

CANYON ACRES CHILDREN AND FAMILY SERVICES
HIPAA PRIVACY POLICIES AND PROCEDURES

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INTRODUCTION

Canyon Acres Children and Family Services (“CA”) is committed to protecting the privacy and confidentiality of our customers’ personal information. As part of this commitment, CA will meet the standards established by the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”) and the privacy regulations set forth in Parts 160 and 164 of Title 45 of the Code of Federal Regulations (the “**Privacy Rule**”). HIPAA and the Privacy Rule limit the use and disclosure of individuals’ Protected Health Information (or “**PHI**”), and provide individuals with certain rights to their PHI.

To facilitate the administration of CA’s services in light of HIPAA and the Privacy Rule, CA has adopted the privacy policies and procedures set forth in this HIPAA policies and procedure manual (the “**Manual**”).

All capitalized terms in this Manual are defined in the “Definitions” section that immediately follows this Introduction.

CA reserves the right to amend, modify or change the policies and procedures set forth in this Manual at any time, and even retroactively, without notice. CA will also update this Manual to reflect any change required by law. Any changes to this Manual will be effective for all PHI that CA may maintain. This includes PHI that was previously created or received, not just PHI created or received after the Manual is changed.

No third party rights (including, but not limited to, rights of CA Staff Members, Clients, Business Associates or other persons or entities) are intended to be established by this Manual. To the extent that the policies and procedures set forth in this Manual establish requirements and obligations above and beyond those required by HIPAA and the Privacy Rule, they shall be regarded as aspirational and shall not be binding upon CA. Except as specifically stated, the policies and procedures set forth in this Manual do not address requirements that may be applicable under other federal laws or under state laws.

DEFINITIONS

- (1) **Access**: means a Client's right to obtain copies of or to inspect PHI about them subject to and in accordance with the procedures set forth in Section 2 of the Client Rights to PHI Policy.
- (2) **Accounting**: means a Client's right to obtain a list of and certain information about CA's and/or a CA Business Associate's disclosures of PHI about them subject to and in accordance with the procedures set forth in Section 4 of the Client Rights to PHI Policy.
- (3) **Authorization**: means a CA Authorization form (or an approved third party form) that is signed by a Client permitting CA to use or disclose the Client's PHI as set forth in the Authorization Policy.
- (4) **Business Associate**: means third party vendors, service providers or professionals who perform functions or activities requiring the use or disclosure of PHI. CA may act as a Business Associate for a Covered Entity and may also engage Business Associates. "Business Associate" is further defined in Section 1 of the Business Associate Policy.
- (5) **CA**: shall have the meaning set forth in the Introduction to this Manual.
- (6) **CA Center**: means, in each case, the location and facilities established by CA for the operation of CA programs, the performance of CA administrative functions and/or the provision of CA services to Clients. CA Center includes Level 12 group homes and Level 14 homes.
- (7) **CA Staff Members**: mean employees, volunteers, trainees, interns and other persons whose conduct, in the performance of work for CA, is under the direct control of CA, whether or not they are paid.
- (8) **Client**: means an individual about whom CA obtains, receives or creates PHI in any manner or form (*i.e.*, written, electronic or otherwise) and each Personal Representative of such individual, as the context may require.
- (9) **Covered Entity**: means (a) a Health Plan; (b) a Health Care Clearinghouse; or (c) a Health Care Provider who transmits any PHI in electronic form in connection with a HIPAA standard transaction.
- (10) **De-identified Data**: means information that (a) a person with appropriate knowledge and experience of statistical and scientific methods for rendering information not individually identifiable determines that the risk is very small that the data could be used, alone or in combination with other reasonably available information, to identify the Client who is the subject of the data. Such person must document the methods and results of the analysis that justify such a determination; or (b) certain identifiers set forth in 45 C.F.R. § 164.514(b)(2) of a Client, or of relatives, employers or household members of the Client, are removed from the data (provided that CA does not have actual knowledge that such data can be used alone or in combination with other data or information to identify the Client who is the subject of the data).

- (11) **Designated Record Set**: means a group of records that is: (a) the medical records and billing records about Clients; or (b) used, in whole or in part, by or for CA to make decisions about Clients. The term “record” means any item, collection or grouping of information that includes PHI, but does not include oral information.
- (12) **Grandfathered Contract**: shall have the meaning set forth in Section 4 of the Business Associate Policy.
- (13) **Health Care Clearinghouse**: means an entity that processes or facilitates the processing of PHI received from another entity in non-HIPAA standard format (or containing non-HIPAA standard content) into HIPAA-standard data elements or a HIPAA-standard transaction, or vice-versa. A Health Care Clearinghouse includes, but is not limited to, a billing service, repricing company and “value-added” networks and switches that perform the foregoing activities.
- (14) **Health Care Operations**: means those CA activities generally related to the operation of CA’s business, including, but not limited to: (a) business planning and development activities; (b) business management and administrative activities, including customer service; (c) conducting quality assessment and improvement activities; (d) reviewing the competence or qualifications of CA Staff Members; (e) conducting training programs for CA Staff Members, (f) conducting accreditation (*e.g.*, NAEYC accreditation), certification, licensing (*e.g.*, Community Care Licensing pursuant to California Health and Safety Code § 1500 *et. seq.*) or credentialing activities; and (g) conducting or arranging for medical review, legal services, or auditing functions.
- (15) **Health Care Provider**: means a provider of health care services (as defined in 42 U.S.C. § 1395x(s) or (u)), and any other person or organization who furnishes, bills or is paid for health care in the normal course of business (*e.g.*, specialists, orthodontists, physicians, hospitals). CA is a Health Care Provider.
- (16) **Health Plan**: means an individual or group plan that provides, or pays the cost of, medical care (as defined in 42 U.S.C. § 300gg-91(a)(2)). A Health Plan includes, among others, singly or in combination, (a) an HMO, (b) health insurance issuer (*i.e.*, an insurance company, insurance service or insurance organization), (c) a group health plan (*i.e.*, an employee welfare benefit plan, including insured and self-insured plans, that has 50 or more participants or is administered by an entity other than the employer that established and maintains the plan), (d) Part A or Part B of the Medicare Program, (e) an issuer of a Medicare supplement policy, or (f) any individual or group plan, or combination of individual or group plans, that provides or pays for the cost of medical care.
- (17) **HHS or Secretary**: means the U.S. Department of Health and Human Services, including the Secretary of the Department, the Office for Civil Rights, and all employees or authorized agents thereof.
- (18) **HIPAA**: shall have the meaning set forth in the Introduction to this Manual.

- (19) **Home-based Site**: means any location other than a CA Center at which a CA Staff Member renders services to a Client, including, but not limited to, a Client's home, including a foster home, a health care institution or a community care facility or other community-based location.
- (20) **Limited Data Set**: means PHI that excludes certain direct identifiers set forth in 45 C.F.R. § 164.514(e)(2) of a Client or of relatives, employers or household members of the Client.
- (21) **Manual**: shall have the meaning set forth in the Introduction.
- (22) **Marketing**: shall have the meaning set forth in Section 1(c) of the Marketing and Fundraising Policy.
- (23) **Minimum Necessary Standard**: shall have the meaning set forth in Section 2 of the PHI Use and Disclosure Policy.
- (24) **Payment**: means activities to obtain payment or reimbursement for CA products and services. Payment activities include, but are not limited to: (a) billing, collection and claims management activities, and related data processing; (b) determining or verifying insurance eligibility or coverage; and (c) utilization reviews, including precertification and preauthorization of services, and concurrent and retrospective review of services.
- (25) **Personal Representative**: means a parent or legal guardian of a child, or any person who has legal authority to make health care decisions for, or otherwise act on behalf of, a child (*e.g.*, medical power of attorney, conservatorship).
- (26) **Privacy Notice**: shall have the meaning set forth in Section 4 of the Administration Policy.
- (27) **Privacy Rule**: shall have the meaning set forth in the Introduction to this Manual.
- (28) **Privacy Official**: means the designated person named in Section 1(a) of the Administration Policy.
- (29) **Protected Health Information (PHI)**: means information that (a) is created or received by CA; (b) relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; and (c) identifies the individual or for which there is a reasonable basis to believe the information can be used to identify an individual. PHI includes information relating to both living and deceased individuals.
- (30) **Psychotherapy Notes**: shall have the meaning set forth in Section 2 of the Psychotherapy Services Policy.
- (31) **TPO**: means Treatment, Payment and Health Care Operations.

(32) **Treatment**: means the provision, coordination or management of psychotherapy or other health care by CA or by other Health Care Providers.

ADMINISTRATION POLICY

OBJECTIVE: To establish the administrative framework for CA and CA to comply with HIPAA's requirements.

1. Administrative Designations

- (a) **Privacy Official.** The individual identified on the first page of this Manual will be CA's Privacy Official. The Privacy Official will be responsible for the development and implementation of the policies and procedures set forth in this Manual, including, but not limited to, the policies and procedures set forth in this Administration Policy. The Privacy Official (or a designee) will also serve as the contact person for Clients who have questions, concerns, or complaints about the use or disclosure of their PHI by CA or by a CA Business Associate.
- (b) **CA Health Care Component – CA.** The privacy policies and procedures contained in this Manual apply solely to the functions and activities performed by CA. As used herein, "CA" includes: (A) CA Staff Members, regardless of whether such CA Staff Members (1) provide or assist with the provision of psychotherapy and related health services to Clients, or (2) perform or assist in the performance of administrative duties, functions or activities (including, but not limited to, billing, accounting, data analysis, records filing and similar duties, functions or activities), and (B) CA Centers used and the records created, received and/or maintained in connection with the provision of psychotherapy and related health services to Clients (including, without limitation, any Designated Record Set and any Psychotherapy Notes).

2. Workforce Training

- (a) **HIPAA Training Policy.** CA will provide training to all current and future CA Staff Members regarding the privacy policies and procedures set forth in this Manual. The Privacy Official (or a designee) will develop training schedules and programs so that all current and future CA Staff Members receive the training necessary and appropriate to permit them to carry out their designated job functions in compliance with HIPAA. In addition to HIPAA training already provided by CA:
 - (i) CA will provide training to each new CA Staff Member within a reasonable period of time after the person joins or is assigned by CA to perform functions or duties for or on behalf of CA; and
 - (ii) To each CA Staff Member whose designated job functions are affected by a material change in the privacy policies and procedures set forth in this Manual within a reasonable period of

time after the material change becomes effective in accordance with Section 9 of this Administration Policy.

3. PHI Safeguards; Role-Based Access

CA will establish reasonable and appropriate administrative, technical and physical safeguards to prevent PHI from any intentional or unintentional use or disclosure in violation of HIPAA's requirements. CA will take reasonable steps to limit access to PHI to those CA Staff Members who need to know such information to carry out their respective job roles and responsibilities.

