a limited data set without Lakemary approval.

Data Use Agreement

Lakemary may use or disclose a limited data set only if there is a data use agreement that meets the requirements of this section. A data use agreement between Lakemary and the limited data set recipient must:

1. All “facial” identifiers shall be removed. Facial identifiers include:
 - a. Names;
 - b. Street addresses (other than town, city, state and zip code);
 - c. Telephone numbers; fax numbers;
 - d. Email addresses;
 - e. Social security numbers
 - f. Medical records numbers
 - g. Health plan beneficiary numbers;
 - h. Account numbers;
 - i. Certificate license numbers;
 - j. Vehicle identifiers and serial numbers, including license plates;
 - k. Device identifiers and serial numbers;
 - l. URLs;

- m. IP address numbers;
- n. Biometric identifiers (including finger and voice prints), and
- o. Full face photos (or comparable images).

The health information that may remain in the information disclosed includes:

- Dates such as admission, discharge, service, DOB, DOD;
- City, state, five digit or more zip code; and
- Ages in years, months or days or hours

It is important to note that this information is still protected health information of “PHI” under HIPAA. It is not de-identified information and is still subject to the requirements of the Privacy Regulations.

2. Establish the permitted uses and disclosures of such information by the limited data set recipient, consistent with the listed Permitted Purposes above. The data use agreement may not authorize the limited data set recipient to use or further disclose the information in a manner that would violate the requirements;
3. Establish who is permitted to use or receive the limited data set; and
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 the covered entity any use or disclosure of the information not provided for by its data use agreement of which it becomes aware;
 - d) Ensure that any agents, including a subcontractor, to whom it 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; and
 - e) Not identify the information or contact the individuals.

Compliance. Lakemary is not in compliance with these procedures if Lakemary knows of a pattern of activity or practice of the limited data set recipient that constituted a material breach or violation of the data use agreement, unless Lakemary took reasonable steps to cure the breach or end the violation, as applicable, and, if such steps were unsuccessful, discontinued disclosure of protected health information to the recipient; and reported the problem to the appropriate oversight agencies. If Lakemary is a limited data set recipient and violates a data use agreement, Lakemary will be in non-compliance with these procedures.

Data Set Requests. All data set requests must be submitted to an Authorized Records Technician.

See: Data Use Agreement Form (Appendix #2).

1.2.k Health Representatives/Minors and Deceased Individuals

As a general rule, minors, incapacitated and deceased individuals must have a personal representative identified in order to provide acknowledgment of the Notice of Privacy Practice or Authorization to Use and Disclose PHI. For the purposes of these procedures, Lakemary must recognize a health representative as the individual responsible for

providing:

1. Acknowledgement of the receipt of the Notice of Privacy Practice, and
2. Authorization for any other use and disclosure of PHI (Uses and Disclosures of PHI based on Persons Supported Authorization).

Emancipated Minors and Adults: If a person has authority by law to make decisions related to use and disclosure of PHI on behalf of an individual who is an adult or an emancipated minor, Lakemary will treat such person as a personal representative. Once a minor is emancipated, a guardian or a parent cannot be recognized as a personal representative.

Absent a legal document (e.g., a Medical Power of Attorney or formal guardianship documents), the following individuals, in order of priority, will have the right to act as the individual for HIPAA purposes. These individuals will have the ability to acknowledge the receipt of the Notice of Privacy Practices and provide authorization for release of PHI. The following individuals, in order of priority, are:

1. individual's spouse;
2. an adult child of the person supported who has the waiver (agreement) and the consent of all other qualified adult children of the person supported to act as the sole decision-maker;
3. a majority of the individual's reasonably available adult children;
4. parent(s) of the person supported; or
5. a medical representative clearly identified to act for the person supported (prior to incapacity), the individual's nearest living relative, or a member of the clergy.

Unemancipated Minors: If a parent, guardian, or other person has authority by law to act on behalf of an individual who is an unemancipated minor in making decisions related to use and disclosure of PHI, Lakemary must recognize such person as a personal representative. However, if the parent, guardian, or other person assents to an agreement of confidentiality between Lakemary and the minor, Lakemary is no longer required to treat the person supported, guardian or other person as the personal representative. If the minor has been emancipated, Lakemary can no longer recognize the minor's personal representative, unless there is a reason other than minority justifying the appointment of a personal representative. If a minor does not require the consent of an adult and may consent to treatment, the minor will be treated as an individual instead of the parent or guardian and may provide acknowledgement of the Notice of Privacy Practice or Authorization to Release of PHI.

Examples of where a minor, with authority by law, can act as an individual may include:

1. Diagnosis and treatment of a sexually transmitted disease
2. Family planning services
3. Some outpatient surgeries
4. Alcohol/drug abuse treatment
5. Abortion

If Lakemary treats the unemancipated minor as an individual as described above, Lakemary must follow state law to the extent state law either grants or prohibits parents, guardians, or other person acting in *loco parentis* access to the unemancipated minor's PHI. If Lakemary treats the unemancipated minor as an individual as

described above and state law does not address whether or not the parent, guardian, or other person acting in *loco parentis* has access to the minor's PHI, Lakemary may make a decision regarding the release of the minor's PHI if the decision is made by an (ART) Authorized Records Technician exercising professional judgment.

Abuse, Neglect, Endangerment Situations: Notwithstanding a state law or any requirement of this paragraph to the contrary, Lakemary may elect not to recognize a person as the health representative of a person supported. If Lakemary chooses not to recognize a person as a health representative, Lakemary must believe that it is not in the best interest to treat the person as the personal representative of the person supported and believes that one of the following conditions exist:

1. The person supported has been or may be subjected to domestic violence, abuse, or neglect by a parent, guardian or health representative.
2. Treating such person as the health representative could endanger the person supported.

Deceased Individuals: If under applicable law an executor, administrator, or other person has authority to act on behalf of a deceased individual or of the individual's estate, Lakemary must recognize such person as a health representative under these procedures. Absent an executor, administrator or other court-appointed representative for the deceased individual's estate, the following individuals listed below may authorize the release of PHI in order of priority. An entire category must be exhausted (no people in the category exist or still alive) before moving to the next category. The Privacy Officer should be contacted for questions.

1. Spouse
2. Adult children
3. Adult grandchildren
4. Parents
5. Adult descendants of parents (brothers and sisters)
6. Brothers and sisters' adult children
7. Brothers and sisters' adult grandchildren
8. Grandparents
9. Adult descendants of grandparents (uncles and aunts)

Individual Service Record Procedures

Lakemary must ensure that an Individual Service Record is comprised of all appropriate service data generated for each individual Lakemary serves. The purpose of this record shall be for documentation of services, continuity of care, and to fulfill legal or regulatory requirements. Any copies made of service records for convenience (Convenience Copies) or any other copies made for a service operation of Lakemary must be tracked and secured just as if these copies were maintained within the Individual Service Record.

Individual Service Record

An Individual Service Record (ISR) shall be generated for each person supported by Lakemary.

1. All pertinent Lakemary service information created is to be documented on approved record forms in electronic health record (E.H.R.).
2. The name of the person supported shall be clearly printed or included on a label

- attached to each page of the ISR.
3. Completed original file records should be scanned for inclusion in the ISR as soon as completed.
 4. Any Lakemary employee who uses the ISR must ensure that PHI is maintained confidentially and must use only the minimum necessary amount of information required to complete the employee's tasks.
 5. No one other than an Authorized Records Technician can disclose information from the Individual Service Record, for purposes other than Treatment, Payment or health care Operations (TPO). Departments must forward non-TPO requests for PHI to an Authorized Records Technician for processing. For additional information regarding the release of information, see both Use and Disclosure of PHI based on Persons Supported Authorization and Accounting for Disclosure of PHI.

Subsidiary Service Record

Lakemary prohibits departments or divisions from maintaining their own Subsidiary Service Records. All original service documentation, and copies of documentation received from other providers shall be included in the Individual Service Record.

Convenience Copies of Records

Health care information in the form of a Convenience Copies of Records (CCR) must be maintained as follows:

1. CCRs must be maintained in a manner that ensures the confidentiality of the PHI in accordance with Lakemary policies and procedures, and applicable federal and state laws.
2. Any and all requests for the release of PHI must be referred to Medical Records Coordinator, or designee.
3. PHI will not be disclosed from CCRs, except for emergency purposes. Emergencies are determined by the professional judgment of the service provider. For more information regarding the release of information, please see Use and Disclosure of PHI based on Persons Supported Authorization.
4. CCRs may be audited at any time to verify adherence to these procedures.
5. Audit results will be reported to the Privacy Officer. The Privacy Officer will make the recommendations to the President regarding corrective action. Corrective action may include, but is not limited to, revocation of the privilege of maintaining CCR.
6. If CCRs are found to contain original service information that should be in the Individual Service Record, the custodian of the CCR must remove this information immediately and make any and all arrangements to have it incorporated into the proper ISR.
7. When a CCR is no longer needed, the custodian of these records must dispose of them in a manner that ensures the confidentiality of the information in accordance with Disposal of PHI.

Physical Management of Service Records

Any department or entity that maintains either CCRs or copies of service records must designate a Health Information Custodian to be responsible for securing and tracking those records. Physical maintenance of service records or copies of service information

require:

1. Health Information Custodians must take appropriate measures to ensure service records or copies of service information are maintained in a secure location with restricted access. All service records or copies of service information must be secured in a locked room or locked file cabinet. Each Custodian must designate a person (or persons) to be responsible for granting access to the locked room or locked file cabinet containing service records or copies of service information.
2. Health Information Custodians must use a tracking system to account for the inventory and location of the service records or copies of medical information. The tracking system must include the following:
 - An inventory that shows when records are added or destroyed, and
 - A system for establishing the location for the record. This must include establishing the party responsible for the record once it has been checked out.
3. This tracking system may be a manual system, an automated system or a combination of the two.

Release of Information

As a result of the HIPAA regulations, releasing information has become extremely complex due to several specific reporting requirements. Authorized Records Technicians are also responsible for the release of any information for purposes other than TPO. For instance, additional copies of billing information or copies of service records that require the individual's authorization or information request made pursuant to subpoenas or court orders will be managed solely by Authorized Records Technicians in consultation with Health Information Custodians. For more information on the release of information, please see Use and Disclosure of PHI based on Persons Supported Authorization.

1.2.1 Public Health & Safety

Lakemary may disclose PHI without authorization of the person supported:

- for reporting of *abuse, neglect, exploitation or domestic violence*;
- to avert a serious and imminent threat to the *health or safety of a person or the public*;
- in response to requests for information from regulatory authorities such as SRS and KDHE;
- to law enforcement officials for *law enforcement purposes*; and
- when *allowed by law*.

Required by Law

Authorized Records Technician or Health Information Custodian may use or disclose PHI to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law. Lakemary personnel must meet the requirements pertaining to disclosures relating to: victims of abuse, neglect, or domestic violence; judicial and administrative proceedings; and disclosures for law enforcement purposes.

Abuse, Neglect or Domestic Violence

Permitted disclosures

1. To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;
2. If the individual agrees to the disclosure; or
3. To the extent the disclosure is expressly authorized by statute or regulation and:
 - a) Lakemary, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or
 - b) If the individual is unable to agree because of incapacity, a law enforcement or other public official may authorize to receive the report if:
 - i) the PHI sought is not intended to be used against the individual; and
 - ii) an immediate 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.

Informing the individual

In making a disclosure permitted by paragraph (1), Lakemary personnel must promptly inform the individual, in the exercise of professional judgment that such a report has been or will be made, except if:

1. Lakemary believes informing the individual would place the individual at risk of serious harm; or
2. Lakemary would be informing a personal representative, and Lakemary reasonably believes the personal representative is responsible for the abuse, neglect, exploitation, or other injury and that informing such person would not be in the best interests of the individual as determined by Lakemary.

Serious Threat to the Health or Safety of the Public

Permitted Disclosures

Lakemary may, consistent with applicable law and standards of ethical conduct, use or disclose PHI, if:

1. Lakemary, in good faith believes the use or disclosure:
 - a) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; except a use and disclosure may not be made if the information is learned by Lakemary: In the course of treatment which is designed to alter or change the desire to commit the criminal conduct which would be the basis for making a disclosure, or when an individual initiates or is referred to Lakemary for treatment, counseling, or therapy
 - b) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or
2. It is necessary for law enforcement authorities to identify or apprehend an individual:
 - a) Because of a statement by an individual admitting participation in a violent crime that Lakemary reasonably believes may have caused serious physical harm to the victim; or
 - b) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

Limitations and Good Faith related to the Serious Threat

Lakemary may only release the statement relating to the serious threat and the PHI related to the serious threat. If Lakemary acts in good faith upon its belief, then Lakemary will be protected for disclosures related to the serious threat.

