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2 **7008 NOTICE OF PRIVACY PRACTICES FOR PROTECTED HEALTH**
3 **INFORMATION**

4 EFFECTIVE DATE: xx/xx/2023

5 REFERENCES: 45 C.F.R. § 164.520

6 **PURPOSE**

7 This policy applies to all Division of Developmental Disabilities (the Division)
8 staff. This policy outlines the requirements for the Notice of Privacy
9 Practices (the Notice) of Protected Health Information as required by the
10 Health Insurance Portability and Accountability Act of 1996 (HIPAA).

11 **DEFINITIONS**

- 12 1. "Disclosure" means the release, transfer, or provision of access
13 to or divulgence in any other manner of PHI to parties outside
14 the entity holding the information.
- 15 2. "Health care operations" means the same as in 45 CFR 164.501.
- 16 3. "Health Insurance Portability and Accountability Act (HIPAA)
17 Privacy Rule" means the Federal Regulation that establishes
18 national standards to protect individuals' medical records and
19 other individual health information that applies to health plans,

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21 health care clearinghouses, and those health care providers that
22 conduct certain health care transactions electronically. The Rule
23 requires appropriate safeguards to protect the privacy of
24 individual health information and sets limits and conditions on
25 the Uses and Disclosures that may be made of such information
26 without authorization from the Responsible Person. The Rule also
27 gives Members rights over their health information, including
28 rights to examine and obtain a copy of their health records, and
29 to request corrections.

30 4. "Member" means the same as "client" as defined in A.R.S. §
31 36-551.

32 5. "Protected Health Information" or "PHI" means individually
33 identifiable health information about a Member that is
34 transmitted or maintained in any medium where the information

35 is:

- 36 a. Created or received by a:
- 37 i. Health care provider,
 - 38 ii. Health plan,
 - 39 iii. Employer, or

- 40
41 iv. Health care clearinghouse.
- 42 b. Relates to the:
- 43 i. Past, present, or future physical or mental health
44 condition of a Member;
- 45 ii. Provision of health care to a Member; or
- 46 iii. Payment for the provision of health care to a
47 Member.
- 48 c. PHI excludes information in:
- 49 i. Education records covered by the Family Educational
50 Rights and Privacy Act as amended, 20 U.S.C.
51 1232g;
- 52 ii. Records described at 20 USC 1232g(a)(4)(B)(IV);
- 53 iii. Employment records held by a Covered Entity in its
54 role as an employer; or
- 55 iv. Regarding a person who has been deceased for more
56 than 50 years.
- 57 6. "Payment" means the same as in 45 CFR 164.501.
- 58 7. "Responsible Person" means the parent or guardian of a minor
59 with a developmental disability, the guardian of an adult with a

60
61 developmental disability or an adult with a developmental
62 disability who is a member or an applicant for whom no guardian
63 has been appointed.

64 8. "Treatment" means the same as in 45 CFR 164.501.

65 9. "Use" means the sharing, employment, application, utilization,
66 examination, or analysis of PHI within the entity that maintains
67 such information.

68 **POLICY**

69 **A.** The Division shall provide the Notice of Privacy Practices (the Notice)
70 to Members receiving services from the Division annually and upon
71 request.

72 **B.** The Division shall ensure the Notice:

73 1. Outlines the Uses and Disclosures of Protected Health
74 Information (PHI),

75 2. Notifies the Member of their rights regarding PHI, and

76 3. Notifies the Member of the Division's legal duties with respect to
77 PHI.

78 **C.** The Division shall Use or Disclose PHI in a manner consistent with the
79 Notice.

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- 81 **D.** The Division shall ensure the Notice is written in plain and simple
- 82 language that Members, employees, or personal representatives can
- 83 easily read and understand.
- 84 **E.** The Division shall promptly revise the Notice whenever there is a
- 85 material change to:
- 86 1. The Uses or Disclosures,
- 87 2. The Member's rights,
- 88 3. The Division's legal duties, or
- 89 4. Other privacy practices stated in the Notice.
- 90 **F.** Except when required by law, the Division shall not implement a
- 91 material change to any term of the Notice prior to the effective date of
- 92 the material change.
- 93 **G.** The Division shall ensure the Notice of Privacy Practices contains:
- 94 1. The following statement as a header or otherwise prominently
- 95 displayed:
- 96 "THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT
- 97 YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET
- 98 ACCESS TO THIS INFORMATION. PLEASE REVIEW IT
- 99 CAREFULLY."

- 100
101 2. A description of the types of Uses and Disclosures that the
102 Division is permitted to make for treatment, payment, and
103 health care operations and include at least one pertinent
104 example.
- 105 3. A description of all other purposes for which the Division is
106 permitted or required to Use or Disclose PHI without the
107 Member's written authorization.
- 108 4. A statement that if a Use or Disclosure for any purpose is
109 prohibited or significantly limited by another applicable law, the
110 description of such Use or Disclosure shall reflect the more
111 stringent law.
- 112 5. A statement that other Uses and Disclosures will be made only
113 with the Member's written authorization and that the Member
114 may revoke such an authorization at any time.
- 115 6. A statement of the Member's rights with respect to PHI and a
116 brief description of how the Member may exercise these rights,
117 as follows:

- 118
119 a. The right to request restrictions of certain Uses and
120 Disclosures of PHI, including a statement that the Division
121 is not required to agree to a requested restriction.
122 b. The right to receive communications of PHI confidentially.
123 c. The right to inspect and copy PHI.
124 d. The right to request an amendment to PHI.
125 e. The right to receive an accounting of applicable Disclosures
126 of PHI; and
127 f. The right of a Member, including an individual who has
128 agreed to receive the Notice electronically, to obtain a
129 paper copy of the Notice from the Division upon request.
130 7. A statement that the Division is required by law to maintain the
131 privacy of PHI.
132 8. A statement of the Division's legal duties and privacy practices
133 with respect to PHI.
134 9. A statement that the Division shall abide by the terms of the
135 Notice currently in effect.

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137 10. A statement that the Division reserves the right to change the
138 terms of the notice and how it will provide a revised notice,
139 along with the date the Notice goes into effect.
- 140 11. A statement that the Member has a right to file a complaint with
141 the Division Privacy Officer, including their name and telephone
142 number, and with the Secretary of the Department of Health and
143 Human Services if a Member believes their privacy rights have
144 been violated.
- 145 12. A statement that the Member will not be retaliated against if
146 they file a complaint.
- 147 **H.** The Division shall document compliance with the Notice requirements
148 by retaining copies of the Notices issued by the Division and, if
149 applicable, any written acknowledgments of receipt of the Notice or
150 documentation.