

**TITLE:** Protected Health Information  
Complaint or Grievance Process and  
Compliance

**Policy Number:** AM-HP-005

## **STATEMENT OF PURPOSE:**

To establish uniform procedures for resolving clients' complaints about alleged violations of their rights relating to Protected Health Information (PHI) under the Health Insurance Portability and Accountability Act (HIPAA) within the Agency. The information in this document applies to all Neighbor To Family employees, contractors, interns, volunteers, foster caregivers, birth parents, or clients granted access to Protected Health Information.

## **POLICY:**

Neighbor To Family ensures the client's rights are protected as mandated by the Health Insurance Portability and Accountability Act (HIPAA) which grants individuals specific rights relating to their health information, many of which overlap with client rights mandated by state and federal law. Specifically, in addition to privacy rights related to their Protected Health Information (PHI), individuals are granted the right to access their designated record set, to request restrictions on uses and/or disclosures of their PHI, to request confidential communications regarding his or her PHI, to request amendment of his or her PHI, or to receive an accounting of disclosures of his or her PHI. Neighbor To Family provides a process for individuals to complain about an entity's privacy-related practices related to policies and procedures and/or the entity's compliance with those policies and procedures as mandated by HIPAA.

## **PROCEDURE:**

### Reporting and Investigating Allegations of Privacy Violations

1. Any individual who believes the rights granted by the HIPAA privacy regulations or any other state or federal laws dealing with privacy and confidentiality have been violated, may file a complaint regarding the alleged privacy violation.

2. All Neighbor To Family employees, contractors, interns, and volunteers are responsible for adhering to the Protected Health Information Complaint or Grievance Process and Compliance policy. Individuals in violation of this policy will be subject to the appropriate and applicable disciplinary action, up to and including termination or dismissal.

### Filing a Complaint/Requesting Review of Denial

1. Neighbor To Family's Privacy Officer is designated as the person responsible to receive complaints or grievances relating to individuals' privacy rights.
2. In addition to filing a complaint with the Privacy Officer, individuals who believe a Neighbor To Family staff or contractor may have violated HIPAA privacy standards may file a complaint with the Department of Health and Human Services (HSS) or its equivalent. The use and/or disclosure of PHI is permitted in this case.
3. Contact: Neighbor To Family, Attention: Privacy Officer, 220 S. Ridgewood Avenue, Suite 260, Daytona Beach, FL 32114; or the Department of Health and Human Services 200 Independence Avenue, S.W., Washington, D.C., 20201.

### Receipt of a Complaint

Any privacy-related complaint or grievance made by an employee, contractor, intern, volunteer, foster caregiver, birth parent, or client at any time, must be forwarded to Neighbor To Family's Privacy Officer at the Corporate Office through the assigned case manager or therapist, if applicable.

### Investigative Process for Complaints COA-RPM-8.03.a

1. Any privacy complaint made against Neighbor To Family shall be reported and investigated as described below:
  - a. The Privacy Officer may contact the Executive Director, Compliance Officer, or Security Officer to assist in the investigation of the alleged client privacy violations or complaints made by employees, contractors, interns, volunteers, foster caregivers, birth parents, or clients;
  - b. In investigating and acting on the complaint or grievance, the Privacy Officer may consult with Neighbor To Family's Corporate Counsel;

- c. The Privacy Officer shall communicate the results of the investigation and resolution of the complaint or grievance to the Department Vice President, the Executive Director, Compliance Officer, and Security Officer within the mandated timeframe; the Executive Director, or designee, shall communicate the results to the Grievant; and
- d. Requests from HHS regarding an investigation by HHS must be forwarded to Neighbor To Family's Privacy Officer who will coordinate Neighbor To Family's assistance to HHS by:
  - i. Collecting and submitting all Neighbor To Family compliance records;
  - ii. Ensuring HHS access during normal business hours, or, if HHS determines that serious circumstances exist, at any time and without notice, to Neighbor To Family facilities, books, records, or other requested items; and
  - iii. Assisting HHS with obtaining information that is in the exclusive possession of another entity or, if the entity fails or refuses to furnish the information, certifying the efforts it made to obtain such information.

#### Denial of Request for Access of PHI COA-RPM-8.03.a

1. Generally the client's request for access should be honored, however, there are limited situations when access may be denied in whole or in part, or suspended. For example, clients generally have a right to access their PHI unless the treating clinician/physician determines that such access may cause an adverse reaction or may be harmful to the client.
2. If a determination is made by the treating clinician/physician that such a release may have an adverse reaction or may be harmful to a client, the Agency will take the following steps to advise the client of the denial; COA-RPM-8.03.b
  - a. The denial will be written to outline the basis for the denial;
  - b. Copies will be provided to the client, parent, legal custodian, attorney, or personal representative in accordance with HIPAA and PHI policies and procedures;
  - c. The written denial will be written in language and terminology clearly understood by the client;
  - d. The Agency will make available, to the extent possible, any PHI requested by the individual and not covered by the denial;
  - e. If Neighbor To Family does not maintain the PHI that is the subject of the request for access and the Agency knows where

- the information is maintained, the Agency will inform the client where to direct the request for access; and
- f. The Agency will inform the client of his or her right to complain/request a review of the denial and provide the contact information for the Neighbor To Family Privacy Officer and the Department of Health and Human Services.
3. Copies of all documents and documentation of the process will be filed in the client case record.