- (a) **Administrative Safeguards.** CA shall implement reasonable administrative safeguards to ensure that CA Staff Members use and disclose PHI in accordance with Section 1(b) of this Administration Policy and the Minimum Necessary Standard set forth in Section 2 of the PHI Use and Disclosure Policy. Administrative safeguards shall include, but not be limited to, implementing role-based access restrictions to Client's PHI. Such access restrictions shall include restrictions on the use of CA's computer system, electronic billing records, and other Client records (and any portions thereof) containing PHI in any form or format.
- (b) **Physical Safeguards.** CA shall implement reasonable and appropriate physical safeguards to prevent the use or disclosure of PHI by or to persons who do not need to know such information (including, but not limited to, other members of CA's workforce).
 - (i) **CA Center Administrative and Satellite Offices.** Physical safeguards for CA Center administrative offices shall include locking doors and filing cabinets containing Clients' PHI, and not leaving any PHI in an unsecured area, at the end of each day. In addition, where appropriate, CA shall maintain a log for CA Staff Members to check out files containing Clients' PHI and to check such files back in on the log. CA shall maintain a locked mailbox in the mail room and shall provide keys to such mailbox to only certain CA Staff Member who require access to such mailbox. All Psychotherapy Notes shall be hand-delivered to such locked mailbox by the CA Staff Member with the key and picked up by the CA Staff Member (or his/her assistant) with the key.
 - (ii) **Home-based Sites.** CA Staff Members who provide services at Home-based Sites will keep Client records secured in appropriate containers at all times and at any location. Records of Clients who receive services at Home-based Sites shall be maintained at a CA Center administrative office to the extent reasonably practical.
- (c) **Technical Safeguards.** CA shall implement reasonable and appropriate technical safeguards to restrict access to CA's computer files, electronic

billing or other Client PHI in electronic form, including the use of internal logon user IDs and passwords and external computer firewalls. In addition, each computer should go into a screensaver mode if the computer remains inactive for more than 10 minutes.

- (d) **Security Rule Compliance.** CA shall implement policies and procedures as required by the HIPAA Security Rule (codified at 45 C.F.R. § 164.301 through 45 C.F.R. § 164.318) prior to CA's compliance date of April 20, 2005.

4. **Privacy Notice**

The Privacy Official will be responsible for developing and maintaining a notice of CA's privacy practices that complies with 45 C.F.R. § 164.520 (the "**Privacy Notice**"). Policies and procedures regarding the Privacy Notice are set forth in Section 7 of the Client Rights to PHI Policy.

5. **Complaints**

- (a) **External Complaints.** The Privacy Official (or a designee) will implement a process for Clients and other individuals to complain about CA's privacy policies and procedures, and will create a system for handling such complaints. CA's complaint procedures will be set forth in the Privacy Notice.
- (b) **Internal Reporting.** CA Staff Members may report activities that appear to be in violation of the policies and procedures set forth in this Manual to the Privacy Official (or a designee). CA Staff Members may also send written complaints related to CA's privacy policies and procedures to the Privacy Official (or a designee) for review. As required by the Privacy Rule, CA Staff Members who file complaints against CA related to CA's HIPAA compliance will not be subject to any retaliation.
- (c) **Resolution.** The Privacy Official (or a designee) will address complaints as appropriate and, if necessary given the nature of a complaint, the Privacy Official (or a designee) will investigate the situation. Written complaints regarding privacy practices, and responses to such complaints, will be documented in accordance with Section 10 of this Administration Policy.

6. **Sanctions for Violations of Privacy Policies**

Sanctions for violating any of the privacy policies and procedures set forth in this Manual will be imposed on responsible CA Staff Members, including oral and written warnings, suspension and termination of employment and/or other disciplinary action that CA determines to be appropriate for the specific conduct. Sanctions will be imposed in accordance with CA's Employee Handbook.

7. Mitigation of Disclosures of PHI

CA shall mitigate, to the extent possible, any harmful effects that become known to CA of a use or disclosure of a Client's PHI in violation of the privacy policies and procedures set forth in this Manual. When warranted, CA will change the privacy policies and procedures set forth in this Manual, and provide appropriate training, to reduce the likelihood of a recurrence of any such use or disclosure. As a result, if a CA Staff Member becomes aware of a disclosure of PHI, either by another CA Staff Member or by a Business Associate, which is not in compliance with this Manual, he or she should immediately contact a supervisor or the Privacy Official (or a designee) so that the appropriate steps can be taken to mitigate the harm to a Client (if any).

8. No Retaliatory Acts; No Waiver of Privacy

No CA Staff Member may intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any Clients or other individuals for exercising their rights, filing a complaint, participating in an investigation, or opposing any improper practice under the Privacy Rule.

No Client shall be required to waive his or her privacy rights under the Privacy Rule as a condition to receiving Treatment from CA, or to be eligible for benefits.

9. Changes to the Manual

CA shall change the privacy policies and procedures set forth in this Manual as necessary and appropriate to comply with any changes in the law, including changes in HIPAA standards, requirements and specifications, and/or any changes in CA's business practices. Any such change will be effective for the PHI CA created or obtained prior to such changes, and information regarding any such change shall be made available as needed to CA Staff Members. If such change materially affects the contents of the Privacy Notice, CA shall make appropriate revisions to the Privacy Notice in accordance with Section 7 of the Client Rights to PHI Policy.

Notwithstanding the foregoing, CA reserves the right to make changes to the privacy policies and procedures set forth in this Manual at any time; provided that the changes are documented in accordance with Section 10 of this Administration Policy.

10. Documentation

(a) **Documentation System.** The Privacy Official (or a designee) shall implement a system to maintain the following in written or electronic form for a period of the longer of six (6) years from the date of their creation or the date they were last in effect:

- (i) **Privacy Policies and Procedures.** A copy of the privacy policies and procedures contained in this Manual.
 - (ii) **Required Documents.** Copies of any forms, communications or documents required to be documented by this Manual.
 - (iii) **Records.** Records of all communications, actions, activities or designations required to be documented by this Manual, including, but not limited to, the communications and actions required to be documented in accordance with the Client Rights to PHI Policy.
- (b) **Documenting Disclosures of PHI.** CA Staff Members must log all disclosures of PHI on a CA PHI Release Log, except for disclosures listed in Section 4(b)(vi) of the Client Rights to PHI Policy.

PHI USE AND DISCLOSURE POLICY

OBJECTIVE: To establish the permitted, required and prohibited uses and disclosures of PHI under the Privacy Rule.

1. General PHI Use and Disclosure Policy; Use and Disclosure Defined

CA Staff Members may not use or disclose PHI except as set forth in this Manual and only to the extent required by their individual job roles and responsibilities. All CA Staff Members must comply with the policies and procedures set forth in this Manual with respect to any permitted uses and disclosures of PHI.

CA Staff Members must obtain prior Client Authorization in accordance with the Authorization Policy to use or disclose PHI in a manner that is not otherwise permitted by this Manual. In addition, all uses and disclosures of (a) Psychotherapy Notes and (b) information relating to a Client's participation in CA's services are governed by the Psychotherapy Services Policy.

As used in this Manual, use and disclosure (and any conjugations thereof) shall have the following meanings:

- (a) **Use:** A "use" of PHI means the sharing, employment, application, utilization, examination or analysis of such PHI within CA, including, but not limited to, the sharing or transfer of PHI from CA Staff Members at a CA Center to CA Staff Members who provide services at Home-based Sites.
- (b) **Disclosure:** A "disclosure" of PHI means the release, transfer, provision of access to, or divulging in any other manner of such PHI outside of CA.

2. Minimum Necessary Requirement

Except as stated in this Manual, where permitted to use or disclose PHI, CA Staff Members must make *reasonable efforts* to use or disclose the minimum PHI necessary to accomplish the intended purpose of the use or disclosure (the "**Minimum Necessary Standard**"). Similarly, under the Minimum Necessary Standard, CA Staff Members must make *reasonable efforts* to request from a Covered Entity only the minimum PHI necessary to accomplish the intended purpose of the request.

- (a) **Exceptions.** The uses or disclosures of, or requests for, PHI listed in this Section 2(a) are not subject to the Minimum Necessary Standard.
 - (i) **To Health Care Providers.** Disclosures of PHI made to a Health Care Provider for the Treatment of a Client. In addition, the

Minimum Necessary Standard does not apply to a request for PHI from a Health Care Provider if the request is made for the Treatment of a Client.

- (ii) **To Individuals.** Uses or disclosures of PHI that are made directly to a Client who is the subject of the PHI.
 - (iii) **Authorized.** Uses or disclosures of PHI made pursuant to an Authorization.
 - (iv) **To HHS.** Disclosures of PHI made to the HHS Secretary.
 - (v) **Required by Law.** Uses or disclosures that are required by law, as set forth in Section 2 of the Legal Compliance Policy.
- (b) **Role-based Restrictions on the Use of PHI.** To ensure compliance with the Minimum Necessary Standard, CA will make reasonable efforts to establish role-based access restrictions for CA Staff Members so that a CA Staff Member uses only the PHI that is necessary to carry out CA Staff Member's respective job responsibilities, as set forth in Section 3(a) of the Administration Policy.
- (c) **Disclosures of PHI.** To ensure compliance with the Minimum Necessary Standard:
- (i) **Routine Disclosure Procedures.** CA will establish policies and procedures that limit the PHI CA discloses on a regular and recurring basis to the amount reasonably necessary to achieve the purpose of the disclosure.
 - (ii) **Non-Routine Disclosure Procedures.** For non-routine disclosures of PHI, CA will develop criteria designed to limit the PHI it discloses to the information that is reasonably necessary to accomplish the purpose for which the disclosure is sought and will review such requests on a case-by-case basis in accordance with such criteria.
- (d) **PHI Disclosure Requests that Comply with the Minimum Necessary Standard.** Notwithstanding Section 2(c) above, where a disclosure of PHI is permitted by this Manual, CA Staff Members may, *if reasonable under the circumstances*, accept that one of the following requests to disclose Client PHI complies with the Minimum Necessary Standard:
- (i) **Requests by Public Officials.** CA Staff Members may accept that a public official's request for PHI complies with the Minimum Necessary Standard if the requesting public official represents that the requested PHI is the minimum necessary for the stated purpose. Prior to disclosing any PHI to a requesting public official, CA Staff Members must verify such public official's identity and authority in accordance with Section 12(c) of this PHI Use and Disclosure Policy.