Law Enforcement Purposes

Permitted disclosures

A court order or subpoena for PHI shall be forwarded to the Executive Team Member for

review and response. For details see Procedures 1.6.42 Use and Disclosure of PHI for Judicial or Administrative Proceedings.

1. As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws pertaining to public health or domestic abuse; or
2. In compliance with and as limited by the relevant requirements of:
 - a) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
 - b) A grand jury subpoena; or
 - c) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:
 - i) The information sought is relevant and material to a legitimate law enforcement inquiry;
 - ii) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
 - iii) De-identified information could not reasonably be used.

For a more detailed description, see procedure De-identification of PHI.

Identification and Location Purposes

Lakemary may disclose PHI in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that Lakemary only discloses the following information:

1. Name and address;
2. Date and place of birth;
3. Social security number;
4. Dates and times of service
5. Date and time of death, if applicable; and
6. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars, and tattoos.
7. A general description of functional level, communication skills, or individual characteristics that would assist law enforcement officials with communicating and understanding the individuals served.

Victims of a Crime

Lakemary 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, other than disclosures that are subject to this section, if:

1. The individual agrees to the disclosure; or
2. Lakemary is unable to obtain the individual's agreement because of incapacity or other emergency circumstance provided that:
 - a) 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;
 - b) The law enforcement official represents that immediate 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
- c) The disclosure is in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

Deceased Individuals

Lakemary will disclose PHI about a deceased individual to law enforcement officials for the purpose of alerting law enforcement of the death of the individual if Lakemary has a suspicion that such death may have resulted from criminal conduct.

Crime on Premises

Lakemary may disclose to a law enforcement official PHI that Lakemary believes in good faith constitutes evidence of criminal conduct that occurred on Lakemary premises or within a residential environment supervised by Lakemary.

Reporting Crime in Emergencies

1. Lakemary service provider providing emergency care in response to a medical emergency, other than such emergency on Lakemary 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.
2. If a Lakemary service provider believes that the medical emergency described in the above paragraph of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, paragraph above of this section does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to the procedures on abuse, neglect, or domestic violence at the beginning of these procedures.

2.1 Requests for Restricting Uses and Disclosures and Confidential Communications

Lakemary must permit an individual to request that Lakemary restrict:

1. Uses and disclosures of PHI about the individual to carry out TPO.
2. Permitted uses and disclosures as outlined in Uses and Disclosures of PHI for Facility Directories and Permitted Use and Disclosure of PHI to Family and Friends – Individual Care and Notification Purposes.

Lakemary is not required to agree to a restriction. If Lakemary does agree to a restriction, Lakemary may not use or disclose PHI in violation of such restriction, except that, if the individual who requested the restriction is in need of emergency treatment and the restricted PHI is needed to provide emergency treatment. Lakemary may use the restricted PHI itself or Lakemary may disclose such restricted PHI to a health care provider to provide such treatment to the individual. If restricted PHI is disclosed to another health care provider for emergency treatment, as outlined above, Lakemary must request that the health care provider not further use or disclose the PHI. A restriction agreed to by Lakemary is not effective to prevent

- uses or disclosures from being made to the individual for inspection and copying their own PHI,
- the individual from obtaining an accounting of disclosures of PHI,

- for uses and disclosure when consent, authorization or opportunity to agree or object is not required.

Terminating a Restriction: Lakemary may terminate its agreement to a restriction if:

1. The individual agrees to or requests the termination in writing,
2. The individual orally agrees to the termination and the oral agreement is documented, or
3. Lakemary informs the individual that it is terminating the restriction. Any PHI created and received after the termination will not be restricted. However, any PHI created or received before the termination will be restricted.

Documentation: Lakemary must maintain the policies and procedures required by the HIPAA Privacy regulations in written or electronic form, whenever:

- a communication is required to be in writing, Lakemary will maintain such writing, or an electronic copy, as documentation; or
- an action, activity or designation is required to be documented. Lakemary will maintain a written or electronic record of such action, activity, or designation.

Confidential Communications: A request for restricting confidential communications can occur anytime and may require a change in the individual's designated address. Lakemary must permit individuals to request and must accommodate reasonable requests by individuals to receive communications of PHI from Lakemary by alternative means or at alternative addresses, if the individual clearly states that the disclosure of all or part of the information could endanger the individual. It is up to the person supported to change the address back to the original designated address. Lakemary may require the individual to make a request for confidential communication in writing. Lakemary may condition the provision of a reasonable accommodation on:

1. When appropriate, information as to how payment, if any, will be handled; and
2. Specifications of an alternative address or other method of contact.

Lakemary may not require an explanation from the individual as to the basis for the request as a condition of providing communications on a confidential basis. A health plan may require that a request contain a statement that disclosure of all or part of the information to which the request pertains could endanger the individual.

3.1 Business Associates With Access to PHI

Lakemary protects the confidentiality and integrity of confidential service information as required by law, professional ethics, and accreditation requirements. Lakemary is not required to actively monitor or oversee the means by which its business associates carry out safeguards. Lakemary is required to act if it becomes aware of a practice or pattern that constitutes a material breach of these procedures.

Standards

All personnel must strictly observe the following standards relating to business associates:

1. Lakemary must enter into contracts with business associates that contain specific language. The Security Officer will provide the language for contracts.

2. The contract must include language that provides that the business associate will:
 - a) Not use or further disclose the information other than as permitted or required by the contract or as required by law;
 - b) Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by its contract;
 - c) Report to Lakemary any use or disclosure of the information not provided for by its contract of which it becomes aware;
 - d) Ensure that any agents, including a subcontractor, to whom it provides PHI received from, or created by, or on behalf of Lakemary, agree to the same restrictions and conditions that apply to the business associate with respect to such information;
 - e) Make available PHI in accordance with Procedures.
 - f) Make available PHI for amendment and incorporate any amendments to PHI in accordance with Procedures;
 - g) Make available the information required to provide an accounting of disclosures in accordance with Procedures I;
 - h) Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created by, or on behalf of, Lakemary, available to U. S. Department of Health & Human Services (HHS) for purposes of determining Lakemary's compliance; and
 - i) At termination of the contract, if feasible, return or destroy all PHI received from, or created by or on behalf of, Lakemary that the business associate still maintains in any form and retain no copies of such information. If such return or destruction is not feasible, extend the protections of the contract to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
3. In the event Lakemary becomes aware of a pattern or practice of the business associate that constitutes a material breach or violation of the business associate's obligations under its contract, Lakemary must take reasonable steps to cure the breach or to end the violation, as applicable. In the event that the business associate cannot or will not remedy the practice or pattern, Lakemary must terminate the contract if feasible. Where termination is not feasible, contact the Lakemary Privacy Office for reporting to HHS, as required.

4.1 Non-Retaliation

All Lakemary employees shall be allowed to freely discuss and raise questions to managers or to the appropriate personnel about situations they feel are in violation of federal and state law, Lakemary procedures, and/or accreditation and regulatory requirements. All Lakemary employees have a personal obligation to report any activity that appears to violate applicable laws, regulations, rules, policies, procedures, or the Employee Handbook through the normal administrative process and procedures. Lakemary shall not intimidate, threaten, coerce, discriminate against, or take any retaliatory action against the following individuals or in the following situations:

Any person supported, legally authorized representative, employee, association, organization or group that in good faith:

1. Discloses or threatens to disclose information about a situation they feel is

- inappropriate, or potentially illegal;
- 2. Provides information to or testifies against the alleged offending individual or Lakemary;
- 3. Objects to or refuses to participate in an activity they feel are in violation of federal and state law, Lakemary procedures, licensure, or accreditation requirements;
- 4. Is involved in any compliance review or peer review process; or
- 5. Files a valid or legitimate report or a complaint, or an incident report.

Investigation of Retaliation

The President will review any allegation of retaliation and will ensure that a proper investigation is conducted as appropriate.

5.1 Revocation of Authorization to Release PHI

An individual may revoke an authorization at any time, provided that the revocation is in writing, unless Lakemary has already provided PHI based on the authorization of the person supported. Lakemary will stop providing information based on authorization of the person supported as soon as possible. The revocation form should be used to ensure the requirements of this section are met.

Procedure

An initial authorization form is completed and forwarded to an Authorized Records Technician in accordance with Use and Disclosure of PHI based on Person Supported Authorization. Only an Authorized Records Technician or a Health Information Custodian may approve the disclosure of PHI. In the case of a person supported requesting a revocation of a prior authorization, the revocation form will also be forwarded to the Health Information Custodian for proper documentation in the Individual Service Record. Once documentation is completed, Authorized Records Technicians are responsible for ensuring that the PHI of the person supported is no longer subject to further disclosure.

6.1 De-identification of PHI

Lakemary has a duty to protect the confidentiality and integrity of PHI as required by law, professional ethics, and accreditation requirements. Whenever possible, de-identified PHI should be used. De-identified PHI is rendered anonymous when identifying characteristics are completely removed. PHI must be de-identified prior to disclosure to non-authorized users. These procedures define the guidelines and procedures that must be followed for the de-identification of PHI.

Procedure

All personnel must strictly observe the following standards relating to the de-identification of PHI:

De-identification requires the elimination not only of primary or obvious identifiers, such

as the name, address, date of birth (DOB), and service provider, but also of secondary identifiers through which a user could deduce the identity of the person supported. For information to be de-identified the following identifiers of the individual (or of relatives, employers, or household member of the individual) must be removed:

- Names
- Address information smaller than a state, including street address, city, county, zip code (except if by combining all zip codes with the same initial three digits, there are more than 20,000 people)
- Names of relatives and employers
- All element of dates (except year), including DOB, admission date, discharge date, date of death; and 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;
- Telephone numbers
- Fax numbers
- Email addresses
- Social Security Number (SSN)
- Health beneficiary plan number
- Account numbers
- Certificate/License Number
- Vehicle identifiers, including license plate numbers
- Device ID and serial number
- Uniform Resource Locator (URL)
- Identifier Protocol (IP) addresses
- Full face photographic images and other comparable images
- Any other unique identifying number characteristic or code.

Whenever possible, de-identified PHI should be used for quality assurance monitoring and routine utilization reporting. If de-identified PHI cannot be used, a limited data set should be used whenever possible. See Uses and Disclosures of Limited Data Sets. PHI used for research, including public health research, should be de-identified at the point of data collection for research protocols approved by the IRB, unless the participant voluntarily and expressly consents to the use of his/her personally identifiable information or an IRB waiver of authorization is obtained. If de-identified PHI cannot be used for research, a limited data set should be used whenever possible. See Uses and Disclosures of Limited Data Sets. If an authorized user wishes to encrypt PHI when creating deidentified information the authorized user must ensure that:

- The code or other means of record identification is not derived from or related to information about the individual and is not otherwise capable of being translated so as to identify the individual; and
- Anyone involved in the research project does not use or disclose the code or other means of record identification and does not disclose the mechanism to accomplish reidentification.

If removal of any identifiers is not practical or does not meet business needs, PHI use

requires approval from the Lakemary Privacy Officer.

7.1 Use of Notice of Privacy Practices for PHI

An individual has a right to adequate notice of the uses and disclosures of PHI that may be made by Lakemary, and of the individual's rights and Lakemary's responsibilities with respect to PHI. Lakemary is required to provide a Notice of Privacy Practices document to all persons supported, as well as other individuals requesting a copy. Staff who are responsible for admission to Lakemary services will be responsible for distributing a copy of the notice to all persons supported at the time of admission.

Notice Requirements

Lakemary must:

1. Provide the notice no later than the date of the first service delivery.
2. Make a good faith effort to obtain an initial written acknowledgement of the receipt of notice from the person supported or their personal representative. Please see the Notice of Privacy Practices Acknowledgment Form.
3. Have the notice available at the service delivery site for individuals to take with them;
4. Post the notice in a clear and prominent location where it is reasonable to expect individuals seeking service from Lakemary to be able to read the notice; and
5. Whenever the notice is revised, make the notice available upon request on or after the effective date of the revision.

Exceptions

Emergency Treatment: If Lakemary is providing services in an emergency situation, Lakemary does not need to provide a notice at the time of first service delivery. Lakemary may delay the requirement for provision of notice and good faith effort of written acknowledgement until a practicable later time.

