

	TITLE Notice of Privacy Practices		IDENTIFICATION NUMBER [Number]
ORGANIZATION(S)	LEVEL <input checked="" type="checkbox"/> Organization <input type="checkbox"/> Division <input type="checkbox"/> Program <input type="checkbox"/> Department	CATEGORY <input type="checkbox"/> Clinical <input checked="" type="checkbox"/> Management <input checked="" type="checkbox"/> Regulatory	POSTING DATE July 1, 2023 EFFECTIVE DATE July 1, 2023
REVIEW CYCLE <input checked="" type="checkbox"/> 1 year <input type="checkbox"/> 3 years LAST REVIEW DATE:		REPLACES TITLE: EFFECTIVE DATE(S):	

POLICY STATEMENT

As a covered entity, Embark Behavioral Health is required to provide a Notice of Privacy Practices in plain language that describes:

- How Embark may use and disclose protected health information about an individual.
- The individual's rights with respect to the information and how the individual may exercise these rights, including how the individual may complain to the covered entity.
- Embark's legal duties with respect to the information, including a statement that the covered entity is required by law to maintain the privacy of protected health information.
- Whom individuals can contact for further information about Embark's privacy policies.

Embark ensures that each company-affiliated program understands the requirement to provide a Notice of Privacy Practices to all clients as required by the Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information (Privacy Standards), 45 CFR Parts 160 and 164, the Health Information Technology for Economic and Clinical Health Act (HITECH) component of the American Recovery and Reinvestment Act (ARRA), and any and all other Federal regulations and interpretive guidelines promulgated thereunder.

PURPOSE

The HIPAA Privacy Rule gives individuals a fundamental new right to be informed of the privacy practices of their health plans and of most of their health care providers, as well as to be informed of their privacy rights with respect to their personal health information. Health plans and covered health care providers are required to develop and distribute a Notice that provides a clear explanation of these rights and practices. The Notice is intended to focus individuals on privacy issues and concerns, and to prompt them to have discussions with their health plans and health care providers and exercise their rights.

SCOPE

The Privacy Rule provides that an individual has a right to adequate Notice of how a covered entity may use and disclose protected health information about the individual, as well as their rights and the covered entity's obligations with respect to that information.

DEFINITIONS

Authorized Representative: an authorized representative is an individual or an entity that act on behalf of a client and can represent the client's interests. A representative could be a parent, court appointed conservator, legal guardian or another surrogate decision maker.

Client: The individual who has been admitted into care, treatment or services at Embark, is currently receiving care, treatment or services and/or has received such services in the past.

Covered entity: organization subject to the HIPAA Privacy Rule is a covered entity. Embark Behavioral Health is a covered entity as a health care provider.

Health Insurance Portability and Accountability Act of 1996 (HIPAA): Public Law 104-191 was enacted on August 21, 1996 and established standards for the electronic exchange, privacy and security of health information.

Health Information Technology for Economic and Clinical Health (HITECH) Act: Passed in 2009, the HITECH Act supports the concept of electronic health records - meaningful use. HITECH proposes the meaningful use of interoperable electronic health records throughout the United States health care delivery system as a critical national goal.

Health care provider: Health care providers include all “providers of services” (e.g., institutional providers such as hospitals) and providers of medical or health services” (e.g., non-institutional providers such as physicians, dentists and other practitioners) as defined by Medicare, and any other person or organization that furnishes, bills, or is paid for health care.

Privacy Officer: oversees all ongoing activities related to the development, implementation, maintenance of, and adherence to the organization’s policies and procedures covering the privacy of, and access to, client health information in compliance with federal and state laws and the healthcare organization’s information privacy practices.

Protected Health Information (PHI): individually identifiable information relating to the past, present, or future physical or mental health condition of an individual; the provision of health care to an individual; or the past, present, or future payment for health care provided to an individual. Protected health information is a subset of PII, but it specifically refers to health information shared with HIPAA covered entities. Medical records, lab reports, and hospital bills are PHI, along with any information relating to an individual’s past, present, or future physical or mental health.

Treatment: the provision, coordination, or management of health care and related services for an individual by one or more health care providers, including consultation between providers regarding a patient and referral of a patient by one provider to another.

Health care operations: any of the following activities are considered part of health care operations: (a) quality assessment and improvement activities, including case management and care coordination; (b) competency assurance activities, including provider or health plan performance evaluation, credentialing, and accreditation; (c) conducting or arranging for medical reviews, audits, or legal services, including fraud and abuse detection and compliance programs; (d) specified insurance functions, such as underwriting, risk rating, and reinsuring risk; (e) business planning, development, management, and administration; and (f) business management and general administrative activities of the entity, including but not limited to: de-identifying protected health information, creating a limited data set, and certain fundraising for the benefit of the covered entity.

RESPONSIBILITIES

All officers, directors, and employees and other staff of Embark must adhere to the Code of Conduct. All supervisors are responsible for enforcing this policy with staff. Violations of this policy may result in reporting to the appropriate regulatory agency and/or disciplinary action, up to and including termination of employment.

PROCEDURES

1. Except in an emergency treatment situation, Embark must make a good faith effort to obtain the client’s or authorized representative’s written acknowledgement (i.e., initials) of receipt of each version of the Notice of Privacy Practices.
 - a. Only the client or the client’s legal representative may acknowledge receipt of the Notice.
 - b. It is not appropriate for a spouse or other relative to acknowledge the Notice on the client’s behalf unless they are the client’s personal representative as defined by state law.
 - c. If, despite its good faith efforts, the program is unable to obtain the client’s written acknowledgement, the program should document its good faith efforts to obtain the acknowledgement and the reason why the acknowledgement was not obtained.
2. Providing the Notice
 - a. Embark must make its Notice available to any person who asks for it.
 - b. Embark must prominently post and make available its Notice on any web site it maintains that provides information about its customer services or benefits.

