

**Revision of Policy 49 – Business Associate Agreements**

**Background:**

CBH staff have reviewed the CBH Business Associate Agreements Policy (Policy #49) and are pleased to recommend revisions to the Board of Directors for review.

This policy and accompanying revisions have been reviewed and endorsed by Pat McDermott.

**Summary of Changes:**

<b>Current Business Associate Agreements</b>	<b>Proposed Changes to Policy</b>
Termination Agreement section	Removed last sentence of paragraph at the recommendation of Mr. McDermott
There are no other changes.	

**Motion from the CBH Executive Committee:**

That the Board approve the revisions to the Business Associate Agreements policy as presented.

**COLONIAL BEHAVIORAL HEALTH**  
**COUNSEL REVIEW OF BOARD POLICY**

**Name of Policy: Business Associate Agreements**

**Category: Administration and Operations**

**Policy No.: 49**

**Review Date: December 22, 2025**

**Name of Counsel: Patrick B. McDermott, Esq.**

**Comments of Counsel:**

1. **Virginia Code Compliance:** The Policy is compliant.
2. **Federal Law Compliance:** I checked all the federal references. Policy is Compliant.
3. **Grammar and Punctuation:** No changes to recommend.
4. **Comments:** The policy is acceptable without changes. I recommend that Quality and Compliance continue to review the Business Associate Agreement in use for compliance with federal law. Regarding the “Termination” paragraph, I think that it is acceptable, except for the last sentence, which I do not understand.

*Patrick B. McDermott, Esq.*

**Signature of Counsel**

## Policy

**Category:** Administration and Operations

**Title:** Business Associate Agreements

**Policy Number:** 49

**Primary Areas Affected:** CBH Organization

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## Policy

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## Policy Statement

It is the policy of Colonial Behavioral Health (CBH) to safeguard the privacy and security of Protected Health Information (PHI) in compliance with the Health Insurance Portability and Accountability Act (HIPAA) and applicable state laws. CBH will enter and maintain a Business Associate Agreement (BAA) with external entity, organizations or persons (referred to as a Business Associate) that creates, receives, maintains, transmits, exchanges or otherwise accesses PHI to perform functions, activities and/or services on behalf of CBH. No PHI may be shared with a Business Associate unless a fully executed BAA is in place.

The Business Associate must comply with all applicable federal regulations, including implementing internal practices and policies related to PHI, controlling staff access, reporting any violations, maintaining an accounting of disclosures, and monitoring its operations to ensure ongoing compliance.

The Business Associate may use or disclose Protected Health Information (“PHI”) to perform functions, activities, or services for, or on behalf of CBH, provided that such use or disclosure would not violate an individual’s confidentiality or the minimum necessary to perform the respective functions.

## Termination Agreement

CBH may immediately terminate the Agreement if it determines that Business Associate has violated a material term of the Agreement. The Agreement may also be terminated by either party with not less than thirty (30) days prior written notice to the other party, which notice shall specify the effective date of the termination; provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under any Documents or otherwise under this Agreement before the effective date of termination. Within thirty (30) days of expiration or earlier termination of this Agreement, Business Associate shall return or destroy all

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PHI received from CBH (or created or received by Business Associate on behalf of Covered Entity) that Business Associate still maintains in any form and retain no copies of such PHI. Business Associate shall provide a written certification that all such PHI has been returned or destroyed, whichever is deemed appropriate.

## Source of Authorization

Board of Directors

## Legal/Regulatory References

Health Insurance Portability and Accountability Act (HIPAA) of 1996:

- Privacy Rule: 45 CFR §160 and §164 Subparts A and E.
- Security Rule: 45 CFR §164 Subparts A and C.
- Breach Notification Rule: 45 CFR §164 Subpart D.

Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009.

42 CFR Part 2 – Confidentiality of Substance Use Disorder Patient Records (when applicable).

Omnibus Rule (2013) – Modifications to HIPAA/HITECH BA responsibilities.

## Definitions

**Business Associate (BA)** - An entity or individual, other than a workforce member of the agency, that performs functions or activities on behalf of the agency involving the use or disclosure of PHI. Examples include electronic

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health record (EHR) vendors, billing and claims processing vendors, IT support contractors, data storage or cloud service providers, telehealth platforms, third-party auditors, consultants, attorneys (when PHI is shared).

**Business Associate Agreement (BAA)** - A legally binding contract that outlines a Business Associate's responsibilities to safeguard PHI, comply with HIPAA requirements, and report breaches or improper disclosures.

**Protected Health Information (PHI)** - Individually identifiable health information in any form (electronic, paper, or oral) related to a client's physical or mental health condition, provision of care, or payment for care.

**Workforce Member** - Employees, volunteers, contractors, trainees, and other personnel whose work is under the agency's direct control.

**Subcontractor** - A person or entity to whom a Business Associate delegates a function involving PHI. Subcontractors must also sign a HIPAA-compliant agreement with the BA.

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## Diary of Changes

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### Date of Origin

04/14/2003

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### Dates of Review

12/18/2025	10/14/2020 – COVID	11/23/2015	10/01/2010
12/15/2022	19 Protocol	10/16/2014	09/30/2008
12/15/2021	04/08/2019	06/03/2013	09/19/2007

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### Dates of Revision

12/18/2025                    04/08/2019                    06/03/2013

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### Approved By

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Signature

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Effective Date

Ryan Ashe

CBH Board Chair

Printed Name

Title