Content of Notice

Notice content shall be written in plain language and shall include all elements specified in current HIPPA regulations concerning Uses and Disclosures of PHI, Individual Rights, Lakemary's Duties, Complaint Procedures, Contact Information and Effective Date.

Requirements for Electronic Notice

1. Lakemary will provide an updated electronic version of the notice of privacy practices on its website at <http://www.lakemaryctr.org>.
2. Lakemary may provide the notice to an individual by e-mail, if the requirements for communicating with the individual through email are in compliance with Electronic Mail Containing PHI. If Lakemary knows that the e-mail transmission has failed, a paper copy of the notice must be provided to the individual.
3. Provision of electronic notice by Lakemary will satisfy the provision requirements if receipt of the notice by the individual is documented.
4. The individual who is the recipient of electronic notice retains the right to obtain a paper copy of the notice from Lakemary upon request.

Documentation of Notice

Lakemary must document compliance with the notice requirements by retaining copies of the notices issued by Lakemary. Lakemary must also keep the original Notice of Privacy Practices Acknowledgement Form in the official service file. If a written acknowledgement was not obtained from the person supported, Lakemary must document the reason for the failure to obtain the written acknowledgement on the Notice of Privacy Practices Acknowledgement Form. Such reason for failure simply may be, for example, that the person supported refused to sign after being requested to do so.

Revisions to the Notice

Lakemary must promptly revise and make available its notice whenever there is a material change to the uses or disclosures, the individual's rights, Lakemary's legal duties, or other privacy practices stated in the notice. Except when required by law, a material change to any term of the notice may not be implemented prior to the effective date of the notice in which such material change is reflected.

See: Notice of Privacy Practices (Appendix #5)

8.1 Access and Denial of Persons Supported Request for PHI

A request from a person supported for access to PHI shall be forwarded to the department's Health Information Custodian for review and response. Persons supported have a right to inspect and receive a copy, at their expense, of the PHI in their designated record set. Exceptions to this include:

- Counseling/Psychotherapy Notes, but not a summary of these notes.
- Information compiled in anticipation of or use in a civil, criminal, or administration action or proceeding
- Employee Assistance Program (EAP) records, which are not part of the record set, but may be requested separately.
- PHI exempts from CLIA, pursuant to 42 CFR 493.3(a)(2). At Lakemary this specifically includes evaluations which may be completed for forensic purposes.

Persons Supported Access to PHI

1. A person supported has the right to inspect or receive copies of PHI about the person supported in a service file for as long as the PHI is maintained in the service file.
2. If Lakemary does not maintain the PHI that is the subject of the request for access, and Lakemary knows where the requested information is maintained, Lakemary must inform the person supported where to direct the request for access.
3. The person supported or their health representative must make the request in writing using the Authorization form.
4. Lakemary must act on the request no later than the 15th business day after receipt and payment of the request. Lakemary shall:
 - a) make the information available, in full or in part, for examination; or

- b) inform the authorized requestor if the information does not exist, cannot be found, or is not yet complete. Upon completion or location of the information, Lakemary will notify the requestor.
5. If the access is granted, in whole or in part, Lakemary must comply with the following requirements:
- a) Lakemary must provide the person supported or their authorized personal representative access to his/her PHI in the designated record sets, including inspection or receiving a copy, or both. If the same PHI that is the subject of a request for access is maintained in more than one designated record set or at more than one location, Lakemary need only produce the PHI once in response to a request for access.
 - b) Lakemary must provide the person supported or their authorized personal representative with access to the PHI in the form or format requested by the person supported, if it is readily producible in such form or format; or, if not, in a readable hard copy form or such other form or format as agreed to by both parties.
 - c) Lakemary may provide the person supported with a summary of the PHI requested, in lieu of providing access to the PHI or may provide an explanation of the PHI to which access is provided, if:
 - i) The person supported agrees in advance to such a summary or explanation; and
 - ii) The person supported agrees in advance to the fees imposed, if any, by the covered entity for such summary or explanation.
 - d) Lakemary must provide the access as requested by the person supported in a timely manner, including arranging with the person supported for a convenient time and place to inspect or receive a copy of the PHI, or mailing the copy of the PHI at the person supported request. Lakemary may discuss the scope, format, and other aspects of the request for access with the person supported as necessary to facilitate the timely provision of access.
 - e) If the person supported requests a copy of the PHI or agrees to a summary or explanation of such information, Lakemary may impose a reasonable, cost-based fee, provided that the fee includes only the cost of:
 - i) Copying, including the cost of supplies for and labor of copying, the PHI requested.
 - ii) Postage, if the person supported has requested the copy, summary, or the explanation is mailed.
 - iii) Preparing an explanation or summary of the PHI, if agreed to by the person supported.

Denial of Access

- 1. Lakemary must allow a person supported to request access to inspect or receive a copy of PHI maintained in their designated record set. However, Lakemary may deny a request from a person supported without providing an opportunity for review when:
 - a) an exception detailed above in the procedures statement exists;

- b) Lakemary is acting under the direction of a correctional institution and the prisoner's request to obtain a copy of PHI would jeopardize the person supported, other prisoners, or the safety of any officer, employee, or other person at the correctional institution, or a person responsible for transporting the prisoner;
 - c) the person supported agreed to temporary denial of access when consenting to participate in research that includes treatment, and the research is not yet complete;
 - d) the records are subject to the Privacy Act of 1974 and the denial of access meets the requirements of that law;
 - e) the PHI was obtained from someone other than Lakemary under a promise of confidentiality and access would likely reveal the source of the information
2. Lakemary may also deny a person supported access for other reasons, provided that the person supported is given a right to have such denials reviewed under the following circumstances:
 - a) a Lakemary Privacy Officer has determined that the access is likely to endanger the life or physical safety of the person supported or another person;
 - b) the PHI makes reference to another person who is not a service provider, Lakemary Privacy Officer has determined that the access requested is likely to cause substantial harm to such other person;
 - c) The request for access is made by the personal representative and the Lakemary Privacy Officer has determined that access is likely to cause substantial harm to the person supported or another person.
 3. If access is denied on a ground permitted above, the person supported has the right to have the denial reviewed by the President of Lakemary. Lakemary must provide or deny access in accordance with the determination of the President.
 4. If Lakemary denies access, in whole or in part, to PHI, Lakemary must comply with the following requirements:
 - a) Lakemary must, to the extent possible, give the person supported access to any other PHI requested, after excluding the PHI to which Lakemary denied access.
 - i) Lakemary must provide a timely, written denial to the person supported, in plain language and containing the basis for the denial and a description of how the person supported may complain to Lakemary pursuant to the Privacy Complaint Procedures.
 - b) If the person supported has requested a review of a denial, the President of Lakemary shall provide prompt review and determination, within a reasonable amount of time, whether or not to deny the access requested based on the standards discussed before under procedures. Lakemary must promptly provide written notice to the person supported of the findings of the President, and take other action as required by this section to carry out the President's determination.

9.1 Persons Supported Right to Amend PHI

Persons Supported have a right to amend information collected and maintained about

them in their designated record set.

1. An individual has the right to have Lakemary amend PHI or a record about the individual in a designated record set for as long as the PHI is maintained in the designated record set.
2. Lakemary may deny an individual's request for amendment, if it is determined that the PHI or record that is the subject of the request:
 - a) Was not created by Lakemary, unless the individual provides a reasonable basis to believe that the originator of the PHI is no longer available to act on the requested amendment;
 - b) Is not part of the designated record set;
 - c) Would not be available for inspection under the Access and Denial of Persons Supported Request for PHI Procedures; or
 - d) Is accurate and complete.
3. The individual must make the request to amend the PHI in writing with a reason to support a requested amendment. Lakemary must accept all requests to amend PHI in the designated record set; however, Lakemary is not required to act on the individual's request if it is in accordance with item 2.
4. Lakemary must act on the individual's request for an amendment no later than 60 days after receipt of such a request. If Lakemary is unable to act on the amendment within the required 60-day time limit, Lakemary may extend the time for such action by no more than 30 days, provided that:
 - a) Lakemary provides the individual with a written statement of the reasons for the delay and the date by which action on the request will be completed; and
 - b) Lakemary may have only one such extension of time for action on a request for an amendment.
5. If the amendment is granted, in whole or in part,
 - a) Lakemary must make the appropriate amendment to the PHI or record that is the subject of the request for amendment by, at a minimum, identifying the records in the designated record set that are affected by the amendment and appending or otherwise providing a link to the location of the amendment.
 - b) Lakemary must inform the individual in a timely manner that the amendment is accepted and obtain the individual's identification of and agreement to have Lakemary notify the relevant persons with which the amendment needs to be shared.
 - c) Lakemary must make reasonable efforts to inform and provide the amendment within a reasonable time, to:
 - i) Persons identified by the individual as having received PHI about the individual and needing the amendment; and
 - ii) Persons, including business associates that Lakemary knows have the PHI that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the individual.

Denial of Amendment

1. If the requested amendment is denied, in whole or in part, Lakemary must provide the individual with a timely, written denial. The denial must use plain language

and contain:

- a) The basis for the denial;
 - b) The individual's right to submit a written statement disagreeing with the denial and how the individual may file such a statement;
 - c) A statement that, if the individual does not submit a statement of disagreement, the individual may request that Lakemary provide the individual's request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment; and
 - d) A description of how the individual may complain to Lakemary or the Secretary of the Department of Health and Human Services (HHS) in accordance with the Lakemary Privacy Complaint Procedures.
2. Additionally for denials:
- a) Lakemary must permit the individual to submit a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement. Lakemary may reasonably limit the length of a statement of disagreement.
 - b) Lakemary may prepare a written rebuttal to the individual's statement of disagreement. Whenever such a rebuttal is prepared, a copy of the rebuttal must be provided to the individual who submitted the statement of disagreement.
 - c) Lakemary must, as appropriate, identify the record or PHI in the designated record set that is the subject of the disputed amendment and append or otherwise link the individual's request for an amendment, the denial of the request, the individual's statement of disagreement, if any, and the rebuttal, if any, to the designated record set.
 - d) For future disclosures:
 - i) If a statement of disagreement has been submitted by the individual, Lakemary must include the request of the person supported for an amendment, the denial of the request, the statement of disagreement from the person supported and the rebuttal, if any, or an accurate summary of any such information, with any subsequent disclosure of the PHI to which the disagreement relates.
 - ii) If the individual has not submitted a written statement of disagreement, Lakemary must include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the PHI only if the individual has requested such action.
 - iii) When a subsequent disclosure is made using a standard transaction that does not permit the additional material to be included with the disclosure, Lakemary may separately transmit the material required to the recipient of the standard transaction.

Amendment Process

Persons supported may request to have their PHI amended by submitting a request for correction/amendment of PHI form with the department's Health Information Custodian. The Health Information Custodian will be responsible for maintaining all original amendment forms. The Health Information Custodian has the authority to amend or

correct any PHI that is determined to be a routine revision and would not require review (e.g. individual's name spelled incorrectly). If an amendment request requires further investigation, the Health Information Custodian shall forward the request for amendment to the Privacy Officer for review. The Privacy Officer shall make a determination within a reasonable amount of time, notify the person supported or their health representative in writing of their decision, and direct any changes that need to be made in the file.

Amendments Received from Other Entities

If Lakemary is informed by another provider or payer of an amendment they have made to an individual's PHI within the outside entities' designated record set, Lakemary must amend the PHI in designated record sets that have been received from those outside entities. However, Lakemary does not have to amend the PHI in the Lakemary designated record set based upon an outside determination, unless Lakemary has relied on the outside entities' findings.

10.1 Accounting of Disclosures of PHI

In general, individuals shall have the right to receive an accounting of PHI disclosures made by Lakemary in the six years prior to the request. Lakemary is not required to account for any disclosures that occurred prior to the compliance date of April 14, 2003. Lakemary must account for all disclosures of PHI, except for disclosures made for Treatment, Payment or health care Operations (TPO) or pursuant to an authorization from a person supported. Additionally, Lakemary will not account for disclosures made to referring service provider. Disclosures to referring service providers fall within the TPO exception.

Right to an Accounting of Disclosures

Lakemary must provide the individual with a written accounting that meets the following requirement:

Except as otherwise provided, the accounting must include disclosures of PHI that occurred during the six years (or shorter time period if requested) prior to the date of the request. This includes disclosures to and by business associates for purposes other than TPO.