- (ii) **Requests by a Covered Entity.** CA Staff Members may accept that a Covered Entity’s request for the PHI of a specific Client complies with the Minimum Necessary Standard if the request relates to such Client.
 - (iii) **Professional Services Providers.** CA Staff Members may accept that a CA Business Associate’s request for PHI complies with the Minimum Necessary Standard if the Business Associate is providing professional services to CA (*e.g.*, accountants, attorneys, consultants) and the Business Associate represents that the PHI requested is the minimum necessary to conduct such services.
- (e) **Requests for PHI.** To ensure compliance with the Minimum Necessary Standard:
- (i) **Routine Request Procedures.** CA will establish policies and procedures that limit the PHI that CA requests from a Covered Entity on a regular and recurring basis to the amount reasonably necessary to accomplish the purpose for which such a request is made.
 - (ii) **Non-Routine Request Procedures.** For non-routine requests for PHI from a Covered Entity, CA will develop criteria designed to limit the PHI it requests to the information that is reasonably necessary to accomplish the purpose for which the request is made and will review such requests on a case-by-case basis in accordance with such criteria.

3. **Treatment, Payment and Health Care Operations**

Subject to Section 6 of the Client Rights to PHI Policy:

- (a) **Uses and Disclosures of PHI for CA’s Own TPO.** CA may use and disclose a Client’s PHI for CA’s own Treatment, Payment or Health Care Operations activities. Payment functions and Health Care Operations may be performed on CA’s behalf by one or more Business Associates (subject to the Business Associate Policy).
- (i) **Treatment Disclosures.** CA’s use of PHI and disclosures of PHI to a Health Care Provider for Treatment purposes do not need to comply with the Minimum Necessary Standard.

Example: CA may disclose a Client’s PHI to a school nurse to facilitate the nurse’s Treatment of the Client without prior Authorization and without complying with the Minimum Necessary Standard.
- (ii) **Payment and Health Care Operations.** CA’s use and disclosure of PHI for CA’s own Payment or Health Care Operations purposes must comply with the Minimum Necessary Standard.

- (b) **Disclosures for Another Health Care Provider's Treatment Activities.** CA may disclose a Client's PHI to a Health Care Provider for the Health Care Provider's Treatment purposes regarding such Client. These disclosures do not need to comply with the Minimum Necessary Standard. Health Care Providers who obtain PHI from CA for Treatment purposes are not CA's Business Associates.
- (c) **Disclosures for Another Entity's Payment Activities.** CA may disclose a Client's PHI to another entity for such entity's payment activities. A Business Associate may make such disclosures on CA's behalf (subject to the Business Associate Policy). Disclosures made for another entity's Payment activities *must comply* with the Minimum Necessary Standard.
- (d) **Disclosures for Health Care Operations of the Receiving Covered Entity.** CA may disclose PHI to a Covered Entity solely for the Covered Entity's (i) quality assessment and improvement activities, (ii) staff review and training activities, or (iii) health care fraud and abuse detection programs, if CA and the Covered Entity who requests PHI has (or had) a relationship with the corresponding Client and the PHI requested pertains to that relationship. Disclosures made for a Covered Entity's Health Care Operations in accordance with this Section 3(d) *must comply* with the Minimum Necessary Standard.

4. **Incidental Uses and Disclosures**

The Privacy Rule does not require that CA eliminate all inadvertent uses or disclosures of PHI. CA Staff Members may make inadvertent uses or disclosures of PHI that cannot be reasonably prevented and which are limited in nature if such uses or disclosures are made in connection with a use or disclosure otherwise permitted by this PHI Use and Disclosure Policy or by the Legal Compliance Policy. CA Staff Members must report to their supervisor or to the Privacy Official (or a designee) a significant unintentional use or disclosure, such as misdirected communications (*e.g.*, faxes, emails), or unauthorized access to Client PHI (whether in hard copy or electronic form).

5. **Mandatory Disclosures to Individuals and HHS**

- (a) **Client Requests.** CA will disclose a Client's PHI to the Client (or to the Client's Personal Representative) upon receiving the Client's (or the Client's Personal Representative's) request for Access (in accordance with Section 2 of the Client Rights to PHI Policy) or an Accounting (in accordance with Section 3 of the Client Rights to PHI Policy).
- (b) **HHS Requests for PHI.** Upon receiving a request from a HHS official for a Disclosure of PHI in connection with an investigation of CA's and/or CA's compliance with the Privacy Rule, CA will take the following steps:

- (i) **Verify Identity and Authority.** Unless approved in advance by the Privacy Official, CA will verify the identity and authority of an HHS official in accordance with Section 12 of this PHI Use and Disclosure Policy.
- (ii) **Documentation Requirement.** CA Staff Members must document any disclosures of PHI to HHS in accordance with Section 10 of the Administration Policy.

6. **Legal Compliance Uses and Disclosures**

The Privacy Official (or a designee) and CA's legal counsel will be responsible for making uses and disclosures of PHI that are required by law, or that are made for legal or administrative proceedings or for other, related purposes. Policies and procedures for such uses and disclosures are set forth in the Legal Compliance Policy. Except with respect to uses and disclosures of PHI for law enforcement purposes (which should be handled in accordance with Section 7 of the Legal Compliance Policy), CA Staff Members should refer requests for PHI covered in the Legal Compliance Policy to their supervisor or to the Privacy Official (or a designee).

7. **Uses and Disclosures Made Pursuant to an Authorization**

CA may use or disclose PHI as and to the extent permitted by a Client's valid Authorization. Requirements and standards for Authorizations are set forth in the Authorization Policy. CA *may not* use or disclose PHI pursuant to an Authorization known to have been revoked or that has expired or that does not meet the standards set forth in Section 3 of the Authorization Policy. CA will need to obtain the Client's Authorization prior to disclosing PHI to the following individuals:

- (a) **Client's Attorney.** [A verbal authorization from the county worker responsible for the child's placement at CA is no longer sufficient. CA must obtain a written Authorization from either the Client or the Client's Personal Representative, who in some instances, may be the county worker.]
- (b) **Court Appointed Special Advocate.**
- (c) **Mentors.** [It appears that CA may provide descriptions of the child's behavior to certain mentors - so long as such description does not contain the child's actual diagnosis or other health information, no Authorization is needed.]

8. **Disclosures of PHI to Family and Friends**

Subject to Section 6 of the Client Rights to PHI Policy, CA Staff Members may disclose PHI to a Client's family members (other than a Personal Representative)

or to any personal friends that a Client identifies, if the requirements in this Section 8 are met. Any PHI disclosed to a family member or friend pursuant to this Section 8 must be directly relevant to the family member's or friend's involvement with the Client's care or payment related to the Client's care.

- (a) **Obtain Consent or Document Rejection.** Unless already noted on a Client's records, CA Staff Members will ask upon enrollment or at other appropriate times whether disclosures of PHI related to a Client may be made to family members and/or to friends.
 - (i) **Obtaining Consents.** If a Client is present, a CA Staff Member should at least obtain the Client's oral consent, or not receive an objection from the Client after giving the Client a reasonable opportunity to do so, prior to making any disclosure of PHI to a family member or friend. If possible, the Client should complete, or update, a Family Member and Friends Consent Form.
 - (ii) **Objections.** CA Staff Members must comply with a Client's objection (oral or written) to a disclosure of PHI to any family members and/or friends.
 - (iii) **Documentation.** CA Staff Members must document Family Member and Friends Consent Forms, or Client oral consents or objections hereunder, in accordance with Section 10 of the Administration Policy.

(b) **Disclosures to Family and Friends that do not Require Prior Client Consent.**

- (i) **Professional Judgment.** Notwithstanding Section 8(a) above, a CA Staff Member may disclose PHI to Client's family members or friends if CA Staff Member reasonably infers that, based on the circumstances and their professional judgment, the Client would not object to the disclosure. For example, if a Client brings a close relative with them to a session at a Home-based Site, CA Staff Members may disclose to that relative PHI related to the Client that is directly relevant to the relative's involvement with the Client's care. CA Staff Members may also use their professional judgment and experience to make a reasonable inference that it is in a Client's best interest to allow another person to act on behalf of the Client to pick up filled prescriptions, supplies or other similar forms of PHI.
- (ii) **Emergency Circumstances.** A CA Staff Member may disclose PHI to a Client's family members and/or friends in an emergency situation (or if the Client is incapacitated) if CA Staff Member determines, in the exercise of professional judgment, that such disclosure of PHI is in the Client's best interests.

9. **Marketing and Fundraising; Business Associates**

CA may use or disclose PHI for Marketing and fundraising purposes and to Business Associates in accordance with the Marketing and Fundraising Policy or the Business Associate Policy, respectively.

10. **Serious Threat to Health or Safety; Abuse or Neglect**

- (a) **Threats to Health or Safety.** CA Staff Members may use or disclose PHI upon a good faith belief (based upon actual knowledge or in reliance on a credible representation of another person with apparent knowledge or authority) that the use or disclosure is necessary to prevent a serious and imminent threat to the health or safety of a person or the public, or is necessary for law enforcement authorities to identify or apprehend an individual. Such disclosure must be consistent with applicable law and ethical standards of conduct.
- (b) **Child Abuse/Neglect.** CA Staff Members may disclose PHI to a public health authority or other appropriate government authority that is authorized by law to receive reports of child abuse or neglect.
- (c) **Victims of Abuse, Neglect or Domestic Violence.** Except as set forth in Section 10(b) above regarding child abuse and neglect, a CA Staff Member may disclose PHI about a Client whom CA Staff Member reasonably believes to be a victim of abuse, neglect or domestic violence

to a government authority authorized by law to receive reports of abuse, neglect or domestic violence if:

- (i) The Client agrees with the disclosure of PHI;
- (ii) The disclosure of PHI is required by law and the disclosure complies with and is limited to the relevant requirements of such law; or
- (iii) The disclosure is expressly authorized by statute or regulation, and (A) a CA Staff Member reasonably believes that the disclosure is necessary to prevent harm to the Client (or other potential victim), or (B) the Client is unable to agree to the disclosure because of incapacity, the PHI will not be used against the Client, and the PHI is necessary for an imminent law enforcement activity.

A CA Staff Member must promptly inform the affected Client of any disclosure in accordance with Section 10(c)(i)-(iii) above, unless this would place the affected Client at risk or if informing the affected Client would involve a Personal Representative who is believed to be responsible for the abuse, neglect or violence.

- (d) **Documentation Requirement.** CA Staff Members must document Disclosures made pursuant to this Section 10 in accordance with Section 10 of the Administration Policy.

