

4.5 Provider Nondisclosure and Confidentiality

The Health Insurance Portability and Accountability Act (“HIPAA”)

The HIPAA Privacy Rule requires providers to take reasonable steps to protect and safeguard the Protected Health Information (“PHI”) of members/patients. A member’s PHI is subject to the protections established by the Privacy Rule and under the contractual relationship between Senior Health Partners and the member, and between Senior Health Partners and the provider. PHI includes information regarding enrollment with Senior Health Partners, medical records, claims submitted for payment, etc. Such PHI must be safeguarded and held in strict confidence so as to comply with applicable privacy provisions of State and Federal laws, including the Health Insurance Portability and Accountability Act (HIPAA). Ways in which a provider can protect member/patient PHI include ensuring that only authorized provider office employees have access to member/patient charts, including limited information on member/patient sign-in sheets and restricting non-employees from being in areas of the office that contain member/patient records.

Member Authorization and Consent

Authorization must be obtained from the member/patient or qualified person before any personal health information can be released to an outside organization or agency, unless release of that information is legally required or permitted. Senior Health Partners members sign an authorization at the time of enrollment that allows Senior Health Partners to review, release, and use their respective PHI. In addition, at the time of the initial encounter with each Senior Health Partners member, direct medical care providers are required to obtain the member’s written consent to disclose personal health information to Senior Health Partners, and provide the member with a copy of their Privacy Notice indicating that their PHI will be shared with Senior Health Partners and other entities. This written consent and written acknowledgement of the provider’s Privacy Notice are to be maintained in the provider’s records and are subject to audit by Senior Health Partners. All providers should take all reasonable measures to protect the privacy and confidentiality of the member’s nonpublic personal information at all times, and to prevent the use or disclosure to any non-affiliated third party.

All providers should remain aware that PHI about the provision of substance abuse services, and those that identify the presence of HIV-related illness, are governed by a special set of confidentiality rules. Release of these records requires a special authorization. They should not be released to anyone other than the patient except under tightly defined and controlled circumstances. If you have any questions regarding the disclosure of Senior Health Partners member’s information, please call 1-212-324-2600.

Confidentiality of HIV-related Information

HIV-related information is any information that shows a person:

- Had an HIV-related test (such as an HIV antibody test, PCR test, CD4 test for HIV, viral load test, or other test);
- Has HIV infection, HIV-related illness, or AIDS;
- Has been exposed to HIV; or
- Has one of these conditions, including information on the individual's contacts

All providers must develop policies and procedures to assure the confidentiality of HIV-related information. Such policies and procedures shall assure that such information is disclosed to employees or contractors only when appropriate. Such policies and procedures shall include:

- develop and implement policies and procedures to maintain the confidentiality of confidential HIV-related information
- initial employee education and annual in-service education of employees
- maintenance of a list of job titles and the specific employee functions within those titles for which

employees are authorized to access such information

- procedures to limit access to trained staff (including contractors)
- protocols for ensuring that records are stored appropriately (including electronic storage)
- procedures for handling requests by other parties for confidential HIV-related information
- protocols prohibiting employees/agents/contractors from discriminating against persons having or suspected of having HIV infection
- review of the policies and procedures on at least an annual basis

Members' Access to Medical Records

The HIPAA Privacy Rule gives Senior Health Partners members the right to access, review, copy, and request amendments to his or her medical records held by providers. Senior Health Partners members or other individuals authorized by the member may submit a written request to his or her provider for a copy of such medical records. Additionally, a member or a member's representative may challenge the accuracy of the information in the medical records. Providers should have appropriate policies and procedures in place to address such requests for medical records.

Nondisclosure

Providers and employees, agents, or independent contractors of the provider (all of whom shall be deemed to be the Provider for the purposes of this section) may not disclose to third parties Senior Health Partners Trade Secret and Intellectual Property, regardless of whether such information is marked or designated "confidential," without the prior written consent of Senior Health Partners. In addition, the Provider must take commercially reasonable steps to safeguard Senior Health Partners Trade Secret and Intellectual Property to prevent its unauthorized or improper use or copying.

Return of Trade Secret and Intellectual Property

Upon termination of the Provider's Agreement for any reason, the provider promises to return (or destroy, at the option of Senior Health Partners) any and all material that falls under Senior Health Partners Trade Secrets and Intellectual Property to Senior Health Partners or Senior Health Partners' designee.