Content Standards

1. The accounting for each disclosure must include:
 - a) The date of the disclosure;
 - b) The name of the entity or person who received the PHI and, if known, the address of such entity or person;
 - c) A brief description of the PHI disclosed; and
 - d) A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure; or, in lieu of such statement a copy of a written request for a disclosure if any.
2. If Lakemary has made multiple disclosures of PHI to the same person or entity for a single purpose, the accounting may, with respect to such multiple disclosures,

provide:

- a) The information required above;
- b) The frequency, periodicity, or number of the disclosures made during the accounting period; and
- c) The date of the last such disclosure during the accounting period.

Content for Research Disclosures (> 50 individuals)

Disclosures for research purposes must be accounted for unless an authorization has been obtained from the individual. For research disclosures involving less than 50 individuals Lakemary must account for the disclosure in accordance with the above requirements. However, for larger research disclosures (more than 50 individuals) Lakemary may provide a summary list of all protocols for which PHI may have been disclosed for research pursuant to a waiver of authorization.

The summary list must provide:

1. The name of the protocol or other research activity;
2. A description, in plain language, of the research protocol or other research activity, including the purpose of the research and the criteria for selecting particular records;
3. A brief description of the type of PHI that was disclosed;
4. The date or period of time during which such disclosures occurred, or may have occurred, including the date of the last such disclosure during the accounting period;
5. The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
6. A statement that the PHI of the individual may or may not have been disclosed for a particular protocol or other research activity.

If Lakemary provides a summary accounting for research disclosures, and if it is reasonably likely that the PHI of the individual was disclosed for such research protocol or activity, Lakemary shall, at the request of the individual, assist in contacting the entity that sponsored the research and the researcher.

Compliance Standards

1. Lakemary must act on the individual's request for an accounting, no later than 60 days after receipt of such a request, as follows.
 - a) Provide the individual with the accounting requested; or
 - b) If Lakemary is unable to provide the accounting within the time required above, Lakemary may extend the time to provide the accounting by no more than 30 days, provided that:
 - i) Lakemary, within the time limit of 60 days, provides the individual with a written statement of the reasons for the delay and the date by which Lakemary will provide the accounting; and
 - ii) Lakemary may have only one such extension of time for action on a request for an accounting.

Lakemary must provide the first accounting to an individual in any 12-month period without charge. Lakemary may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same individual within the 12-month period, provided that Lakemary informs the individual in advance of the fee and provides the individual with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee. The fee schedule for these services may be obtained from the department's Health Information Custodian.

Documentation for Accounting of Disclosures

Lakemary personnel need to account for disclosures of PHI by documenting any such disclosures. Authorized Records Technicians will account for disclosures using their department's procedures for documentation. Requests for accounting disclosures shall be forwarded to the departments Authorized Records Technician who will document and maintain a copy of the following:

1. The required information to be included in an accounting of disclosures, as outlined in the earlier section "Content Standards for the Accounting of Disclosure of PHI."
2. The written accounting that is provided to the individual requesting an accounting of disclosures.

Exceptions to the Right of Accounting of Disclosures

1. In accounting for disclosures of PHI:
 - a) Lakemary must temporarily suspend an individual's right to receive an accounting of disclosures made to a health oversight agency or law enforcement official if such agency or official provides Lakemary with a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activities. The written statement must specify the time for which such a suspension is required.
 - b) If the agency or official suspends an individual's right to receive an accounting of disclosures and the statement is made orally, Lakemary must:
 - i) Document the statement, including the identity of the agency or official making the statement;
 - ii) Temporarily suspend the individual's right to an accounting of disclosures subject to the statement; and
 - iii) Limit the temporary suspension to no longer than 30 days from the date of the oral statement, unless a written statement from the suspending agency or official is submitted during the time period.
2. Lakemary is not required to account for the following disclosures:
 - a) To carry out TPO;
 - b) To individuals requesting their own PHI;
 - c) Incidental use or disclosure made during an otherwise permitted or required disclosure;
 - d) For national security or intelligence purposes;
 - e) To correctional institutions or law enforcement officials; or
 - f) As part of a limited data.
 - g) That occurred prior to the compliance date of April 14, 2003.

11.1 Mandatory Education and Training for Lakemary's Workforce

All Lakemary employees, contract employees, interns and volunteers are required to attend and complete all applicable in-service education, training, and/or licensing courses as defined and required by Lakemary, licensing and regulatory agencies, and state and federal law (e.g. compliance training and other training required based on job classification). A volunteer shall not be used as a substitute for a direct care staff member. Additionally, all contract employees must show evidence of general orientation and education, which may be accomplished by documentation of:

- Attendance at Lakemary educational offerings;
- Attendance at educational programs approved by Lakemary but offered by the contractor

Guidelines Managers/Supervisors are accountable for providing the opportunity and direction to departmental staff to achieve the training and education required by these procedures. Managers/Supervisors must ensure that employees:

- Comply with institutional and departmental specific training and requirements; and
- Attend and complete the required training and have the attendance documented.

If the employee is unable to sufficiently complete the training requirement, it is the supervisor's responsibility to ensure that the employee receives the proper guidance needed to fulfill the requirement.

Documentation Lakemary provides a database for inputting and maintaining training information. Supervisors are accountable for reviewing the database to ensure that employees have participated and completed all applicable training.

12.1 Storage of PHI

Lakemary protects the confidentiality and integrity of confidential service information as required by law, professional ethics, and accreditation requirements. Storage of PHI shall be done in a manner that ensures that the information is secure.

Standards

- Outside of regular working hours, all documentation shall be secured in a manner to prevent disclosure to individuals without authorization for access to PHI.
- When PHI is being released through teleconference or video feed, Lakemary personnel must treat the protection of PHI in the same manner as PHI recorded on paper, thereby securing access to the teleconference or video to authorized personnel only.
- When not in use, PHI must always be protected from unauthorized access. When left in an unattended room, such information must be appropriately secured.
- If PHI is to be stored on the hard disk drive or other internal components of a personal computer or PDA (Personal Digital Assistant), it must be protected by

either a password or encryption. Unless encrypted, when not in use, this media must be secured from unauthorized access.

- If PHI is on removable data storage media, it cannot be commingled with other electronic information.

See: HIPAA Security Practice Manual for encryption requirements.

13.1 Removal of Individual Service Records from Lakemary Facilities

The intention of these procedures is to prevent the unauthorized disclosure of PHI as a result of transporting PHI from one location to another. The logging of removal of original records must be undertaken because it will assist with tracking unauthorized disclosures. Records of PHI that are not required to be placed in the Individual Service Record such as loose photocopies and extra printouts, used for business and educational purposes do not have to be logged; however, all other aspects of these procedures will apply to loose photocopies and extra printouts of PHI.

Requirements

Original documentation from any part of the Designated Record Set should not be removed from Lakemary premises unless there has been prior approval from the information's owner and the removal has been documented. In addition to the removal of service records, prior approval and documentation applies to electronic media containing service information. Exceptions to this rule include:

- Authorized off-site convenience copies such as traveling medical files.
- In situations where court order requires production of all or a portion of Individual Service Records.
- For emergency medical treatment.

Whenever PHI (original service records) must be removed from Lakemary premises, a record must be made that includes:

- Date
- Description of the information involved.
- Individual transporting and responsible for record security.

Whenever a hardcopy version of PHI (actual service records, photocopies and extra printouts) is removed from Lakemary premises, it must be secured and protected at all times. It should remain in direct possession of the responsible staff person or locked in a secure location. During transport, the records should not be left in a location where they could be accessible to others unless necessary to emergency medical treatment or in response to valid court order.

If the PHI is for use in providing services in the home of a person supported, only the PHI of the person being served at the time should be removed from the secured location for use. Any other individual's PHI should remain securely stored and protected.

All PHI must be returned to Lakemary as soon as possible. However, if PHI was printed or copied for the sole purpose of “home use” upon conclusion of the need for the PHI, disposal of the material must be completed in accordance with Disposal of PHI.

14.1 Disposal of PHI

Lakemary has a duty to protect the confidentiality and integrity of confidential service information as required by law, professional ethics, and accreditation requirements. PHI may only be disposed of by means that assure that it will not be accidentally released to an outside party. Lakemary must assure that appropriate means of disposal are reasonably available and operational. These procedures define the guidelines and procedures that must be followed when disposing of information containing PHI.

Summary of Disposal Procedures

- PHI must not be discarded in trash bins, unsecure recycle bags or other publicly-accessible locations. Instead, this information must be shredded or placed in a secured recycling bag or container.
- Printed material and electronic data containing PHI shall be disposed of in a manner that ensures confidentiality.

Each staff person has the responsibility to ensure that the PHI they are responsible for has been secured or destroyed. It is the supervisor’s responsibility to ensure that their employees are adhering to the procedures.

Destruction of Convenience Copies and Original Documents (Day-to-Day Destruction)

Lakemary Managers/Supervisors shall insure that users have access to shredders or secured recycling bags/containers for proper disposal of confidential documents containing PHI. The user may elect to use either shredding or secure recycle bags/containers for the destruction of convenience copies, as long as the destruction is in accordance with these procedures. Original documents shall be destroyed in accordance with Lakemary’s records retention procedures and these procedures.

Electronic Copies Secure methods will be used to dispose of electronic data and output. Information Technology staff will assist with destruction or complete erasure of electronic copies containing PHI. Information Technology staff will be responsible for the following:

- Deleting on-line data using the appropriate utilities when necessary;
- Removing PHI from server and desktop workstation disk drives being sold or replaced, using the appropriate initialization utilities;
- Erasing removable data storage to be re-used using a special utility to prevent recovery of data; or
- Destroying discarded removable data storage.
- Medical Records Coordinator removes access to electronic health records

Hardcopy (Bulk Destruction)

Secure methods will be used to dispose of hardcopy data and output.

- PHI printed material shall be shredded and recycled by a firm specializing in the disposal of confidential records or be shredded by an employee of Lakemary authorized to handle and personally shred the PHI.
- After documents have reached their retention period, all PHI must be securely destroyed using the Lakemary record retention process governing destruction of records. If hardcopy PHI cannot be shredded, it must be incinerated.

Documentation of Destruction

- To ensure that destruction is, in fact performed, the Medical Records Coordinator or a bonded destruction service must carry out the destruction of PHI.
- If Lakemary personnel undertake the destruction of the records, the Lakemary personnel must use the Lakemary records destruction form for documentation.
- If a bonded shredding company undertakes the destruction, the bonded shredding company must provide Lakemary with the document of destruction that contains the following information:
 - Date of destruction
 - Method of destruction
 - Description of the disposed records
 - Inclusive dates covered
 - A statement that the records have been destroyed in the normal course of business
 - The signatures of the individuals supervising and witnessing the destruction.

Lakemary must retain health records for a minimum of seven (7) years after discharge. For minors, it is a minimum of ten (10) years after coming of age after discharge.

15.1 Electronic Mail Containing PHI

Electronic mail (email) containing PHI must be treated with the same degree of privacy and confidentiality as the individual's service file. All email messages sent or received concerning services an individual receives shall be made part of the individual's service file. Personnel may use and disclose PHI through Lakemary's internal email system in accordance with the General Procedures on Uses and Disclosures of PHI. Such emails must be for the purposes of treatment, payment or health care operations only, unless specifically authorized by the person supported.

Emails containing PHI must meet the "minimum necessary disclosure" standard defined in these procedures. No PHI may be placed in the subject line of any email. No PHI may be placed in the body of any email being sent outside the Lakemary internal email system. PHI is defined above, and includes any personally identifiable information (names, identifying numbers, etc.) and any health-related information.

There are situations where it may be beneficial or necessary to send emails containing PHI outside of the Lakemary internal email system. Because of the nature of the internet, Lakemary cannot control where such emails may travel or be captured. Emails sent outside of the Lakemary internal email system must be encrypted or protected by other controls to minimize the risk of unauthorized disclosure. Encrypted email sharing is required when available between Lakemary personnel and recipients. If encrypted email-sharing is not available between Lakemary personnel and the recipient, then all PHI must be placed in a password-protected attachment to the email. The password for the attachment must never be sent in the same email as the attachment. The password should be communicated to the recipient via telephone call, fax or mail, if possible. The password may alternatively be communicated to the recipient via a separate email.