11. **Correctional Institutions and Inmates**

CA may use or disclose PHI to correctional institutions or to a law enforcement official having lawful custody over a Client if the correctional institution or law enforcement official represents that the PHI is necessary for the provision of health care to the Client; the health and safety of the Client or other inmates, officers or employees of the correctional institution; or for the administration and maintenance of safety at the correctional institution. CA will verify a requesting law enforcement official's identity and authority in accordance with Section 12 of this PHI Use and Disclosure Policy prior to disclosing PHI to the law enforcement official in accordance with this Section 11.

12. **Verification**

Prior to making any disclosure permitted by this PHI Use and Disclosure Policy, CA will verify the identity and authority of any person requesting a disclosure of or access to PHI if unknown. CA will also obtain any documentation, statements or representations, whether oral or written, from a person requesting PHI when documentation, statements or representations are required by this Manual. This verification requirement does not apply to disclosures of PHI to Client family and friends as permitted by Section 8 of this PHI Use and Disclosure Policy.

- (a) **Reasonable Reliance.** If any disclosures of PHI permitted by this Manual require documentation or statements from the person requesting the PHI,

CA Staff Members may assume, if reasonable under the circumstances, that the documents or statements they receive, on their face, meet the applicable requirements.

- (b) **Clients.** When a Client requests PHI, a CA Staff Member should take these steps to verify the Client's identity and authority:
- (i) Request a form of identification from the Client. CA Staff Members may rely on a valid driver's license, passport or other photo identification issued by a government agency.
 - (ii) Verify that the identification matches the identity of the Client requesting access to the PHI.
 - (iii) Make a copy of the identification provided by the Client and file it with the Client's records.
 - (iv) Verify the identity of any Client who requests PHI via telephone by confirming such Client's identification information (e.g., date of birth).
 - (v) For parents, seek verification of a parent's relationship with a child (e.g., a birth certificate). For other Personal Representatives, obtain a copy of a valid power of attorney or other legal documentation that establishes a Personal Representative's authority.
- (c) **Public Officials.** CA Staff Members may rely, if reasonable under the circumstances, on the following to verify the identity of public officials, law enforcement or other authorities who request PHI:
- (i) **In-person Officials.** For any person who represents himself or herself in person as a public official: an agency identification, badge, other official credentials or other proof of government status.
 - (ii) **Persons Acting on an Official's Behalf.** For any person who represents himself or herself in person as acting on behalf of a public official: (A) a written statement on appropriate government letterhead that the person is acting under the government's authority, or (B) other evidence or documentation (such as a contract for services or a memorandum of understanding) that establishes that the person is acting on behalf of a public official.
 - (iii) **Written Requests for PHI.** Official written requests for PHI must be made on appropriate government letterhead.
 - (iv) **Authority.** CA Staff Members may assume, if reasonable under the circumstances, that a written or oral statement of a public official's legal authority under which a request for PHI is made verifies such authority. CA Staff Members may assume that, if reasonable under the circumstances, a request for PHI made

pursuant to legal process, warrant, subpoena, order or other legal process issued by a grand jury or a judicial or administrative tribunal constitutes legal authority.

13. De-Identified Data

CA Staff Members may use or disclose De-Identified Data without restriction. If necessary to carry out a job responsibility, CA Staff Members may use PHI, or disclose PHI to a Business Associate (subject to the Business Associate Policy), to create De-Identified Data, whether De-Identified Data is created for CA's own purposes or for a third party.

14. Limited Data Set of PHI

If authorized by the Privacy Official (or a designee), and subject to a data use agreement, CA Staff Members may disclose a Limited Data Set of PHI for (a) public health, or (b) Health Care Operations purposes. If authorized by the Privacy Official (or a designee), CA Staff Members may use PHI, or disclose PHI to a Business Associate (subject to the Business Associate Policy), to create a Limited Data Set of PHI, whether or not the Limited Data Set is created for CA's own purposes or for a third party.

15. Breach of PHI Use and Disclosure Policy

CA Staff Members must report any violations of this PHI Use and Disclosure Policy of which they become aware directly to a supervisor or to the Privacy Official (or a designee). The Privacy Official (or a designee) will take steps to mitigate the harmful effects of any such breach or violation as set forth in Section 7 of the Administration Policy.

LEGAL COMPLIANCE POLICY

OBJECTIVE: To facilitate disclosures of PHI for legal or public policy purposes under circumstances permitted by HIPAA.

1. Legal Compliance Policy

From time to time, CA may receive requests to disclose PHI in connection with judicial and administrative proceedings, for law enforcement or public health purposes, or for certain other purposes specified in this Legal Compliance Policy. A CA Staff Member who receives a request to disclose a Client's PHI that appears to fall within one of the Categories described in this Legal Compliance Policy must promptly contact the Privacy Official (or a designee).

2. Legal Compliance Disclosure Procedures

Disclosures permitted by this Legal Compliance Policy must be made using the following procedures:

- (a) **Privacy Official Responsibility.** All disclosures of PHI that CA is permitted to make in accordance with this Legal Compliance Policy will be made by the Privacy Official (or a designee) or CA's legal counsel.
- (b) **Minimum Necessary Standard.** Except as expressly stated in this Legal Compliance Policy, the disclosure must comply with the Minimum Necessary Standard set forth in Section 2 of the PHI Use and Disclosure Policy.
- (c) **Documentation Requirement.** The disclosure must be documented in accordance with Section 10 of the Administration Policy.

3. Disclosures Required By Law

CA may use and disclose PHI only to the extent necessary to comply with the relevant requirements of applicable law. Any disclosure made in accordance with this Section 3 is not subject to the Minimum Necessary Standard.

4. Disclosures to HHS

CA may use or disclose PHI if and to the extent required by HHS in connection with an HHS investigation of CA's and/or CA's compliance with HIPAA. Any disclosure that is made in accordance with this Section 4 is not subject to the Minimum Necessary Standard.

5. **Public Health Activities**

CA may use or disclose PHI for, or in connection with, the following public health activities and purposes.

- (a) **Public Health Authorities.** CA may disclose PHI to a public health authority that is authorized by law to collect or receive PHI for the purpose of preventing or controlling disease, injury or disability, and to conduct public health surveillance, investigations and/or interventions.
- (b) **FDA-related Activities.** CA may use and disclose PHI to a person subject to the jurisdiction of the Food and Drug Administration (the “FDA”) for the purposes or activities related to the quality, safety, or effectiveness of an FDA-regulated product or activity. Such purposes or activities include:
 - (i) **Adverse Event Reporting.** Collecting and reporting adverse events (or similar activities with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of an FDA-regulated product or activity) or biological product deviations. CA Staff Members must promptly report any adverse event to the Privacy Official (or a designee);
 - (ii) **Tracking FDA-regulated products.**
 - (iii) **Product Recalls.** Enabling product recalls, repairs, or replacement, or lookback (including locating and notifying Clients who have received products that have been recalled, withdrawn, or are the subject of a lookback); and
 - (iv) **Post-Marketing Surveillance.**
- (c) **Communicable Disease Notification.** CA may disclose PHI to a person who may have been exposed to a communicable disease or who may otherwise be at risk of contracting or spreading a disease or condition, if CA or a public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation.
- (d) **Health Oversight Activities.** CA may disclose PHI to a health oversight agency, such as Community Care Licensing, 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:
 - (i) The health care system;
 - (ii) Government benefit programs for which health information is relevant to beneficiary eligibility;

- (iii) Entities subject to government regulatory programs for which health information is necessary to determine compliance with program standards; or
- (iv) Entities subject to civil rights laws for which health information is necessary to determine compliance.
- (v) **Exceptions.** A health oversight activity for purposes of this Section 5(d) *does not include* an investigation or other activity in which a Client is the subject of the investigation or activity and such investigation or other activity does not arise out of and is not directly related to: (A) the receipt of health care; (B) a claim for public benefits related to health; or (C) qualification for, or receipt of, public benefits.

6. **Judicial and Administrative Proceedings**

The standards and requirements set forth in this Section 6 are subject to further restrictions of applicable state laws and court orders, including, without limitation, applicable discovery statutes, such as Section 1985.3 of the California Civil Procedure Code, and privileges, such as Section 1010 of the California Evidence Code (psychotherapist-patient privilege). Each request for disclosure should be reviewed by CA's legal counsel. Subject to all applicable state statutes, regulations and court orders, CA may use and disclose PHI only as follows:

- (a) **Court Orders.** In response to a court or administrative tribunal's order, but only the PHI expressly authorized by such order.
- (b) **Subpoenas or Discovery Requests.** In response to a subpoena, discovery request or other legal process not accompanied by a court or administrative tribunal order, upon obtaining satisfactory assurances from the requesting party that the requesting party has made reasonable efforts to provide notice as provided in Section 6(b)(i) below.
 - (i) **Notice.** CA may disclose PHI if the requesting party has complied with Section 1985.3 of the California Civil Procedure Code with respect to subpoenas, and other applicable state law requirements. California law imposes an affirmative duty on CA to take reasonable steps to notify its Clients of a discovery request.

7. **Law Enforcement Purposes**

CA may disclose PHI to verified law enforcement officials in accordance with this Section.

- (a) **Pursuant to Legal Process.** PHI may be disclosed to law enforcement officials as and to the extent required by law (including laws that require the reporting of certain types of wounds or physical injuries), or in compliance with and only to the extent required by the relevant

requirements of: (i) a court order; (ii) a grand jury subpoena; or (iii) administrative, civil or other legal process. The PHI disclosed to law enforcement officials in connection with the foregoing *must be* relevant and material to a legitimate law enforcement inquiry, made in response to a specific request that is reasonably limited in scope to purpose for which it is sought, *and* made only if it is not possible to use De-Identified Data.

- (b) **To Identify a Client.** PHI may be disclosed in response to a law enforcement official's request to identify or to locate a Client who may be a suspect, fugitive, material witness or missing person. CA may only disclose: (i) name and address; (ii) date and place of birth; (iii) social security number; (iv) blood type and rh factor; (v) type of injury; (vi) date and time of Treatment; (vii) date and time of death (if applicable); and (viii) a description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars and tattoos.
- (c) **Related to Criminal Activity.** PHI may be disclosed to law enforcement officials about a Client who is a suspected victim of a crime (i) if the Client agrees to disclosure; or (ii) without agreement from the Client (because of incapacity or in an emergency), if the PHI is not to be used against the Client and the need for the PHI is urgent and in the Client's best interests.
- (d) **Decedents.** PHI may be disclosed to law enforcement officials about a deceased Client upon suspicion that the Client's death resulted from criminal conduct.
- (e) **Criminal Activity on Premises.** PHI that constitutes evidence of criminal conduct that occurred on CA's premises may be disclosed to law enforcement officials.

8. **Decedents**

CA may disclose PHI to a coroner or medical examiner about deceased Clients for the purpose of identifying a deceased person, determining cause of death or other duties as authorized by law. CA may disclose PHI to funeral directors, consistent with applicable law, as necessary to allow them to carry out their duties.