3. Embark must also:
 - a. Provide the Notice to the individual no later than the date of first service delivery (after the April 14, 2003 compliance date of the Privacy Rule) and, except in an emergency treatment situation, make a good faith effort to obtain the individual's written acknowledgment of receipt of the Notice.
 - b. If an acknowledgment cannot be obtained, the provider must document their efforts to obtain the acknowledgment and the reason why it was not obtained.
4. When first service delivery to an individual is provided over the Internet, through e-mail, or otherwise electronically, the provider must send an electronic Notice automatically and contemporaneously in response to the individual's first request for service.
 - a. Embark must make a good faith effort to obtain a return receipt or other transmission from the individual in response to receiving the Notice.
 - b. In an emergency treatment situation, provide the Notice as soon as it is reasonably practicable to do so after the emergency situation has ended. In these situations, providers are not required to make a good faith effort to obtain a written acknowledgment from individuals.
 - c. Make the latest Notice (i.e., the one that reflects any changes in privacy policies) available at the provider's office or program for individuals to request to take with them, and post it in a clear and prominent location at the program.
 - d. Embark may e-mail the Notice to an individual if the individual agrees to receive an electronic Notice. See 45 CFR 164.520(c) for the specific requirements for providing the Notice.
5. The Notice must include an effective date. As a covered entity, Embark is required to promptly revise and distribute its Notice whenever it makes material changes to any of its privacy practices.
6. Required Elements
 - a. The header statement must state: "This Notice describes how health information about you may be used and disclosed and how you can get access to this information. Please review it carefully."
 - b. A description, including at least one example, of the types of disclosures for the purposes of treatment, payment and healthcare operations.
 - c. A description of each of the other purposes for which the program is permitted or required to use or disclose the information without an individual's written authorization (e.g., State Reporting).
 - d. If a use or disclosure is prohibited or materially limited by other applicable law, the description of such use or disclosure must reflect the more stringent law.
 - e. Statement that the program may contact the individual to: a) provide appointment reminders; b) provide information about treatment alternatives; or c) provide information about other health-related benefits and services, as applicable and one or more of these communications may be left on the client's answering machine/voice mail.
 - f. A description of the types of uses and disclosures that require authorization (e.g., psychotherapy notes, sale of protected health information (PHI), marketing).
 - g. A statement that other uses or disclosures will be made only with the individual's written authorization and that the individual may revoke this authorization.
 - h. A statement that the program may contact the client to raise funds for the program and the client has the right to opt out of receiving such communications.
 - i. A statement of the client's rights with respect to PHI:

- i. The right to access PHI;
 - ii. The right to amend PHI;
 - iii. The right to receive confidential communications;
 - iv. The right to an accounting of disclosures;
 - v. The right to request restrictions on certain uses and disclosures, including a statement that the program is not required to agree to a requested restriction, except for requests to restrict disclosures to a health plan if both of the following are true: (i) the disclosure is for the purposes of carrying out payment or health care operations and is not otherwise required by law; and (ii) the PHI pertain solely to a health care item or service for which the client, a person other than the health plan on behalf of the client, has paid the program in full.; and
 - vi. The right to obtain a copy of the Notice.
7. A statement of the program's duties with respect to PHI:
 - a. Embark is required by law to maintain the privacy of PHI, provide this Notice with respect to PHI, and to notify affected clients following a breach of unsecured protected health information;
 - b. Embark must abide by the terms of the Notice; and The program may apply a change to the Notice and make the new Notice effective for all PHI it maintains. The statement will also include how it will provide the revised Notice to individuals.
8. A statement that clients may complain to the Embark Privacy Officer or the Secretary of the U.S. Department of Health and Human Services if they believe their privacy rights have been violated, a brief description of how the individual may file a complaint, and a statement that the individual will not be retaliated against for filing a complaint.
9. A statement that includes the name or title and telephone number of the Privacy Officer.
 - a. The effective date of the Notice.
 - b. A statement that the Notice may change.
10. Programs that have a direct treatment relationship with clients must:
 - a. Provide the Notice no later than the date of the first service delivery; except in an emergency situation, in which case the program must deliver the Notice as soon as practicable after the emergency situation.
 - b. Programs are strongly encouraged to distribute the Notice on subsequent service deliveries; however, are only required to do so if the Notice has a material change since last providing a copy to the client.
 - c. Have the Notice posted in a clear and prominent locations (i.e., each client access/registration location) where it is reasonable to expect individuals seeking service from the program to read the Notice; and
 - d. Have the Notice available for individuals to take with them.
11. Embark must prominently post its most current Notice on the website and make the Notice available electronically through the website.
 - a. Programs may provide the Notice by e-mail. A paper copy must be provided at the request of the client or if the e-mail transmission fails.
 - b. If the first treatment service delivery to a client is delivered electronically, the program must provide the Notice automatically and immediately. The individual may obtain a paper copy at their request.

12. For recurring clients, the Notice may be provided at the initial interaction and does not need to be provided again unless a material change has been made since last providing a copy to the client.
13. Embark must document compliance by retaining copies of the Notices issued for at least six (6) years.

REFERENCES

1. Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164
2. American Reinvestment and Recovery Act of 2009, Title XIII, Subtitle D