All email sent outside the Lakemary internal email system should include wording similar to the following as part of the signature: *“This email, including attachments, may include confidential and/or proprietary information, and may be used only by the person or entity to which it is addressed. If the reader of this email is not the intended recipient or his/her authorized agent, the reader is hereby notified that any dissemination, distribution or copying of this email is prohibited. If you have received this email in error, please notify the sender by replying to this message, and delete this message immediately. Thank you.”*

16.1 Fax Transmittal of PHI

Lakemary protects the facsimile transmittal of PHI and holds individuals responsible for following the proper procedure when PHI is sent via facsimile. Lakemary protects the confidentiality and integrity of confidential service information as required by law, professional ethics, and accreditation requirements. This procedure defines the minimum guidelines and procedures that must be followed when transmitting person supported information via facsimile.

Guidelines

- PHI will be sent by facsimile only when the original record or mail-delivered copies will not meet the needs for TPO. For example, personnel may transmit PHI by facsimile when urgently needed for services or required by a third-party payer for ongoing certification of payment for a person supported in accordance with disclosure procedures as specified in this document.
- Information transmitted must be limited to the minimum necessary to meet the requester’s needs.
- Except as authorized by the individual’s consent to TPO, or federal or state law, a properly completed and signed authorization must be obtained before releasing PHI (see General Uses and Disclosures). The following types of service information are protected by federal and/or state statute and may NOT be faxed or photocopied without specific written authorization, unless required by law.
 - Confidential details of:
 - Psychotherapy (records of treatment by a psychiatrist, licensed psychologist or psychiatric clinical nurse specialist)

- Other professional services of a licensed psychologist
 - Social work counseling/therapy
 - Domestic violence victims' counseling
 - Sexual assault counseling
 - HIV test results (authorization required for EACH release request.)
 - Records pertaining to sexually transmitted diseases
 - Alcohol and drug abuse records are protected by federal confidentiality rules (42 CFR Part 2).
- A Facsimile Cover Sheet must be used to send faxes containing PHI. The cover page must be marked "Confidential" prior to transmittal. See: Fax PHI Confirmation Form (Appendix #8).
- Personnel must make reasonable efforts to ensure that they send the facsimile transmission to the correct destination including:
 - Preprogramming frequently used numbers into the machine to prevent misdialing errors.
 - Periodically and/or randomly checking all speed-dial numbers to ensure their currency, validity, accuracy, and authorization to receive confidential information.
 - Periodically reminding those who are frequent recipients of PHI to notify Lakemary if their fax number is to change.

Procedure for Faxes Sent Successfully for TPO purposes

The department sending the fax for TPO purposes shall maintain a copy of the fax transmittal cover sheet unless the disclosure is documented through an alternate means. If the cover sheet is to be used for purposes of documentation of disclosure it must include the date, name of recipient, description of material sent, and a brief statement of purpose of disclosure.

For Non-TPO purposes

Individuals faxing PHI information for non-TPO purposes (external) and without a signed authorization from the person supported must account for the Non-TPO disclosure in accordance with Accounting of Disclosure.

Procedure for Misdirected Faxes (for both TPO and non-TPO purposes)

If a fax transmission containing PHI is not received by the intended recipient because of a misdial, check the internal logging system of the fax machine to obtain the misdialed number. If possible, a phone call (supplemented by a note referencing the conversation) should be made to the recipient of the misdirected fax requesting that the entire content of the misdirected fax be destroyed. If the recipient cannot be reached by phone, a fax should be sent to the recipient requesting that the entire content of the misdirected fax be destroyed. This fax or note referencing the request for destruction shall be scanned in the Unit File. It is the responsibility of the department sending the misdirected fax to forward this information to the Medical Records Coordinator for scanning purposes. Misdirected faxes will be documented as described in Accounting for Disclosure.

Receipt of Faxes Containing PHI

Fax machines used for transmission of PHI shall not be located in areas accessible to the general public but rather must be in secure areas, and the department director or designee is responsible for limiting access to them. Each department is responsible for ensuring that incoming faxes are properly handled. When receiving faxed PHI:

- Immediately remove the fax transmission from the fax machine and deliver it to the recipient.
- Manage PHI received via fax as confidential in accordance with procedures.
- Destroy, or follow sender's instructions for PHI faxed in error and immediately inform the sender.

17.1 Printing and Copying of PHI

- Printed versions of PHI should not be copied indiscriminately or left unattended and open to compromise.
- Printers and copiers used for printing PHI should be in a secure location. If printing to equipment which is not in a secure location, staff shall remove output promptly to avoid compromise.
- PHI printed to any shared printer shall be promptly removed.
- PHI in hardcopy format must be disposed of in accordance with Records Retention schedules, and the Disposal of PHI procedures.
- Any media and hardcopy containing PHI must have access controls during transportation and disposal; see Disposal of PHI.

The Authorized Records Technicians and the Health Information Custodians will work collaboratively with the Medical Records Coordinator to ensure that all PHI is appropriately secured and inventoried.

18.1 Privacy Complaint Procedures

Any individual who believes the rights granted by the Health Insurance Portability and Accountability Act (HIPAA) privacy regulations or any other state or federal laws dealing with privacy and confidentiality have been violated may file a complaint regarding the alleged privacy violation.

Procedure for Filing HIPAA Complaints:

Any privacy related complaint made by persons supported, employee, trainee, or volunteer at any time must be forwarded to the Privacy Officer. Complaints may also be made anonymously in writing to President of Lakemary Center.

See: HIPAA Privacy Complaint Form (Appendix #4).

Investigation of Complaints:

The Privacy Officer will contact the Health Information Custodian(s) involved and other staff as needed to investigate the complaint. If during the course of investigation an individual is found to be in violation of an institutional procedure, he/she will be subject

to the disciplinary process for staff, trainees, or volunteers.

19.1 Mitigation after Improper Protected Health Information (PHI) Use or Disclosure

Lakemary has a duty to ensure the proper use and/or disclosure of PHI. To the extent practicable, Lakemary will mitigate (*i.e.*, lessen or alleviate) any harmful effect that becomes known to Lakemary as a result of a use or disclosure of PHI in violation of Lakemary's policies and procedures or applicable law.

This may include, but is not limited to, the following:

- Taking operational and procedural corrective measures to remedy violations.
- Taking employment actions to re-train, reprimand, or discipline employees as necessary, up to and including termination.
- Addressing problems with business associates once Lakemary is aware of a breach of privacy.
- Incorporating mitigation solution into Lakemary's policies and procedures as appropriate.
- Addressing and investigating employee violations.

Lakemary is required to follow certain notification procedures in the event of a breach. A breach is, generally, an impermissible use or disclosure in the Privacy Rule that compromises the security or privacy of the PHI such that the use or disclosure poses a significant risk of financial, reputational or other harm to the affected individual. There are three exceptions to the definition of "breach." The first exception applies to the unintentional acquisition, access, or use of protected health information by a workforce member acting under the authority of a covered entity or business associate. The second exception applies to the inadvertent disclosure of protected health information from a person authorized to access protected health information at a covered entity or business associate to another person authorized to access protected health information at the covered entity or business associate. In both cases, the information cannot be further used or disclosed in a manner not permitted by the Privacy Rule. The final exception to breach applies if the covered entity or business associate has a good faith belief that the unauthorized individual, to whom the impermissible disclosure was made, would not have been able to retain the information.

Lakemary must only provide the required notification if the breach involved unsecured protected health information. Unsecured protected health information is protected health information that has not been rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in guidance.

Following a breach of unsecured protected health information Lakemary must provide notification of the breach to affected individuals, the Secretary, and, in certain circumstances, to the media. In addition, business associates must notify Lakemary that a breach has occurred.

- **Individual Notice**

Lakemary must notify affected individuals following the discovery of a breach of unsecured protected health information. Lakemary must provide this individual notice in written form by first-class mail, or alternatively, by e-mail if the affected individual has agreed to receive such notices electronically. If the covered entity has insufficient or out-of-date contact information for 10 or more individuals, the covered entity must provide substitute individual notice by either posting the notice on the home page of its web site or by providing the notice in major print or broadcast media where the affected individuals likely reside. If the covered entity has insufficient or out-of-date contact information for fewer than 10 individuals, the covered entity may provide substitute notice by an alternative form of written, telephone, or other means.

These individual notifications must be provided without unreasonable delay and in no case later than 60 days following the discovery of a breach and must include, to the extent possible, a description of the breach, a description of the types of information that were involved in the breach, the steps affected individuals should take to protect themselves from potential harm, a brief description of what the covered entity is doing to investigate the breach, mitigate the harm, and prevent further breaches, as well as contact information for the covered entity. Additionally, for substitute notice provided via web posting or major print or broadcast media, the notification must include a toll-free number for individuals to contact the covered entity to determine if their protected health information was involved in the breach.

- **Media Notice**

If Lakemary experiences a breach affecting more than 500 residents of a State or jurisdiction, it is required to notify the affected individuals, and to provide notice to prominent media outlets serving the State or jurisdiction. Lakemary will likely provide this notification in the form of a press release to appropriate media outlets serving the affected area. Like individual notice, this media notification must be provided without unreasonable delay and in no case later than 60 days following the discovery of a breach and must include the same information required for the individual notice.

- **Notice to the Secretary**

In addition to notifying affected individuals and the media (where appropriate), Lakemary must notify the Secretary of breaches of unsecured protected health information. Lakemary will notify the Secretary by visiting the HHS web site and filling out and electronically submitting a breach report form. If a breach affects 500 or more individuals, Lakemary must notify the Secretary without unreasonable delay and in no case later than 60 days following a breach. If, however, a breach affects fewer than 500 individuals, the covered entity may notify the Secretary of such breaches on an annual basis. Reports of breaches affecting fewer than 500 individuals

are due to the Secretary no later than 60 days after the end of the calendar year in which the breaches occurred.

- **Notification by a Business Associate**

If a breach of unsecured protected health information occurs at or by a business associate, the business associate must notify the covered entity following the discovery of the breach. A business associate must provide notice to the covered entity without unreasonable delay and no later than 60 days from the discovery of the breach. To the extent possible, the business associate should provide the covered entity with the identification of each individual affected by the breach as well as any information required to be provided by the covered entity in its notification to affected individuals.

HIPAA Officers

HIPAA Privacy Officer – Sherri Johnson
Information Security Officer – Josh Patterson

APPENDIX

#1 Authorization for Release of Confidential Information

- PRTF
- Adult Services

#2 Data Use Agreement "Limited Data Set"

#3 HIPAA Employee Designations

#4 HIPAA Privacy Complaint Form

#5 Notice of Privacy Practices

#6 HIPAA – Summary of Assessment and Findings

#7 HIPAA Auditing Tool

#8 Fax PHI Confirmation Form

#9 Business Associate Agreement

LAKEMARY CENTER

PHONE: 913-557-4000

100 LAKEMARY DR, PAOLA, KS 66071

FAX: 913-557-4910

AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION

Last Name _____	First _____	Middle _____	/ / Date of Birth
Street Address: _____			State: _____
City: _____			Zip: _____
Maiden names or other names known by _____			- - Social Security Number

I _____ authorize the following information to be disclosed:

Information to be released from: _____ Department for Children and Families (DCF) _____ School District: USD # _____ _____ Medical Practitioner, clinic, center or facility _____ _____ Mental health practitioner, clinic, center, or Facility _____ _____ Social Service Agency or provider _____ _____ Subcontractor agencies providing services to Child or family _____ _____ Other: _____ _____	Information to be released to: _____ Depart for Children and Families (DCF) _____ School District: USD # _____ _____ Medical Practitioner, clinic, center or facility _____ _____ Mental health practitioner, clinic, center, or Facility _____ _____ Social Service agency or provider _____ _____ Subcontractor agencies providing services to Child or family _____ _____ Other: _____ _____
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Information to be released:

_____ All information necessary to provide services requested

_____ Academic, achievement or aptitude evaluations and recommendations

_____ Social, behavioral, psychological, mental or medical histories and evaluations, including psychotherapy notes

_____ Diagnostic and treatment progress and prognoses

_____ Results of previous treatment

_____ Information shared during initial team meeting and initial and all subsequent family meetings or case planning conferences

Other: _____

The purpose or reason for the release is:

Dates Needed in Release: _____

Format:

___ EMAIL	___ FAX	___ MAIL	___ Flash Drive	Other: _____
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Read before signing:
 I understand that the information which I have authorized to be disclosed will be used for the purpose(s) stated. I acknowledge that it is my responsibility to be aware of any rights of confidentiality which I may have regarding the information which I am releasing and that by signing this consent I am waiving my rights, if any, to confidentiality for purposes which I have approved.

This consent may be revoked in writing at any time prior to any action which has been taken in reliance upon it.
 This consent expires upon (date): _____.