9. **Organ and Tissue Donation**

CA may use or disclose PHI to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of organs, eyes or tissue for the purpose of facilitating transplantation.

10. **Whistleblowers; Crime Victims**

CA Staff Members and CA Business Associates may disclose PHI if such individuals have a good faith belief that (a) CA has engaged in conduct that is

unlawful or otherwise violates professional or clinical standards, or (b) care or services CA provides potentially endangers one or more Clients, CA Staff Members or the public.

Such disclosures of PHI must be made to a health oversight or public health authority that is authorized by law to investigate or otherwise oversee CA's conduct as relevant to (a) or (b); an appropriate health care accreditation organization for the purpose of reporting (a) or (b); or an attorney who is retained by the disclosing CA Staff Member or Business Associate for the purpose of determining legal options with respect to the conduct described in (a) or (b).

CA Staff Members who are victims of a crime may disclose PHI to a law enforcement official if the PHI disclosed concerns the suspected perpetrator of the criminal act and the PHI disclosed is limited to categories set forth in Section 7(b) of this Legal Compliance Policy.

AUTHORIZATION POLICY

OBJECTIVE: To facilitate obtaining Client Authorizations to use or disclose PHI (when necessary). To ensure that uses or disclosures of PHI authorized by a Client are made in accordance with the terms of a HIPAA-compliant Authorization.

1. Authorization Requirement Policy

Except for the uses and disclosures of PHI permitted or required by the PHI Use and Disclosure Policy and the Legal Compliance Policy, CA must obtain a Client's prior Authorization to use or disclose the Client's PHI.

Examples of Disclosures Requiring Authorization: Disclosures of PHI to a school or county for the Individualized Education Program ("IEP"); *provided that* disclosures of PHI may be made without Authorization to health care professionals for the purpose of coordinating a Client's Treatment.

2. CA Authorization Procedures

Where required in accordance with Section 1 of this Authorization Policy, CA will obtain Client Authorizations in accordance with the following procedures:

- (a) **Authorization Form.** A Client must complete, sign and date a CA Authorization form. CA will provide the Client with a copy of the completed Authorization form.
- (b) **Documentation.** The completed Authorization form must be documented in accordance with Section 10 of the Administration Policy.
- (c) **Use or Disclosure of PHI.** Except as provided in Section 2(d) below, once the Authorization form is completed in accordance with Section 2(a) above, CA may use or disclose PHI solely in accordance with the terms of the signed Authorization form.
- (d) **Revocations.** A Client may revoke an Authorization in writing at any time. The revocation should include a copy of the relevant Authorization or a description of the relevant Authorization sufficient to identify it. Except as provided in Section 2(d)(i) below, CA may not use or disclose PHI pursuant to a revoked Authorization.
 - (i) **Exception for Prior Uses and Disclosures.** A revocation of an Authorization will not affect any uses or disclosures of PHI that CA Staff Members made prior to the revocation in reliance on the Authorization.

- (ii) **Documentation.** Any Client's revocation of an Authorization must be documented with the Authorization form to which the revocation pertains and in accordance with Section 10 of the Administration Policy.
- (e) **Conflicts.** CA may occasionally obtain a signed Authorization from a Client that is inconsistent with another document from the same Client, or inconsistent with a restriction requested by the Client in accordance with Section 6 of the Client Rights to PHI Policy to which CA has agreed, regarding the use or disclosure of PHI. If this occurs, the requirements of the most recent action (*i.e.*, Authorization or agreed-to restriction) will be followed unless clarification can be obtained from the relevant Client.

3. **Third-Party Authorization Forms**

CA may disclose PHI in accordance with a third-party's Authorization form (*i.e.*, not a CA Authorization form) if:

- (a) **The Recipient's Identity is Verified.** The identity of the person who is to receive the PHI in accordance with the Authorization is verified.
- (b) **The Authorization Form is Valid.** The third-party Authorization form must: (i) be properly signed and dated by the Client; (ii) not be expired or known to CA to have been revoked; and (iii) contain the required elements set forth in Section 3(c) below.
- (c) **Required Elements.** Third-party Authorization forms must contain:
 - (i) **Description.** A specific and meaningful description of the PHI to be used or disclosed and the purpose of the use or disclosure;
 - (ii) **Identification.** The name(s) or other specific identification of CA Staff Members who may use or disclose, and of the individuals who may receive, such PHI in accordance with the Authorization;
 - (iii) **Effective Period.** An expiration date or event (provided, however, that research Authorization forms may not be subject to this requirement under certain circumstances); and
 - (iv) **Statements.** Statements that put the Client on notice of his or her right to revoke the Authorization, and on notice of the potential for the PHI to be redisclosed.
- (d) **It is Not A Compound Document.** The third-party Authorization form must be a separate document (*i.e.*, it cannot be combined with any other document), provided, however, that research Authorization forms may be combined with other documents under certain circumstances.
- (e) **Invalid Authorizations.** Third-party Authorization forms that do not comply with the foregoing should be referred to the Privacy Official (or a designee) for handling.

4. Conditioning Authorizations

CA may not require a Client to sign an Authorization as a condition for Treatment, Payment, enrollment in a health plan or eligibility for benefits, except that CA may require a Client to sign an Authorization as a condition for providing health care to the Client if CA is providing such care solely for the purpose of creating PHI for a third party and the Authorization is for the disclosure of PHI to such third party.

5. Breach of Authorization Policy

CA Staff Members must report any violations of this Authorization Policy to a supervisor or to the Privacy Official (or a designee). The Privacy Official (or a designee) will take steps to mitigate the harmful effects of any such breach or violation as set forth in Section 7 of the Administration Policy.

PSYCHOTHERAPY SERVICES POLICY

OBJECTIVE: To ensure that CA services comply with HIPAA requirements with respect to the use or disclosure of psychotherapy and psychotherapy-related information.

1. Use and Disclosure of Psychotherapy Notes

A CA Staff Member who provides psychotherapy services to a Client must obtain the Client's Authorization to use or disclose the Client's Psychotherapy Notes (as defined in Section 2 below), except for the oversight purposes described in Section 3 below and for the following CA purposes:

- (a) **Originator Use.** CA Staff Member who created the Psychotherapy Notes may use such Psychotherapy Notes for Treatment purposes without prior Client Authorization.
- (b) **Training Programs.** CA may use or disclose Psychotherapy Notes without prior Client Authorization for CA's own training programs in which students, trainees, interns or mental health practitioners learn under supervision to practice or improve their skills in group, joint, family or individual counseling. Any use or disclosure for such training purposes is subject to the Minimum Necessary Standard set forth in Section 2 of the PHI Use and Disclosure Policy.
- (c) **Legal Defense.** CA may use or disclose to its legal counsel Psychotherapy Notes without prior Client Authorization to defend itself in a legal action or other proceeding brought by the Client to whom the Psychotherapy Notes pertain. Any use or disclosure for such legal defense purposes is subject to the Minimum Necessary Standard.

2. Psychotherapy Notes Defined

“**Psychotherapy Notes**” are notes (a) recorded in any medium by a CA Staff Member who is a mental health professional (including interns) that document or analyze the contents of a conversation during either a private counseling session or a group, joint or family counseling session, and (b) that are separated from the relevant Client's medical records (a/k/a process notes). That is, Psychotherapy Notes are notes kept for such a CA Staff Member's own purposes that are normally not part of a Client's medical records. Accordingly, “Psychotherapy Notes” exclude notes or records of medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of Treatment furnished, results of clinical tests and any summary of: (i) diagnosis, (ii) functional status, (iii) a Client's Treatment plan, (iv) symptoms, (v) prognosis, and (vi) progress to date. *For example, the daily notes taken by the therapists in*

the Day Treatment And Outpatient Program do not fall within the definition of “Psychotherapy Notes” but are considered “PHI.”

However, the items excluded from the definition of Psychotherapy Notes will, if joined with individually identifiable information, constitute PHI and will be subject to the requirements and standards of this Manual regarding the use or disclosure of PHI. Disclosure of the excluded items is also subject to Section 5 of this Psychotherapy Services Policy.

3. Oversight Uses and Disclosures of Psychotherapy Notes

CA may use or disclose Psychotherapy Notes without prior Client Authorization for the following oversight purposes:

- (a) **To HHS.** CA may disclose Psychotherapy Notes to HHS if and to the extent required by HHS in connection with an HHS investigation of CA’s and/or CA’s compliance with HIPAA.
- (b) **As Required By Law.** CA may use or disclose Psychotherapy Notes if required by applicable law, but will use and disclose Psychotherapy Notes only to the extent necessary to comply with the relevant requirements of such law, including state laws regarding discovery of such information in court or similar proceedings.
- (c) **Oversight of the Originator.** CA may disclose Psychotherapy Notes 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 a CA Staff Member who created the Psychotherapy Notes.
- (d) **Decedents.** CA may disclose Psychotherapy Notes in accordance with Section 8 of the Legal Compliance Policy to a coroner or medical examiner about deceased Clients for the purpose of identifying a deceased person, determining cause of death or other duties as authorized by law.
- (e) **Serious Threat to Health and Safety.** CA may use or disclose Psychotherapy Notes upon a good faith belief (based on actual knowledge or in reliance on a credible representation of another person with apparent knowledge or authority) that the use or disclosure is necessary to prevent a serious and imminent threat to the health or safety of a person or the public.

4. Client Access to Psychotherapy Notes

A Client does not have a right to Access his or her own Psychotherapy Notes, and CA may, if it believes it to be appropriate, deny a Client’s request for Access to

his or her own Psychotherapy Notes without providing the requesting Client with an opportunity to review such denial, as set forth in Section 2(b)(iv)(A) of the Client Rights to PHI Policy.

5. **Requests for Psychotherapy-related Information**

Pursuant to Section 56.104 of the California Civil Code, unless CA obtains a Client's Authorization, CA may not release *any* information related to a Client's participation in an outpatient treatment with a psychotherapist provided by CA ("**Information**") to a requesting person or entity (including, but not limited to, Psychotherapy Notes and other PHI), unless and until CA obtains a written request from the requestor that contains the elements in (a) through (d) below:

- (a) **Specific Information.** The specific Information being requested that relates to a Client's participation in Treatment with a CA Staff Member who is a mental health professional and its specific intended use or uses.
- (b) **Timeframe.** The length of time that the requestor will keep the requested Information before the requestor will destroy or dispose of it. A requestor may extend that timeframe, provided that the requestor notifies CA of the extension. Any notification of an extension shall include the specific reason for the extension, the intended use or uses of the requested Information during the extended time, and the expected date of the destruction of such Information.
- (c) **Use Statement.** A statement that the requested Information will not be used for any purpose other than its intended use.
- (d) **Destruction or Return.** A statement that the requestor will destroy the requested Information and all copies in the requestor's possession or control, will cause such information to be destroyed, or will return such Information and all copies of it before or immediately after the length of time in Section 5(b) has expired.
- (e) **Exception Regarding Information.** Information may be disclosed without prior Authorization and without a written request meeting the requirements of this Section, to law enforcement or to a regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes so long as the applicable requirements set forth in Section 5(d) and Section 7 of the Legal Compliance Policy and Section 3(c) of this Psychotherapy Services Policy regarding such disclosures are met.