#### Review of Denial of Requested Access of PHI COA-RPM-8.03.b; COA CR. 3a.b.c

1. If an individual requests a review of denial, Neighbor To Family will designate a licensed health care professional, who was not directly involved in the denial, to review the decision to deny access. The Agency will promptly refer the request for review to the designated reviewing official. The designated reviewing official must determine, within a reasonable period of time, whether or not to deny the access requested based on one of the following reviewable grounds for denial:
  - a. A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;
  - b. The PHI makes reference to another person (unless such person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other persons; or
  - c. The request for access is made by the individual's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

#### Denial of Request for Correction/Amendment of PHI

1. Neighbor To Family may only deny a request for correction/amendment if it is determined that the PHI information subject of the request:
  - a. Was not created by the Agency, unless the client provides a reasonable basis to believe that the originator of the PHI

- information is no longer available to act on the requested amendment;
- b. The PHI information or record is not part of the client's designated record set;
  - c. The record is not available to the client under state and federal law; or
  - d. The record is accurate and complete.
2. The client will be informed, in writing, of the denial and the basis of the denial, of their right to submit a statement of disagreement with the denial, a description of how the individual may submit a complaint, and the contact information of the Privacy Officer and the Department of Health and Human Services.
  3. The individual may submit a written statement disagreeing with the denial of all or part of the requested amendment and the basis of such disagreement. The Agency may reasonably limit the length of the statement of disagreement.
  4. Neighbor To Family may prepare a written rebuttal to the individual's statement of disagreement. Whenever such a rebuttal is prepared, Neighbor To Family must provide a copy to the individual who submitted the statement of disagreement.
  5. Neighbor To Family must, as appropriate, identify the record or PHI in the designated record set that is the subject of the disputed amendment and append or otherwise link the individual's request for an amendment, the denial of the request, the client's statement of disagreement, if any, and Agency's rebuttal, if any, to the designated record set.
  6. If a statement of disagreement has been submitted by the client, Neighbor To Family must include the material or, at the election of Neighbor To Family, an accurate summary of any such information with any subsequent disclosure of the PHI to which the disagreement relates.
  7. If the individual has not submitted a written statement of disagreement, Neighbor To Family must include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the PHI only if the individual has requested such action.
  8. When a subsequent disclosure is made that does not permit the additional material to be included with the disclosure, NTF may separately transmit the material as applicable to the recipient of the standard transaction.
  9. Copies of all documents and documentation of the process will be filed in the client case record.

## Mitigation After Improper Protected Health Information (PHI) Use and/or Disclosure

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

## Decisions and Dispositions

1. Decisions and Dispositions
2. Sanctions may include, but are not limited to, the following:
  - a. Taking operational and procedural corrective measures to remedy violations;
  - b. Taking employment actions to re-train, reprimand, or discipline employees as necessary, up to and including termination; in addition, employees who violate the provisions of this policy may also be subject to criminal penalties under federal law;
  - c. Addressing problems with contractors once Neighbor To Family is aware of a breach of privacy;
  - d. Addressing and investigating staff and client violations; and
  - e. Incorporating sanction solutions into Neighbor To Family policies as appropriate.

## No Retaliation

There shall be no retaliation against any individual or person served or employee for having filed or assisted on the filing of a complaint or grievance, or for investigating or acting on a complaint or grievance. Any employee who becomes aware of any such retaliatory action shall immediately report it to the Compliance Officer.

## Record Keeping

The Compliance Officer shall document all HIPAA-related complaints or grievances, their resolution, and any actions resulting therefrom. Documentation of PHI requests and complaints by clients will be retained for six (6) years from date of creation or the date when it was in effect, whichever is later. This documentation shall be reviewed quarterly to determine if any pattern or systematic problems exist and, if so, necessary

steps shall be taken to address the problem.

### Monitoring

The Compliance Officer will collect and analyze information from each program annually to determine compliance.

### Reference:

COA-RPM-8.03.a; COA-RPM-8.03.a COA-RPM-8.03.b; COA-RPM-8.03.b;  
COA CR. 3a.b.c

[Health Insurance Portability and Accountability Act \(HIPAA\) - United States Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information](#)