Signature of person(s) giving consent: _____ Date: _____

Witness: _____ Date: _____

Relationship to person whose information is being released: _____

LAKEMARY CENTER

PHONE: 913-557-4000

100 LAKEMARY DR, PAOLA, KS 66071

FAX: 913-557-4910

AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION

Last Name _____	First _____	Middle _____	/ / Date of Birth
Street Address: _____			State: _____
City: _____			Zip: _____
Maiden names or other names known by _____			- - Social Security Number

I, _____, authorize the following information to be disclosed:

Information to be released from: <input type="checkbox"/> Department for Children and Families (DCF) <input type="checkbox"/> CDDO of _____ County <input type="checkbox"/> Medical Practitioner, clinic, center or facility _____ <input type="checkbox"/> Mental health practitioner, clinic, center, or Facility _____ <input type="checkbox"/> ARCare _____ <input type="checkbox"/> Outside TCM _____ <input type="checkbox"/> KDADS <input type="checkbox"/> Outside Day Service Provider _____ <input type="checkbox"/> KanCare Provider _____ <input type="checkbox"/> Outside Residential Provider _____ <input type="checkbox"/> Family _____ <input type="checkbox"/> Auburns _____ <input type="checkbox"/> Surescripts _____ <input type="checkbox"/> Other: _____	Information to be released to: <input type="checkbox"/> Department for Children and Families (DCF) <input type="checkbox"/> CDDO of _____ County <input type="checkbox"/> Medical Practitioner, clinic, center or facility _____ <input type="checkbox"/> Mental health practitioner, clinic, center, or Facility _____ <input type="checkbox"/> ARCare _____ <input type="checkbox"/> Outside TCM _____ <input type="checkbox"/> KDADS <input type="checkbox"/> Outside Day Service Provider _____ <input type="checkbox"/> KanCare Provider _____ <input type="checkbox"/> Outside Residential Provider _____ <input type="checkbox"/> Family _____ <input type="checkbox"/> Auburns _____ <input type="checkbox"/> Surescripts _____ <input type="checkbox"/> Other: _____
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Information to be released:

- All information necessary to provide services requested
- Academic, achievement or aptitude evaluations and recommendations
- Social, behavioral, psychological, mental or medical histories and evaluations, including psychotherapy notes
- Diagnostic and treatment progress and prognoses
- Results of previous treatment
- Information shared during initial team meeting and initial and all subsequent family meetings or case planning conferences
- Other: _____

The purpose or reason for the release is:

Dates Needed for Release: _____

Format:

<input type="checkbox"/> EMAIL	<input type="checkbox"/> FAX	<input type="checkbox"/> MAIL	<input type="checkbox"/> Flash Drive	Other: _____
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Read before signing:

I understand that the information which I have authorized to be disclosed will be used for the purpose(s) stated. I acknowledge that it is my responsibility to be aware of any rights of confidentiality which I may have regarding the information which I am releasing and that by signing this consent I am waiving my rights, if any, to confidentiality for purposes which I have approved.

This consent may be revoked in writing at any time prior to any action which has been taken in reliance upon it.

This consent expires upon (date): _____.

Signature of person(s) giving consent: _____ Date: _____

Witness: _____ Date: _____

Relationship to person whose information is being released: _____



DATA USE AGREEMENT - Limited Data Sets

The Data Use Agreement (the " Agreement") is by and between Lakemary Center, Inc. with its principal place of business in Paola, Kansas, and _____ ("User") and is effective as of _____(Effective Date).

WHEREAS, Congress enacted the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which provides protection for confidential health information;

WHEREAS, the United States Department of Health and Human Services (DHHS) promulgated, pursuant to HIPAA, a "Privacy Rule" governing confidential health information; "Privacy Rule" means the regulations promulgated by DHHS to implement the portions of HIPAA that concern the confidentiality of health information, as may be amended or otherwise changed from time to time. References to 45 CFR in this Agreement refer to sections within the Privacy Rule. At the date of this Agreement, these include 45 CFR Part 160 and Subparts A and E of Part 164;

WHEREAS, Lakemary Center, Inc. maintains certain information that User wishes to use and/or disclose for research, public health, or health care operations purposes permitted under 45 CFR Part 164.514(e) of the Privacy Rule; and

WHEREAS, prior to releasing any confidential health information to User, the Privacy Rule requires Lakemary Center, Inc. to enter into an agreement under which User agrees to certain restrictions on the use and disclosure of the information.

NOW, THEREFORE, the parties, in consideration of" Limited the mutual promises and obligations set forth herein, the sufficiency of which is hereby acknowledged, and intending to be legally bound, agree as follows:

1. **Access to Data:** Lakemary Center, Inc. shall provide User with access to certain data (the "Limited Data Set") in accordance with the terms and conditions of this Agreement. Under no circumstances shall Lakemary Center, Inc. be required under this Agreement to provide the User with any information that does not qualify as part on a "limited data set" under 45 CFR Part 164.514(e).
2. **Authorized Parties:** The below named individual Principal User, Principal Investigator or Primary Responsible Person, and persons under his/her direct supervision (collectively the "Authorized Parties"), are authorized to use the Limited Data Set or any part of it on behalf of User and agree to abide by the terms of this Agreement:

Signature: _____
Name of Principal User, Principal Investigator or Primary Responsible Person

(If there is more than one Principal User, Principal Investigator or Primary Responsible Person, use an attachment to identify that person and obtain his/her signature. The attachment also must be signed by authorized representatives of User and Lakemary Center, Inc.)

The Principal User, Principal Investigator or Primary Responsible Person is responsible for seeing that those persons under his/her supervision comply with the terms of this Agreement.

3. **Permitted Use:** User, and any Authorized Party on User's behalf, may use the Limited Data Set only for the following purposes (which shall be limited to research, public health activities, and health care operations as defined in the Privacy Rule) and for no other purpose:

Use an attachment to list any additional purposes. The attachment must be signed by authorized representatives of User and Lakemary Center, Inc.

4. **Conditions of Use:** User and each Authorized Party agree as follows:
- a. Not to use or further disclose the Limited Data Set or any information contained therein other than as permitted by this Agreement or required by applicable law.
 - b. To use appropriate safeguards to prevent use or disclosure of the Limited Data Set or any information contained therein other than as provided for by this Agreement.
 - c. To report to Lakemary Center, Inc., through the Lakemary Center's Privacy Officer, any use or disclosure of the Limited Date Set or any part of it not provided for by this Agreement of which User or any Authorized Party becomes aware.
 - d. To ensure that any agents, including subcontractors, to who User or an Authorized Party provides the Limited Date Set or any part of it agree to the same restrictions and conditions that apply to the User and Authorized Parties under this Agreement.
 - e. Not to use the Information contained in the Limited Data Set, nor to contact them under any circumstances.
 - f. Promptly following the end of the permitted use (as defined in Section 3 above), to return all copies of the Limited Data Set to Lakemary Center, Inc. or destroy them and certify to the destruction; or if continue to extend the protections of this Agreement to the Limited Data Set.
5. **Reliance:** User and each Authorized Party acknowledge and agree that Lakemary Center, Inc. has relied upon the promises and covenants made in this Agreement and in disclosing the Limited Data Set hereunder.
6. **Relief:** User and each Authorized Party agree that the breach or threatened breach of this Agreement may cause irreparable harm to Lakemary Center, Inc. and/or individuals, that Lakemary Center, Inc. may not have as adequate remedy at law, and that Lakemary Center, Inc. shall therefore be entitled to injunctive or other equitable relief to enforce this Agreement

without obligation to post a bond. In the event Lakemary Center, Inc. becomes aware of any use of the Limited Data Set or any part of it that is not authorized under this Agreement or required by applicable law, Lakemary Center, Inc. may (i) terminate this Agreement upon notice; (ii) disqualify (in whole or in part) the User and/or any Authorized Parties from receiving protected health information in the future, and/or (iii) report the inappropriate use or disclosure to the Secretary of the Department of Health and Human Services. Further sanctions may apply to the User and/or Authorized Parties under 45 CFR Parts 160 and 164.

7. **Obligations Following Termination:** Upon expiration or termination of this Agreement for any reason, User and all Authorized Parties shall no longer be entitled to receive or use information contained in the Limited Data Set.
8. **Expiration of Agreement:** Except as otherwise provided in Section 4.f. above, this Agreement shall expire thirty days following satisfaction of the requirements of Section 4.f. above.
9. **Construction and Jurisdiction:** this Agreement shall be governed by and construed in accordance with the laws of the State of Kansas (excepting any conflict of law provisions which would serve to defeat application of Kansas substantive law).

Each of the parties hereto submits to the exclusive jurisdiction of the state and/or federal courts located within the State of Kansas for any suit, hearing or other legal proceeding of every nature, kind and description whatsoever in the event of any dispute or controversy arising hereunder or relating hereto, or in the event any ruling, finding or other legal determination is required or desired hereunder.

10. **No Assignment:** This Agreement may not be assigned by User or any Authorized Party without the prior written consent of Lakemary Center, Inc.

WHEREFORE, the parties, through their authorized representatives, hereby accept and agree to the terms and conditions of this Agreement.

LAKEMARY CENTER, INC.

100 Lakemary Drive
Paola, KS 66071

(Name of User)

By: _____

By: _____

Name (Printed): _____

Name (Printed): _____

Title: _____

Title: _____

Address: same as above

Address: _____

Date: _____

Date: _____

HIPAA Employee Designations Duties and Responsibilities

#3

President

1. Review allegations of retaliation against employees who report possible violations of federal or state law, Lakemary policy, or accreditation and regulatory requirements.
2. Review and rule on denials of access to PHI for persons supported.

Privacy Officers/Contact Persons/Reviewers:

HIPAA Privacy Officer – Sherri Johnson
Information Security Officer – Josh Patterson

HIPAA Privacy Duties:

1. Implementation of HIPAA policies and procedures.
2. Contact person for HIPAA inquiries and complaints.
3. Coordinate HIPAA investigations and inquiries by HHS.
4. Approve usage of de-identified PHI when it is not possible to remove all identifiers.
5. Review requests for amendment of PHI when such a review is required.
6. Receive and investigate complaints.

Note: For HIPAA Security issues refer to the HIPAA Security Practices Procedure Manual.

Duties:

1. Disclose PHI in accordance with Lakemary policy and/or authorizations.

Medical Records Coordinator

The following duties are specific to the Medical Records Coordinator:

1. Receive and process court orders and subpoenas.
2. Maintain information in Individual Service Records necessary to prepare accountings of disclosures.
3. Receive and process requests from persons supported to inspect and/or receive a copy of their PHI.
4. Provide, on request, copies of fee schedules for copying PHI for persons supported, if charges are to be imposed.
5. Receive and process requests for amendment of PHI, amend PHI as appropriate or forward request to Privacy Officer for review.
6. Scan "Authorization for Release" (form, fax, or email) to electronic health record.
7. Collaborate with Health Information Custodians and maintain inventory of PHI.

Authorized Records Technicians:

Medical Records Coordinator
Children's Case Management Team Lead
SFL Coordinator
Adult Social Services Coordinator
Executive Team Member

Duties:

1. Receive authorization forms from persons supported. Once the information has been sent, the form will need to be routed to the Medical Records Coordinator for scanning purposes.
2. Disclose PHI in accordance with Lakemary policy and/or authorizations.
3. Receive revocations of authorizations. The form will need to be routed to the Medical Records Coordinator for scanning purposes.
4. Ensure that PHI is no longer disclosed under revoked authorizations.
5. Receive and route email dialogues containing PHI for non-TPO services to the Medical Records Coordinator for scanning purposes.
6. Receive and route faxes containing PHI for non-TPO services to the Medical Records Coordinator for scanning purposes.

Records Custodians:

OLATHE
Johnson County Program Services Administrative Assistant
Johnson County Human Resources Administrative Assistant
Adult Residential Team Leaders
Adult Case Manager
Adult Health Services RN Supervisor
Adult Health Services Administrative Assistant
Adult Health Services Specialist
Outpatient Management Team Lead
Shared Living Coordinator

PAOLA
Medical Records Coordinator
Executive Team Member
Adult Social Services Coordinator
Adult Case Manager
Adult Health Services Coordinator
Adult Health Services Administrative Assistant
Adult Health Services Specialist

Adult Residential Team Leaders
Accounting Coordinator
Senior Accountant
PRTF Health Services Lead Registered Nurse
PRTF Registered Nurse
PRTF Clinical Office Specialist
PRTF Clinical Transporter
PRTF Quality Control
PRTF Therapists

Duties:

1. Maintain and protect PHI in accordance with Lakemary policy.
2. Maintain convenience copies of records in a secure location.
3. Report location of convenience copies of records to the Medical Records Coordinator for PHI inventory purposes.