6. **Breach of Psychotherapy Services Policy**

CA Staff Members must report any violations of this Psychotherapy Services Policy to a supervisor or to the Privacy Official (or a designee). The Privacy

Official (or a designee) will take steps to mitigate the harmful effects of any such breach or violation as set forth in Section 7 of the Administration Policy.

BUSINESS ASSOCIATE POLICY

OBJECTIVE: To ensure that Business Associates provide services to, or perform functions or activities on behalf of, CA in compliance with HIPAA.

1. Business Associate Policy

All CA Business Associates must sign a CA Business Associate agreement, or a similar agreement approved by the Privacy Official (or a designee). CA will not disclose PHI to a Business Associate, or permit a Business Associate to request, receive, create or use PHI on CA's behalf, unless the Business Associate executes a Business Associate agreement. In addition, disclosures of PHI to a Business Associate must comply with the Minimum Necessary Standard and must be documented in accordance with Section 10 of the Administration Policy.

2. Business Associates Defined

From time to time, CA may retain various Business Associates to provide services to or on behalf of CA. A "**Business Associate**" is an entity or person who:

- (a) **Performs a Function on CA's Behalf.** A Business Associate may perform or assist in the performance of a function or activity on CA's behalf involving the use and disclosure of PHI, including, but not limited to, claims processing or administration; data analysis, processing or administration; utilization review; quality assurance; billing and practice management; or
- (b) **Provides Specific Professional Services.** A Business Associate may provide to or for CA legal, accounting, actuarial, consulting, data aggregation, management, accreditation, or financial services, where the performance of any such service involves the disclosure of PHI to the service provider.
- (c) **Persons and Entities that are not Business Associates.** Notwithstanding Sections 2(a) and 2(b) above, the following are *not* Business Associates:
 - (i) Health Care Providers.
 - (ii) Couriers – persons or entities that merely transport or act as conduits for PHI, such as the U.S. Postal Service, private mail carriers (*e.g.*, UPS, Fed Ex).
 - (iii) Janitors, electricians, plumbers and other service providers whose services do not involve the use or disclosure of PHI and where any access to PHI would likely be incidental, if at all.

- (iv) Financial institutions that process consumer-conducted transactions (*i.e.*, debit, credit or other payment card transactions, check clearing, processing electronic funds transfers), or that conduct any other activity that involves a transfer of funds to pay for CA products and services.

3. CA as a Business Associate

CA or a CA Staff Member may be a Business Associate of a Covered Entity. In such a circumstance, CA (and/or the relevant CA Staff Member) may sign a Business Associate agreement approved by the Privacy Official (or a designee). Any PHI that CA (and/or the relevant CA Staff Member) collects or creates in its capacity as a Business Associate may only be used or disclosed as permitted by the terms of an applicable Business Associate agreement and as permitted by the PHI Use and Disclosure Policy.

4. Grandfathered Agreements

Until *April 13, 2004*, CA may disclose PHI to a Business Associate, and may allow a Business Associate to create, receive or use PHI on CA's behalf, in accordance with a written contract that is not a Business Associate agreement if the written contract was in place before October 15, 2002 and was not renewed (except for contracts with automatic or "evergreen" renewals) or modified between October 15, 2002 and April 14, 2003 (each, a "**Grandfathered Contract**"). CA will have vendors engaged to Grandfathered Contracts execute a Business Associate agreement prior to April 13, 2004 if CA intends to continue to use such vendors. Any PHI held by Business Associates who are performing or operating pursuant to a Grandfathered Contract will be subject to the Access, amendment, and Accounting requirements set forth in Sections 2, 3 and 4 of the Client Rights to PHI Policy, respectively, the mitigation requirements set forth in Section 7 of the Administration Policy and HHS' enforcement of HIPAA.

5. Breach or Violation by a Business Associate

CA Staff Members must immediately report to the Privacy Official (or a designee) any incident, or pattern of activity or practice of any CA Business Associate who is, or may be, in breach or violation of a Business Associate agreement. The Privacy Official (or a designee) will take steps to mitigate the harmful effects of any such breach or violation, or potential breach or violation, as set forth in Section 7 of the Administration Policy. The Privacy Official (or a designee) will take reasonable steps to cure any reported breach or to end any reported violation, as applicable. If such steps are unsuccessful, the Privacy Official (or a designee) will terminate the Business Associate agreement, if feasible, or, if termination is not feasible, report the breach or violation to HHS.

6. Breach of Business Associate Policy

Other than as set forth in Section 5 of this Business Associate Policy, CA Staff Members must report any violations of this Business Associate Policy to a supervisor or to the Privacy Official (or a designee), including any breach or violation of a Business Associate agreement where CA (and/or the relevant CA Staff Member) is the Business Associate. The Privacy Official (or a designee) will take steps to mitigate the harmful effects of any such breach or violation as set forth in Section 7 of the Administration Policy.

MARKETING AND FUNDRAISING POLICY

OBJECTIVE: To ensure that CA's use or disclosure of PHI for marketing and fundraising purposes is consistent with HIPAA standards.

1. Marketing Use and Disclosure Policy

- (a) **CA Marketing Communications.** CA must obtain prior Authorization to use PHI or to disclose PHI to a Business Associate for the purpose of making a communication concerning a product or service that encourages a recipient of the communication to purchase or use the product or service, except as set forth in Section 2 below.
- (b) **Third Party Marketing Purposes.** CA must obtain prior Authorization to sell PHI maintained by CA to a third party for direct or indirect remuneration (*e.g.*, direct payments, discounts on products or other indirect incentives) so that the third party can market its own (or an affiliate's) product(s) or service(s). **CA Staff Members may not sell or otherwise disclose PHI to a third party (including to a Business Associate) for such third party's own marketing purposes unless prior Authorization is obtained and the Privacy Official approves each such sale or disclosure in advance.**
- (c) **Marketing Defined.** In this Manual, "Marketing" is a communication described in Section 1(a) above or the disclosure of PHI described in Section 1(b) above.

2. Permitted Promotional Activities

CA does not need to obtain Client Authorization for the following promotional activities:

- (a) **Health-related Services.** CA may use PHI to create and make a communication regarding health-related products or services (or payment for health-related products or services) that are provided by CA, regardless of the form or media in which the communication is made. This includes a communication regarding a third party's products or services if such products or services are provided directly by CA to Clients.
- (b) **Alternative Treatments or Therapies.** CA may use PHI to create and make a communication to a Client regarding the Client's case management or care coordination, or to direct or to recommend alternative treatments or therapies, Health Care Providers or settings of care to the Client. This includes referring Clients to outside specialists or describing Treatment options that are available to a particular Client.

- (c) **Treatment Purposes.** CA Staff Members may communicate to Clients about products or services related to such Clients' Treatment.
- (d) **Disclosing PHI to Business Associates.** CA may disclose PHI to a Business Associate (such as a marketing, public relations and similar agency or firm) for the purpose of creating and/or making communications as described in Sections 2(a) – (c) above, if the Business Associate has executed a Business Associate agreement with CA, as set forth in the Business Associate Policy. CA Staff Members must comply with the Minimum Necessary Standard in disclosing such PHI and must document such disclosures in accordance with Section 10 of the Administration Policy.
- (e) **Face-to-Face Interactions.** CA Staff Members may use PHI to Market products and services to Clients in face-to-face interactions without prior Authorization.
- (f) **Promotional Gifts.** CA may use PHI or disclose PHI to a Business Associate to provide a promotional gift of nominal value to Clients, such as calendars, notepads, pens, etc.

3. General Health and Wellness Information

CA may use PHI, or disclose PHI to a Business Associate (subject to the Business Associate Policy), without prior Authorization to create and make communications that promote health in a general matter, such as public education campaigns, newsletters or other similar materials.

4. Payments for Marketing Communications

CA may receive payments from third parties to relay communications described in Sections 2 and 3 of this Marketing and Fundraising Policy if the Privacy Official (or a designee) approves of such funding in advance and CA does not disclose PHI to a third party in exchange for such funding.

5. Fundraising Requirements

- (a) **Use and Disclosure of PHI.** To raise funds for CA's own benefit, CA may use, or disclose to a Business Associate (subject to the Business Associate Policy) or to an institutionally related foundation (*i.e.*, a 501(c)(3) foundation that has an explicit link to CA in its charter statement of charitable purposes), the following PHI without prior Client Authorization:
 - (i) demographic information relating to such Client, and
 - (ii) the dates of health care provided to such Client.

- (b) **Opt-Out Notice.** CA will include in any fundraising materials that CA sends to a Client in accordance with Section 5(a) above, a description of how the Client may opt-out of receiving any further fundraising communications. CA will make reasonable efforts to ensure that a Client who does opt-out is not sent future fundraising communications (unless and until such Client requests or consents to receiving such communications).
- (c) **Authorization Required.** CA will otherwise obtain an Authorization to use or disclose a Client's PHI for fundraising purposes, including any use or disclosure of Client PHI for another entity's fundraising purposes.

6. Breach of Marketing and Fundraising Policy

CA Staff Members must report any breach or violation of this Marketing and Fundraising Policy to a supervisor or to the Privacy Official (or a designee). The Privacy Official (or a designee) will take steps to mitigate the harmful effects of any such breach or violation as set forth in Section 7 of the Administration Policy.

CLIENT RIGHTS TO PHI POLICY

OBJECTIVE: To facilitate CA's compliance with the rights granted to Clients under HIPAA with respect to their own PHI.

1. General Client Care Policy and Procedures

The Privacy Rule gives each Client the right to: (a) request Access to the Client's PHI that CA maintains in a Designated Record Set, (b) request an amendment of the Client's PHI that CA maintains in a Designated Record Set, (c) request an Accounting, (d) request that CA communicate with the Client in alternative, more confidential ways, and (e) request that CA restrict its (i) use or disclosure of PHI for TPO purposes and/or (ii) disclosure of PHI to the Client's family member(s) or friend(s).

Except as provided in this Client Rights to PHI Policy, the Privacy Official (or a designee) will evaluate and respond to Clients' requests concerning their PHI.

2. Access Requests

- (a) **General Access Policy.** A Client may submit a written and signed request for Access. CA will provide Access only to PHI that CA or a CA Business Associate maintains in a Designated Record Set. Under certain limited circumstances described below in Section 2(b)(iv), CA may deny Access to a Client.
- (b) **Access Request Procedures.** CA will take the following steps upon receiving a request from a Client for Access.
 - (i) **Provide an Access Request Form.** A Client who requests Access to PHI must complete an Access Request Form. A completed Access Request Form may be submitted to a CA Staff Member who will forward same to the Privacy Official (or a designee) for handling in accordance with this Section 2(b). Alternatively, a Client may send a completed Access Request Form directly to the Privacy Official for evaluation. *No request for access may be denied without prior approval from the Privacy Official (or a designee).*
 - (ii) **Verify Identity.** CA will verify the identity of the requesting Client as set forth in Section 12 of the PHI Use and Disclosure Policy.
 - (iii) **Confirm Whether the PHI is Maintained in a Designated Record Set.** CA will determine whether the PHI requested is maintained by CA in the requesting Client's Designated Record Set.

- (iv) **Confirm Whether Access is Permitted.** CA may deny Access to the following without providing the requesting Client with an opportunity to review such denial.
- (A) Psychotherapy Notes (*see* Section 4 of the Psychotherapy Services Policy);
 - (B) Documents compiled for a legal proceeding;
 - (C) PHI requested by inmates pursuant to a correctional institution's request; and
 - (D) PHI obtained from a third party (other than a Health Care Provider) under a promise of confidentiality, and the Access requested would be reasonably likely to reveal the source of the information.
- (v) **Confirm Whether Access May be Denied Subject to Review.** CA may deny Access (subject to the Client's right to a review of such denial pursuant to Section 2(b)(viii) below) where a CA Staff Member who is a licensed health care professional determines, in the exercise of professional judgment, that:
- (A) the Access requested is reasonably likely to endanger the life or physical safety of the requesting Client or another person;
 - (B) the PHI requested makes reference to a person other than the Client (unless such other person is a Health Care Provider) and the Access requested is reasonably likely to cause substantial harm to such other person; or
 - (C) the provision of Access to a requesting Personal Representative is reasonably likely to cause substantial harm to a corresponding Client or to another person.
 - (D) CA Staff Member who determines that an Access request should be denied pursuant to Section 2(b)(v) above shall prepare a written record in the requesting Client's Designated Record Set noting the date of the request and explaining the reasons for the denial of Access, including a description of the consequences anticipated to occur if Access were permitted.
- (vi) **Access Request Response Requirement.** CA will provide or deny a requesting Client Access to *inspect* his or her own PHI during CA's normal business hours within five (5) business days after receipt of a completed Access Request Form that requests such Access. CA will provide *copies* of PHI within fifteen (15) calendar days after receipt of a completed Access Request Form that requests such Access.

- (vii) **Litigation-related Access Requests Response Requirement.** Notwithstanding any other provision of this Section 2(b), when an attorney (or a verified representative of an attorney) presents to CA a written Authorization signed by a Client prior to the filing of any legal action or the appearance of a Client as a defendant in a litigation (whether or not CA is a party), the Privacy Official (or a designee) will promptly, but in no event later than five (5) business days after CA's receipt of the Authorization, make the PHI that is the subject of the Authorization available for inspection and copying by the attorney (or a verified representative of the attorney). Subject to Section 2(b)(xii) below, CA may charge the Client who Authorized the inspection and copying the reasonable cost for making the requested PHI available for inspection and copying in accordance with Section 1158 of the California Evidence Code.
- (viii) **Issue Denial Notice (if applicable).** A denial notice must contain (A) the basis for the denial; (B) a statement of the Client's right to request a review of the denial, if applicable; (C) a statement of how the Client may file a complaint concerning the denial, and (D) if the Access request concerned mental health records, a statement that the Client may require CA to permit an inspection by, or to provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or a licensed social worker, designated by the Client's written Authorization. *All notices of denial must be prepared or approved by the Privacy Official (or a designee).*
- (ix) **Denial Review Process.** Clients have a right to request a review by a licensed health care professional designated by CA (who did not participate in the original decision) of any Access requests denied pursuant to Section 2(b)(v) above. CA will provide or deny Access in accordance with the designated health care professional's decision.
- (x) **Grant Access Requests.** When the Privacy Official (or a designee) has approved an Access request in accordance with Section 2(b)(vi) above, CA will provide the information requested in the form or format requested by the Client, if readily producible in such form, and in the manner requested (*i.e.*, by mail or in-person). Otherwise, the information will be provided in a readable hard copy or such other form as agreed to by the requesting Client. Clients requesting in-person inspection must schedule an appointment for such inspection at the applicable CA Center during CA's normal business hours.
- (xi) **Access Summary.** CA may provide a summary of the PHI to which a Client has requested Access in lieu of providing the requested Access if the Client agrees in advance to such a

summary and agrees in advance to the fees CA will charge for such summary, if any.

- (xii) **Fees.** CA may charge a fee to Clients who request Access in the form of copies. Fees to either copy the requested information or to produce a summary may only include: (A) the cost of copying, including the cost of supplies and labor; (B) postage; and (C) the cost of preparing the summary, if a summary is agreed to in advance by the Client.
- (xiii) **Documentation.** The Access granted to Client must be documented in accordance Section 10 of the Administration Policy.

3. Amendment Requests

- (a) **General Amendment Policy.** Clients have the right to request that CA amend the PHI maintained by CA or any CA Business Associates in a Designated Record Set. CA will consider such requests in accordance with this Section 3. Amendment requests apply only to the content of a Client's records in a Designated Record Set. *The amendment procedures set forth in Section 3 of this Client Rights to PHI Policy are not intended to provide Clients with a procedure to dispute or substantively review CA's medical, billing or coverage decisions and determinations.*
- (b) **Amendment Request Procedures.** CA will take the following steps upon receiving a request from a Client to amend the Client's PHI.
 - (i) **Provide a Correction/Amendment Form.** Clients who request that their PHI be amended must complete a Correction/Amendment Form. A completed Correction/Amendment Form may be submitted to a CA Staff Member who will forward same to the Privacy Official (or a designee). Alternatively, a Client requesting an amendment of PHI about them may send a completed Correction/Amendment Form directly to the Privacy Official for evaluation. *No request for an amendment may be denied without prior approval from the Privacy Official (or a designee).*
 - (ii) **Verify Identity.** CA will verify the identity of the requesting Client as set forth in Section 12 of the PHI Use and Disclosure Policy.
 - (iii) **Confirm Whether the PHI is Maintained in a Designated Record Set.** CA will determine whether the PHI requested is maintained by CA in the requesting Client's Designated Record Set.

- (iv) **Confirm Whether an Amendment is Permitted.** CA may deny an amendment request regarding information that a Client could not Access under Section 2(b)(iv) above.
- (v) **Confirm Whether the PHI is Correct.** An Amendment request will be denied if the requesting Client's information in the Designated Record Set is accurate and complete without the amendment.
- (vi) **Response Requirement.** CA must respond to an amendment request within sixty (60) days of receipt by informing the requesting Client in writing that the amendment will be made or that the request is denied. If the determination cannot be made within the 60-day period, CA may extend the response deadline for thirty (30) days by providing written notice to the requesting Client within the original 60-day period of the reasons for the extension and the date by which CA will respond.
- (vii) **Amendment.** When the Privacy Official (or a designee) approves an amendment request, the Privacy Official (or a designee) will instruct an appropriate CA Staff Member to append or otherwise link the correct information to the requesting Client's Designated Record Set. Notice of the approved amendment will be provided to:
 - (A) the requesting Client and all persons or entities listed on such Client's Correction/Amendment Form, if any; and
 - (B) to any persons/entities who are known by CA (i) to maintain the particular record being amended, including any CA Business Associates, and (ii) who may rely on the uncorrected information to the detriment of the requesting Client.
- (viii) **Denial.** When an amendment request is denied, the following procedures apply. *All notices of denial must be prepared or approved by the Privacy Official (or a designee).*
 - (A) **Denial Notice.** A denial notice must contain (i) the basis for the denial; (ii) information about the requesting Client's right to submit a written statement, not to exceed 250 words, disagreeing with the denial and instructions on filing such a statement; (iii) an explanation that the requesting Client may (if he or she does not file a statement of disagreement) request that the Correction/Amendment Form and its denial be included in future disclosures of the information; and (iv) a statement of how the requesting Client may file a complaint concerning the denial.
 - (B) **Appeal and Rebuttal.** If the requesting Client files a written statement of disagreement following a denial, the

Privacy Official (or a designee) may, in the Privacy Official's (or a designee's) sole discretion, prepare a rebuttal statement and provide a copy of the rebuttal statement to the requesting Client.

- (C) **Recordkeeping.** The Privacy Official (or a designee) will identify the record or PHI in the requesting Client's Designated Record Set that is the subject of a denied Amendment request and append or otherwise link to the Designated Record Set: (i) the requesting Client's Correction/Amendment Form, (ii) CA's denial of the amendment request, and, if applicable, (iii) the requesting Client's statement of disagreement, and (iv) CA's rebuttal to the statement of disagreement.
- (D) **Future Disclosures of PHI Relating to a Denied Amendment Request.** If a requesting Client, whose amendment request is denied, submits a statement of disagreement, CA will disclose information concerning the request and denial (*i.e.*, the information appended to the requesting Client's Designated Record Set in accordance with Section 3(b)(viii)(C) above), or an accurate summary of such information, with any subsequent disclosure of the record or information to which the relevant amendment request relates. If the requesting Client has not submitted a written statement of disagreement, CA will include the Client's Correction/Amendment Form and CA's denial of the Amendment request with any subsequent disclosure of the PHI only if the requested Client has requested such action.
- (ix) **Documentation.** The amendment or the denial of an amendment must be documented in accordance with Section 10 of the Administration Policy.