LAKEMARY CENTER, INC.

100 Lakemary Drive, Paola, KS 6607
15145 S. Keeler, Olathe, KS 66062

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.

The Health Insurance Portability & Accountability Act of 1996 (HIPAA) and the HITECH Act of 2009 requires all health care records and other individually identifiable health information used or disclosed to us in any form, whether electronically, on paper or orally be kept confidential. This federal law gives you, the patient, significant new rights to understand and control how your health information is used. HIPAA provides penalties for covered entities that misuse personal health information. We have prepared this explanation of how we are required to maintain the privacy of your health information and how we may use and disclose your health information. Without your specific written authorization, we are permitted to use and disclose your health care records for the purposes of treatment, payment and health care operations.

- **Treatment** means providing, coordinating, or managing health care and related services by one or more health care providers so Lakemary Center, Inc. can treat you or assist others in your treatment. Examples would include doctors, nurses, pharmacists, social workers, therapists and affiliated health care personnel as well as hospitals, clinics, nursing homes, residential treatment facilities, laboratory and diagnostic facilities, etc. Treatment would also include sharing information with your designated personal representative if they will be involved in your care and treatment.
- **Payment** means such activities as confirming insurance coverage, obtaining reimbursement for services, billing /collection activities and utilization review. Payment may also require that we provide details regarding your pre-treatment condition and/or periodic updates concerning your progress to obtain payment for required services.
- **Health Care Operations** include the operating aspects of our business, such as conducting quality assessment and improvement activities internally and through accrediting and credentialing organizations, auditing and corporate compliance functions, cost-management analysis and customer service.

In addition, we are permitted by law to make certain uses and disclosures of your personal health information without your consent, subject to those conditions specified in the law. Your confidential information may be released to:

- comply with federal, state or local law, statute or regulations
- for public health activities, such as required reporting of disease, injury, death and for required public health investigations
- notify certain governmental agencies if we suspect child abuse or neglect; or if we believe that you may be a victim of abuse, neglect or domestic violence
- notify entities regulated by the Food and Drug Administration if necessary to report adverse events, product defects or to participate in product recalls
- comply with government oversight agencies that have legal authority to conduct audits, investigations, inspections and related functions
- prevent a serious and imminent threat to a person or to the public as would be encountered in an emergency situation
- comply with a bona fide court or administrative order, subpoena or discovery request; in most cases you will have notice of such release
- comply with requests from law enforcement officials to identify or locate suspects, fugitives or witnesses or victims of crime or for other allowable law enforcement purposes
- notify coroners, medical examiners and/or funeral directors
- provide notice to you or your designated medical representative with a reminder (i.e. telephonic, US Mail, etc.) of an upcoming appointment

You may revoke such authorization in writing, and we are required to honor and abide by that written request, except to the extent that we have already taken actions relying on your authorization.

You have certain rights in regard to your protected health information, which you may exercise by presenting a written ***request to our Privacy Officers at the location listed below***. Although under specific circumstances these rights may be limited, generally they include:

- The right to have your personal health information kept confidential.
- The right to know why we need to ask questions about your past medical history and current medical condition and the right to refuse to answer such questions.
- The right to request restrictions in our use or disclosure of your protected health information for treatment, payment or health care operations including that related to disclosures to family members, other relatives, close personal friends, or any other person identified by you. We are however, not required to agree to such a restriction.
- If we do agree to a restriction and we later deem that the restriction to be inappropriate, we retain the right to terminate an agreed upon restriction and we will provide you notice of this change.
- The right to request to receive confidential communications of protected health information from us by alternative means or at alternative locations. We will accommodate reasonable requests by you.
- The right to request an amendment to your protected health information if you believe that it is incorrect or incomplete.
- The right to access, inspect and copy your protected health information. Lakemary Center, Inc. may charge a cost-based fee for copying and mailing such information.
- The right to receive an "accounting of disclosures" or list of certain protected health information disclosures our organization has made excluding those related to treatment, payment and health care operations. Under certain circumstances, there may be a cost-based charge for compiling this list.
- The right to obtain a paper copy of this notice from us upon request.
- The right to file a complaint if you believe your privacy rights have been violated.
- The right to provide an authorization for other use and disclosure that is not identified in this notice or permitted by applicable law.

Confidentiality of Alcohol and Drug Abuse Records HIV- Related Information and Mental Health Records. The confidentiality of alcohol and drug abuse records, HIV information and mental health records maintained by us is specifically protected by state and/or Federal law and regulations. Generally, we may not disclose such information unless you consent in writing, the disclosure is allowed by a court order, or in other limited and regulated circumstances. We are required by law to maintain the privacy of your protected health information and to provide you with notice of our legal duties and privacy practices with respect to protected health information.

Business Associates. Certain aspects and components of our services are performed through contracts with other healthcare professionals and / or organizations, such as auditing, accreditation, legal services etc. At times it may be necessary for us to provide certain of your personal health information to one or more of these persons or organizations who assist us with treatment, payment/ billing and healthcare operations. In such circumstances, we require these business associates to appropriately safeguard the privacy of such information.

Persons Involved In Your Care. Unless you specifically object, we may, in our professional judgment, disclose to a member of your family or personal representative, a close friend or any other person you identify, your personal health information to facilitate that person's involvement in caring for you or in payment for that care. We may use or disclose personal health information to assist in notifying a family member, a personal representative, or any other person that is responsible for your care and general condition. We may also disclose limited personal health information to a public or private entity that is authorized to assist in disaster relief efforts to locate a family member or other persons that may be involved in some aspect of caring for you.

Paper Copy As Notice. As a patient, you retain the right to obtain a paper copy of this Notice of Privacy Practices, even if you have requested such a copy by email or other electronic means. You may also download and print a copy of this Notice from our website located at www.lakemary.org.

Research. We may use and disclose your de-identified personal health information as permitted or required by law for

research, subject to your explicit authorization.

This notice is effective as of January 2017 and we are required to abide by the terms of the Notice of Privacy Practices currently in effect. We reserve the right to change the terms of our Notice of Privacy Practices and to make the new notice provisions effective for all protected health information that we maintain. Revisions to our Notice of Privacy Practices will be posted on the effective date and you may request a written copy of the Revised Notice from this office. You have the right to file a formal, written complaint with us at the address below, or with the Department of Health and Human Services, Office of Civil Rights, in the event you feel your privacy rights have been violated. We will not retaliate against you for filing a complaint.

For more information about our privacy practices, please contact:

Privacy Officer at our Toll-Free Number 866-557-0700 OR directly to:

Sherri Johnson, Privacy Officer 913-535-4722

[Lakemary Center, Inc.](#), 100 Lakemary Drive. Paola, KS 66071 Fax: 913-535-4722

For more information about HIPAA or to file a complaint:

The U.S. Department of Health and Human Services	
Office of Civil Rights	Phone: 877-696-6775
200 Independence Avenue SW	
Washington, D.C. 20201	

By signing below, I attest that I have been provided with a copy of this brochure, my rights have been reviewed, and questions have been answered.

Name _____ Date _____

Select one: Individual Served Parent Guardian Volunteer/Intern Staff Other: _____

Originated: April 2003
Reviewed: 04/04; 04/05; 04/06; 04/07; 04/08; 04/09; 11/11; 07/14
Revised: 11/10; 09/13; 03/15; 03/17; 08/18; 03/19; 03/19, 10/20; 08.21; 04.22; 08.24

HIPAA PRIVACY - SUMMARY OF ASSESSMENT & FINDINGS

#6

Name of Reporter	
Date of Event	
Date Reported	
Staff Involved	

SCENARIO:

Describe incident here.

WAS ALLEGED BREACH REPORTED WITHIN 5 DAYS FROM THE EVENT? Yes No

If no, explain:

COMPLIANCE FINDING:

Describe findings here and level of harm, if applicable.

If no breach occurred, then state: "No breach occurred. Closed."

If a breach occurred complete the remainder of the form.

TYPE OF BREACH: _____

- Acquisition
- Access
- Use
- Disclosure of Unsecured PHI in violation of Privacy Rule

The only exception to this would be if the breach was secured or destroyed; unintentional, done in good faith with no further use; inadvertent and within job scope; or, information cannot be retained. Non-reportable incident would be further defined as "low probability of compromise" of the data, based on a risk assessment including: (1) What was the information (and is its release "adverse to the individual"); (2) To whom it was disclosed; and, (3) Was it actually acquired or viewed; (4) The extent of mitigation.

SEVERITY OF BREACH:

- Reasonable Cause: An act or omission in which a covered entity or business associate knew, or by exercising reasonable diligence would have known, that the act or omission violated an administrative simplification provision, but in which the covered entity or business associate did not act with willful neglect.
- Reasonable Diligence: Business care and prudence expected from a person seeking to satisfy a legal requirement under similar circumstances.
- Willful Neglect: Conscious, intentional failure or reckless indifference to the obligation to comply with the administrative simplification provision violated.

CORRECTIVE PLAN OF ACTION:

Describe plan which should include if there was a lack of incident response and reporting process, lack of security awareness and training, poor technical access control, poor administrative information access management, and/or poor physical workstation security. In addition, document the person responsible for implementation, and scheduled date for completion.

Prepared by: ___ Sherri Johnson, Medical Records Coordinator, HIPAA Privacy Officer

Lakemary Center President/CEO Response:

- Approved as submitted.
- Modified (note modifications on backside of form) and approved.

_____ Date: _____
Kirk Davis, Interim President/CEO

Self-Reported: ___ Yes ___ No. If so, Date & Name of Person Taking the report:

If no, explain:

HIPAA Auditing Tool

Department: _____ Site Location: _____ Visit Date: _____
 Auditor: _____ Staff Interviewed: _____

Notice of Privacy Practice
 §164.520(c)
 A covered entity must make the notice required by this section available on request to any person...A covered health care provider that has a direct treatment relationship with an individual must provide the notice no later than the date of the first service delivery...If a covered health care provider maintains a physical service delivery site, the notice must be posted in a clear and prominent location and be available by request for individuals to take with them.

Department Efforts	Compliant (yes or no)	Findings/Recommendations
NPP prominently posted		
NPP current version supply on site		
Acknowledgement supply on site		
Acknowledgement in client's chart		
Staff interview confirms understanding of NPP distribution requirement		
Staff interview confirms understanding of NPP content		

Administrative, Physical and Technical Safeguards
 § 164.530(c)
 A covered entity must have in place appropriate administrative, technical and physical safeguards to protect the privacy of protected health information

Department Efforts	Compliant (yes or no)	Findings / Recommendations
County P & Ps on site		
Designated Departmental Privacy Officer or HIPAA contact person		
Record of employee training available		
County & Dept. training material "		
Business Associate Agreements are used when necessary		

Administrative, Physical and Technical Safeguards

§ 164.530(c)

A covered entity must have in place appropriate administrative, technical and physical safeguards to protect the privacy of protected health information

Department Efforts	Compliant (yes or no)	Findings / Recommendations
Client sign-in sheets and schedules contain only limited information		
Documents containing PHI are in closed folders or turned face down on desks, counters		
Sufficient locking file cabinets available		
Client charts or reports are locked in drawer or cabinet at end of work day		
Documents containing PHI are shredded prior to disposal		
Voices are low when discussing PHI		
Doors are closed when speaking on the telephone		
Private rooms are used when possible		
Clients /unauthorized personnel are escorted to and from reception area		
Restricted areas clearly identified		
Staff mail boxes are not readily accessible to clients / or visitors		
Only authorized staff have access to confidential client information and they access and use only the minimum amount necessary to accomplish their duties		
There are departmental procedures for storage and check out of client charts and sufficient documentation to locate checked-out charts		

Administrative, Physical and Technical Safeguards
 § 164.530(c)

A covered entity must have in place appropriate administrative, technical and physical safeguards to protect the privacy of protected health information

Department Efforts	Compliant (yes or no)	Findings / Recommendations
Staff do not discuss confidential client information among themselves in public areas or within earshot of clients, visitors or unauthorized staff		
Staff interviews confirm understanding of "minimum necessary" rule		
Client information redacted from invoices before claim submitted to auditor		
Computer monitors are turned away from view of public or unauthorized personnel		
Printers, copiers and faxes are located in secure areas		
Fax numbers are confirmed prior to sending		
Computers are locked from unauthorized access when unattended		
Passwords are changed regularly and kept confidential		
Staff interviews confirm an awareness of appropriate physical safeguards		
Staff interviews confirm an awareness of appropriate technical safeguards		

<p>HIPAA Forms and Documentation: Authorization §164.508(c)(1)&(2) Minimum Necessary § 164.502(b) & §164.514(d) Accounting of Disclosures § 164.528</p>	<p>A covered entity may not use or disclose protected health information except as permitted or required... and in compliance with an authorization that complies with § 164.508...</p> <p>When using, disclosing, or requesting protected health information, a covered entity must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure or request...</p> <p>An individual has a right to receive an accounting of disclosures of protected health information made by a covered entity</p>
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Department Efforts	Compliant (yes or no)	Findings/Recommendations
Staff using HIPAA valid authorization		
Authorization form in clients' charts		
Department has clearly defined "minimum necessary" standards for each job category		
Department has P & P addressing routine and non-routine uses and disclosures		
Staff interviews confirm an understanding of minimum necessary standard		
Disclosure log in client's chart		
Staff interviews confirm an understanding of what disclosures need to be tracked / logged		

Complaint Process §164.530(d)

Refraining from Intimidating or Retaliatory Acts §164.503(g)

A covered entity must provide a process for individuals to make complaints concerning the covered entity's policies and procedures...a covered entity must document all complaints received, and their disposition, if any.