4. **Accounting Requests**

- (a) **General Accounting Policy.** Clients have a right to receive an Accounting of non-routine disclosures of their PHI. Most routine disclosures of PHI are not reportable in an Accounting.
- (b) **Accounting Procedures.** CA will take the following steps upon receiving a request from Client for an Accounting.
 - (i) **Provide an Accounting of Disclosures Form.** A Client who requests an Accounting must complete an Accounting of Disclosures of Protected Health Information Request Form. A completed Accounting of Disclosures of Protected Health Information Request Form may be submitted to a CA Staff

Member who will forward same to the Privacy Official (or a designee). Alternatively, a Client may send a completed Accounting of Disclosures of Protected Health Information Request Form directly to the Privacy Official for evaluation. *No request for an accounting of disclosures may be denied without prior approval from the Privacy Official (or a designee).*

- (ii) **Verify Identity.** CA will verify the identity of the Client as set forth in Section 12 of the PHI Use and Disclosure Policy.
- (iii) **Fee Notice.** If the Client requesting the Accounting has already received one Accounting within the 12-month period immediately preceding the date of receipt of the current request, CA will send the Client a written notice that fees for processing the current Accounting request will be charged and that the Client may, at the Client's option, withdraw the request.
- (iv) **Response Requirement.** CA will respond to an Accounting request within sixty (60) days of receipt of a completed Accounting of Disclosures of Protected Health Information Request Form by providing the Accounting (as described in more detail below), or informing the requesting Client that there have been no disclosures that must be included in an Accounting (see the list of exceptions in Section 4(b)(vi) below). If the Accounting cannot be provided within the 60-day period, CA may extend the response deadline for thirty (30) days by providing written notice to the Client within the original 60-day period of the reasons for the extension and the date by which CA will respond.
- (v) **Content of Accounting – Requirements.** The Accounting must include disclosures (but not uses) of the requesting Client's PHI made by CA and any CA Business Associates during the period requested by the Client up to six (6) years prior to the request. For each Accounting, the following information must be provided for each reportable disclosure of the requesting Client's PHI:
 - (A) The date of disclosure. If the exact date is unknown, CA will provide a relevant range of dates (*e.g.*, between September 1 and September 3, 2003; or during the week of September 1);
 - (B) The name (and if known, the address) of the entity or person to whom the information was disclosed;
 - (C) A brief description of the PHI disclosed; and
 - (D) A brief statement explaining the purpose for the disclosure. Where applicable and appropriate, CA may provide a copy of the written request for disclosure.
- (vi) **Content of Accounting - Exceptions.** CA is not required to Account to a requesting Client any disclosures of PHI made prior

to April 14, 2003. In addition, an Accounting does not have to include disclosures made:

- (A) To carry out Treatment, Payment or Health Care Operations;
 - (B) To a Client of the Client's own PHI;
 - (C) To family and friends who are involved in a Client's care or payment for care;
 - (D) Incident to an otherwise permitted use or disclosure (as described in Section 4 of the PHI Use and Disclosure Policy);
 - (E) Pursuant to an Authorization (as described in the Authorization Policy);
 - (F) To disaster relief agencies or to federal officials for national security or intelligence purposes;
 - (G) To correctional institutions or law enforcement when the disclosure was permitted without an Authorization (*see Section 7* of the Legal Compliance Policy); and
 - (H) If CA has received a temporary suspension statement from a health oversight agency or a law enforcement official indicating that notice to the Client of disclosures of PHI would be reasonably likely to impede the agency's activities. *If a CA Staff Member receives such a statement, either orally or in writing, he or she must contact the Privacy Official (or a designee) for further guidance.*
- (vii) **Documentation.** Accountings must be documented in accordance with Section 10 of the Administration Policy.

5. **Confidential Communications Requests**

- (a) **General Confidential Communications Policy.** CA will attempt to accommodate reasonable Client requests to have communications that contain the Client's PHI sent to them by alternative means or to an alternative address that provides greater confidentiality.
- (b) **Confidential Communications Procedures.** CA will take the following steps upon receiving a request from a Client to receive communications of PHI by alternative means or at alternative locations.
 - (i) **Provide a Confidential Communications Request Form.** A Client who requests to receive the Client's PHI by alternative means or alternative locations must complete a Request for Restriction and/or Confidential Communications Form. A completed Request for Restriction and/or Confidential

Communications Form may be submitted to a CA Staff Member who will forward same to the Privacy Official (or a designee). Alternatively, a Client who requests to receive the Client's PHI by alternative means or alternative locations may send a completed Request for Restriction and/or Confidential Communications Form directly to the Privacy Official for evaluation. *No request for confidential communications may be denied without prior approval from the Privacy Official (or a designee).*

- (ii) **Verify Identity.** CA will verify the identity of the Client as set forth in Section 12 of the PHI Use and Disclosure Policy.
- (iii) **Processing Confidential Communication Requests.** CA will accommodate a confidential communication request that is "reasonable," if:
 - (A) The Request for Restriction and/or Confidential Communications Form is completed and signed by the requesting Client;
 - (B) The requesting Client provides information on how payment will be handled in the event the request involves a change in billing procedures;
 - (C) The requesting Client is specific in providing an alternative address and/or the alternative means of communication to be used; and
 - (D) The incremental cost of complying with the request for alternative communication is reasonable, or the requesting Client makes arrangements to pay the incremental cost.
- (iv) **Denial.** A denial of a confidential communication request must be prepared or approved by the Privacy Official (or a designee). CA must contact the Client personally, in writing or by telephone, to explain why a confidential communication request cannot be accommodated.
- (v) **Documentation.** Any confidential communication requests and its resolution must be documented in accordance with Section 10 of the Administration Policy.
- (vi) **Business Associate Notification.** The Privacy Official (or a designee) will notify any Business Associates who may have access to the Client's PHI regarding any agreed-to confidential communication requests.

6. **Restrictions on Uses and Disclosures of PHI**

- (a) **General Use and Disclosures Restrictions Policy.** Notwithstanding Sections 3 and 8 of the PHI Use and Disclosure Policy, a Client may request restrictions on CA's: (i) use or disclosure of the Client's PHI for

the purposes of Treatment, Payment or Health Care Operations; or (ii) disclosure of PHI to the Client's family members or friends who are assisting with the Client's care, payment, location, or identification. The Privacy Official will have the discretion to agree to or to deny such requests. Restricted information will not be used or disclosed in violation of the restriction unless such a use or disclosure is necessary for emergency Treatment of the relevant Client. A restriction on the use or disclosure of PHI may be terminated if the Client agrees to the termination, either in writing or orally. CA may unilaterally terminate a restriction on the use or disclosure of PHI without the Client's agreement, but the restriction will still apply to PHI obtained while the restriction was in effect.

- (b) **Restrictions Procedures.** CA will take the following steps upon receiving a request from a Client to restrict CA's use or disclosure of the requesting Client's PHI.
- (i) **Provide a Restrictions Request Form.** A Client who requests restrictions on CA's use or disclosure of PHI must complete a Request for Restriction and/or Confidential Communications Form. A completed Request for Restriction and/or Confidential Communications Form may be submitted to a CA Staff Member who will forward same to the Privacy Official (or a designee). Alternatively, a Client who requests restrictions on CA's use or disclosure of PHI may send a completed Request for Restriction and/or Confidential Communications Form directly to the Privacy Official for evaluation. *No request for restrictions on uses and disclosures of PHI may be denied without prior approval from the Privacy Official (or a designee).*
- (ii) **Verify Identity.** CA will verify the identity of the Client as set forth in Section 12 of the PHI Use and Disclosure Policy.
- (iii) **Evaluation Criteria.** CA may accept requests to restrict CA's uses or disclosures of PHI only if:
- (A) The request regards one or both of categories described in Section 6(a) above;
- (B) The request states the specific restriction requested and to whom the restriction will apply; and
- (C) The incremental cost of complying with the request for the restriction is reasonable, or the requesting Client makes arrangements to pay the incremental cost.
- (iv) **Denial.** **A denial of a restriction request must be prepared or approved by the Privacy Official (or a designee).** CA must contact the Client personally, in writing or by telephone, to explain why a restriction request cannot be accommodated.

- (v) **Documentation.** Any restriction on the use or disclosure of PHI to which CA agrees must be fully documented and communicated to ensure that all relevant CA Staff Members are aware of the restriction. Any restriction request and its resolution must also be documented in accordance with Section 10 of the Administration Policy.
- (vi) **Notification of Business Associate.** The Privacy Official (or a designee) will notify any Business Associates who may have access to the Client's PHI of any agreed-to use or disclosures restrictions, and the termination thereof, as applicable.

7. **Privacy Notice**

- (a) **General Privacy Notice Policy.** CA must provide notice of its privacy policies ("**Privacy Notice**") to its Clients and make a good faith effort to obtain written acknowledgements of receipt of such notice. In addition to the delivery options described in Section 7(b)(ii) and (iii) below, the Privacy Notice will be made available to anyone upon request.
- (b) **Privacy Notice Procedures.**
 - (i) **Privacy Notice Content.** The Privacy Official (or a designee) is responsible for developing and maintaining a Privacy Notice that describes, among other items, the following:
 - (A) The uses and disclosures of PHI that may be made by CA;
 - (B) Individuals' rights under the Privacy Rule;
 - (C) The legal duties of CA with respect to PHI;
 - (D) CA's complaint procedures, the name and telephone number of the Privacy Official, and the effective date of the Privacy Notice; and
 - (E) If a use or disclosure of PHI is prohibited or materially limited by other, more stringent state laws (as defined in Section 160.202 of the Privacy Rule), the description of the use or disclosure in the Privacy Notice will reflect the more stringent law.
 - (ii) **Delivery to Clients of CA.** The Privacy Notice will be made available:
 - (A) To Clients at CA Centers. The Privacy Notice will be posted in a prominent location, and copies of the Privacy Notice will be available for Clients to take with them;
 - (B) To Home-based Site Clients. The Privacy Notice will be sent to Home-Based Site Clients no later than the date of the first service delivery to that Client; *provided*, that in an emergency treatment situation, the Privacy Notice will be

made available as soon as reasonably practicable after the emergency treatment situation; and

(D) **Revision**. Whenever the Privacy Notice is revised, CA shall prominently post the revised Privacy Notice and make the Privacy Notice available upon request on or after the effective date of the revision.

(E) CA is not required to make the Privacy Notice available to Clients confined to a correctional institution.

(iii) **Acknowledgement of Receipt**. CA will request that Clients return an acknowledgement of receipt of the Privacy Notice to the Privacy Official, and the Privacy Official (or a designee) will track the return of such acknowledgements. CA Staff Members will make a good faith effort to obtain from Clients a written acknowledgement of receipt of the Privacy Notice. If written acknowledgement is not obtained, CA must document (in accordance with Section 10 of the Administration Policy) its good faith effort to obtain an acknowledgement in accordance with this Section 7(b)(iii) and the reason why an acknowledgement was not obtained.

(iv) **Privacy Notice on the Website**. CA shall prominently post its Privacy Notice on, and make it available electronically (*i.e.*, permit printing and downloading) through the CA website.

8. **Breach of Client Rights to PHI Policy**

CA Staff Members must report any violations of this Client Rights to PHI Policy to a supervisor or to the Privacy Official (or a designee). The Privacy Official (or a designee) will take steps to mitigate the harmful effects of any such breach or violation as set forth in Section 7 of the Administration Policy.