A covered entity must not intimidate, threaten, coerce, discriminate against or take other retaliatory actions against any individual who exercises their right to complain...testifies, assists or participates in an investigation...or opposes any act or practice made unlawful by this...

Department Efforts	Compliant (yes or no)	Findings / Recommendations
Department has a process for handling issues before they are complaints		
Staff know where to get Complaint forms		
Documentation exists supporting Department efforts to resolve client issues		
Staff interviews confirm an understanding of individual's right to complain		
Staff interviews confirm an understanding of the non-retaliation policy		

Reminder: Please return all pages to County Privacy Officer when complete. **Please print legibly.**

LAKEMARY CENTER

100 Lakemary Drive
Paola, KS 66071
(913) 557-4000
(913) 557-4910 FAX

www.lakemary.org

FAX

To: _____ From: _____
Fax #: _____ Pages: _____
Phone: _____ Date: _____
Re: _____ CC: _____

Urgent For Review Please Comment Please Reply Please Recycle

Message:

Fax Confidentiality Note:

The medical record information contained in this facsimile message is privileged and confidential information intended for the use of the addressee listed above. If you are neither the intended recipient or the employee or agent responsible for delivering this information to the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action in reliance on the content of this electronically copied information is strictly prohibited.

If you have received this facsimile in error, please notify us immediately by telephone to arrange for the return of the documentation or destruction of said documents.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”), effective as of the <Date> day of <Month>, 2003, is entered into by and between **Lakemary Center, Inc. (including affiliates LMC Developmental Services, Inc. and Lakemary Center Homes, Inc.)** (“Lakemary”) and **<Business Associate Name>**, **<Business Associate Address>** (“Business Associate”), together hereinafter referred to as the “parties”.

WHEREAS, Lakemary and Business Associate are parties to one or more agreements pursuant to which Business Associate provides certain services to Lakemary and, in connection with those services, Lakemary discloses to Business Associate certain protected health information that is subject to protection under the Health Insurance Portability and Accountability Act of 1996, as amended;

WHEREAS, the parties desire to comply with the HIPAA, as defined herein, standards for the privacy of protected health information of persons served by Lakemary;

NOW THEREFORE, for and in consideration of the recitals above and the mutual covenants and conditions herein contained, the parties agree as follows:

SECTION I – DEFINITIONS

For the purposes of this Agreement, the following terms shall have the meaning set forth below:

1. **HIPAA** – “HIPAA” shall mean the Health Insurance Portability and Accountability Act of 1996, as amended from time to time.
2. **Privacy Rule** – “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
3. **Protected Health Information or PHI** – “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 CFR Section 164.501, limited to the information created or received by Business Associate from or on behalf of Lakemary.
4. **Underlying Agreement** – “Underlying agreement” shall mean the certain agreement(s) by which Business Associate provides certain services to Lakemary and, in connection with those services, Lakemary discloses to Business Associate certain individually identifiable protected health information that is subject to protection under HIPAA.
5. **Designated Record Set** – Pursuant to 45 CFR Section 164.501, the term “Designated Record Set” means a group of records maintained by or for a covered entity that is the medical and billing records about individuals maintained by or for a covered entity. These records include enrollment, payment, claims, adjudication and case or medical management record systems maintained by or for a covered entity, or used in whole or in part by or for the covered entity to make decisions about individuals.
6. **Individual** – “Individual” means a person who is the subject of individually identifiable health information.

Unless otherwise provided herein, capitalized terms shall have the same meaning as set forth in the HIPAA regulations, 45 CFR Sections 160.103 and 164.501.

SECTION II – OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

Performance of Agreement – Business Associate agrees, on behalf of itself and its agents and employees, that it shall not use or disclose PHI other than as permitted or required by this Agreement, or as allowed by law.

Safeguards for Protection of PHI – Business Associate shall develop and maintain appropriate policies and safeguards to prevent use or disclosure of PHI, other than as provided for by this Agreement or allowed by law.

Reporting of Unauthorized Use – Upon knowledge of the unauthorized use or disclosure of PHI, Business Associate shall immediately notify Lakemary in writing of the same and will indemnify and hold Lakemary harmless from all liabilities, costs and damages arising out of or in any manner connected with the disclosure by Business Associate of any PHI. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

Use of Subcontractors – Business Associate shall ensure that any agent and/or subcontractor to whom it provides PHI agrees in writing to the same restrictions and conditions as contained in this agreement.

Access by Individual – Business Associate shall provide access, at the request of Lakemary, and in the time and manner designated by Lakemary, to PHI in a Designated Record Set, to Lakemary or, as directed by Lakemary, to an Individual pursuant to the requirements of 45 CFR Section 164.524.

Amendment – Business Associate shall timely make any amendment(s) to PHI in a Designated Record Set as directed by Lakemary, or pursuant to 45 CFR Section 164.526 at the request of an Individual.

Access by DHHS – Business Associate shall make internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the US Department of Health and Human Services, or his or her designee, for purposes of determining Lakemary's compliance with the Privacy Rule.

Access by Lakemary – Upon reasonable notice, Business Associate shall make its facilities, systems, books and records available to Lakemary for the purpose of determining its compliance with these obligations.

Documentation of Disclosures – Business Associate shall document the disclosures of PHI and information related to such disclosures as would be required for Lakemary to respond to a request by an Individual for an accounting of such disclosures in accordance with 45 CFR Section 164.528.

Accounting of Disclosures – Business Associate shall provide Lakemary, in the time and manner designated by Lakemary, information to permit Lakemary to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 163.528. Each accounting shall provide (a) the date of each disclosure; (b) the name and address of the organization or person who received the PHI; (c) a brief description of the information disclosed; and (d) for disclosures other than those made at the request of the Individual, the purpose for which the information was disclosed and a copy of the request or authorization for disclosure. Business Associate shall develop and maintain procedures to provide the accounting of disclosures during the term of this Agreement.

Breach or Misuse of PHI – Business Associate acknowledges that any breach of confidentiality or misuse of information found in and/or obtained from records may result in the termination of the Agreement and any other remedy allowed by law.

SECTION III – PERMITTED USES AND DISCLOSURES

General – Except as otherwise provided herein, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Lakemary as specified in the Underlying Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Lakemary.

Specific – Except as otherwise provided herein, Business Associate may use PHI for the proper management and administration of the Business Associate, or to carry out the legal responsibilities of Business Associate. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosure is required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Lakemary as permitted by 45 CFR section 164.504(e)(2)(i)(B).

SECTION IV – OBLIGATIONS OF LAKEMARY

General – With regard to the use and/or disclosure of PHI by Business Associate, Lakemary shall:

1. Obtain any consent, authorization or permission that may be required by the Privacy Rule or applicable state laws and/or regulations prior to furnishing Business Associate with PHI pertaining to an Individual; and
2. Inform Business Associate of any PHI that is subject to any arrangements permitted or required of Lakemary under the Privacy Rule that may materially impact in any manner the use and/or disclosure of PHI by Business Associate under this Agreement.

SECTION V – TERM/TERMINATION

Term and Termination – The term of this Agreement shall be effective as of the compliance date for implementation of the HIPAA privacy standards, i.e. April 14, 2003, and unless otherwise terminated shall terminate when all the PHI provided by Lakemary to Business Associate, or created or received by Business Associate on behalf of Lakemary, is destroyed or returned to Lakemary.

Termination for Cause – Upon Lakemary's knowledge of a material breach by Business Associate, Lakemary shall provide Business Associate an opportunity to cure the breach or end the violation; provided, however, Lakemary may terminate this Agreement if Business Associate fails to cure the breach or end the violation within the time specified by Lakemary. A material breach shall include, but is not limited to, Business Associate's improper use or disclosure of PHI and/or any changes or diminution of Business Associates security procedures or safeguards relating or pertaining to PHI that are unsatisfactory to Lakemary.

Termination after Repeated Violations – Lakemary may terminate the Underlying Agreement with out penalty if Business Associate repeatedly violates this Agreement or any provision hereof, regardless of whether or how promptly Business Associate may remedy such violation after being notified of the same. In the event of such termination, Lakemary shall not be liable for payment of any services performed or expense incurred by Business Associate after the effective date of such termination.

Effect of Termination

1. Except as provided above, upon termination of this Agreement, Business Associate shall cease and desist all uses and disclosures of Lakemary's PHI and shall immediately return or destroy (if Lakemary gives written permission) in a reasonable manner consistent with HIPAA, all PHI received from Lakemary, or created or received by Business Associate on behalf of Lakemary; provided, however, that Business Associate shall reasonably cooperate with Lakemary to ensure that no original PHI records are destroyed. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI. Except as provided above, Business Associate shall certify to Lakemary that all PHI has been returned (or destroyed) within 30 days after termination or expiration of this Agreement.
2. In the event Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall notify Lakemary in writing of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of PHI is infeasible, Business Associate shall extend protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

SECTION VI – MISCELLANEOUS

Construction – This Agreement shall be construed as broadly as necessary to implement and comply with HIPAA and the HIPAA regulations. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA and HIPAA regulations.

Notice – All notices and other communications required or permitted pursuant to this Agreement shall be in writing, addressed to the parties at the addresses set forth at the end of this Agreement, or to such other address as either party may designate from time to time. All notices and other communications shall be mailed by registered or certified mail, return receipt requested, posted pre-paid, or transmitted by hand delivery or telegram. All notices shall be effective as of the date of delivery of personal notice or on the date of receipt, whichever is applicable.

Modification of Agreement – The parties recognize that this Agreement may need to be modified from time to time to ensure consistency with amendments to and changes in applicable federal and state laws and regulations, including but not limited to HIPAA. This Agreement shall not be altered, in whole or in part, except in writing signed by the parties.

Transferability – Lakemary has entered into this Agreement in specific reliance on the expertise and qualifications of Business Associate. Consequently, Business Associate's interest under this Agreement may not be transferred or assigned or assumed by any other person, in whole or in part, without the prior written consent of Lakemary.

Governing Law and Venue – This Agreement shall be governed by, and interpreted in accordance with, the internal laws of the State of Kansas, without giving effect to its conflict of laws or provisions.

Binding Effect – This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective permitted successors and assigns. This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which shall constitute but one Agreement.

Gender and Number – The use of the masculine, feminine or neuter genders, and the use of the singular and plural, shall not be given an effect of any exclusion or limitation herein. The use of the word “person” or “party” shall mean and include any individual, trust, corporation, partnership or other entity.

Waiver of Breach – The waiver by any party of a breach of any requirement or provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach of the same or any other requirement or provision of this Agreement.

Invalid Provision – The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

Entire Agreement – This Agreement supersedes, in all respects, all prior written and/or oral agreements or communications between the parties hereto relating to the matters covered hereby. Each term of this Agreement is contractual, and not merely a recital.

Time – Time is of the essence in this Agreement.

Descriptive Headings – Paragraph headings contained in this Agreement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement by its duly authorized representative, effective as of the date above first set forth.

“LAKEMARY”

“BUSINESS ASSOCIATE”

**Lakemary Center, Inc. and Affiliates
100 Lakemary Drive
Paola, Kansas 66071**

**<Business Associate Name>
<Business Associate Address 1>
<Business Associates Address 2>**

By: _____

By: _____

