AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Gunnison County Legal Instrument # _____

Date of Request: 3/12/2013 **Contractual Deadline:** **Received in Administration:** 3/13/2013

Desired Agenda Date: **Amount of Discussion Time Desire**

Action Requested: Consideration of Agreement

Parties to the Agreement: Community Options Inc and Gunnison County DHHS - Adult Protective Services

Term Begins: 1/15/2013 **Term Ends:** **Grant or Contract #:**

Summary: Protocol to provide guidance to adult protection and Community Centered Board professionals to provide collaborative services to at-risk adults with suspected or know developmental disabilities

Recommendation: Approval

Fiscal Impact:

Submitted by: CAO for Adult Protective Services **Return To:** CAO with copy to Karin Stewart

Finance Department Review: ● Required ○ Not Required

Comments: no fiscal component.

Signature 3/13/13 Discharge Date

County Attorney Review: ● Required ○ Not Required

Comments:

Approved.

Certificate of Insurance Required

Yes ___ No ✓ Initials ___

Signature Discharge Date 3/12/2013

Returned to Administration: 3/14/2013 **Original Returned:**

County Manager Approval:

Signature 3/19/13 Date 3-19-13

● Consent Agenda ○ Regular Agenda Time Allotte 4

Revised January 2011

Protocol for Quality Care of At-risk Adults with Developmental Disabilities

Between

The Gunnison County Department of Health & Human Services (APS)

and

Community Options Inc. (CCB)

DATE: 01/15/2013

PURPOSE: The purpose of this protocol is to provide guidance to adult protection and Community Centered Board (CCB) professionals as they work together to provide collaborative services to at-risk adults with suspected or known developmental disabilities. The protocol will be used for cross training of CCB staff and adult protection workers, law enforcement agencies, and professionals who provide services to at-risk adults. The expectation is that there will be a spirit of cooperation, creativity, and respect among the local professional agencies involved in assisting at-risk adults with Developmental Disabilities.

BACKGROUND AND BASIS FOR THE PROTOCOL

The vision of the Colorado Department of Human Services (CDHS) is to be the nation's leader in the design and delivery of high quality human services that help individuals, families, and communities to be safe and independent. A significant step toward that end is to issue guidelines endorsed by the requisite state agencies. This protocol is designed as a template which can be customized at the local level, for the purpose of assuring maximum local understanding, coordination, and cooperation in the provision of human services to clients.

The Colorado DDD and Colorado APS recommend that the directors of each county department of Health and Human Services and each CCB develop and implement a protocol agreement between the respective agencies.

PRINCIPLES OF THE PROTOCOL

This protocol is to ensure a coordinated response during all hours, provide for special requests for assistance from one agency to another, and arrange for joint service delivery when needed to maximize the effectiveness of the response. It is understood that joint service provision may be used as a means to coordinate the efforts of the involved agencies, and that each individual agency remains accountable to its own rules, policies, confidentiality requirements, and statutes.

LOCAL AGENCY DESCRIPTION

Adult Protective Services (APS) program staff are employees of the Gunnison County Health & Human Services, serving Gunnison and Hinsdale Counties.

The Community Options (Community Centered Board or CCB) program staff are employees or contractors of Community Options Inc., serving Montrose, Delta, Ouray, San Miguel, Gunnison, & Hinsdale Counties.

Attachment A provides a program description and comparison.

COMMON GROUND

Both the CCB and APS systems have common core values:

- Consent to services (§26-3.1-104, C.R.S.)
- Involuntary and/or emergency services (§26-3.1-104, C.R.S.)
- Confidentiality (§26-3.1-102, C.R.S.)
- Self-determination (12 CCR 2509-2)
- Least restrictive intervention and/or environment (§26-3.1-104, C.R.S.)

Communication and collaboration are key to providing services for the adult and viewed as shared responsibilities between the CCB's and APS systems. In order to facilitate treatment and services in a collaborative manner, CCB and APS staff members need to make every effort to ensure that the relevant confidential information can be easily conveyed between respective agencies. Through the use of a signed consent to services and/or specific release of information form that allows for the sharing of confidential information. It is understood, that in some instances information can be shared between agencies without consent to the degree this is necessary to arrange for services or prevent risk to an at-risk and potentially incapacitated adult. It is also understood that in such instances the HIPPA privacy act does not prevent this information sharing. **(45 C.F.R. §164.512(c)**

Attachment B provides the attached HIPPA Disclosure law cited above.

INFORMATION SHARING AND CONFIDENTIALITY

Information Sharing

The sharing of information between the CCB and APS will assist each agency in understanding details about the case that will enable a more efficient approach to improving the safety of the adult and provision of necessary services.

Confidentiality Guidelines

Statutory guidelines regarding confidentiality for respective programs will be reviewed and clarified as to their implications when specific information sharing is required. A written release of information will be obtained from the adult or the adult's guardian when required by mandate or agency policy.

APS: Disclosure of APS program report and case information shall be permitted only when authorized by law or ordered by the court, as outlined in Section 26-3.1-102(7) and 204(7), C.R.S. APS staff is allowed to share limited information that is necessary for the purposes of improving the safety and protection of the victim with those service providers and responsible parties involved in the resolution of the case. When a question exists regarding confidentiality, APS staff shall consult with their APS supervisor, county director, county attorney, the state program manager, or designee.

CCB: In general, the release of any confidential information by the CCB requires a properly executed release of information, and efforts would be made to obtain such release as appropriate, however, it is recognized that such releases are not required relative to referrals to law enforcement or APS regarding potential mistreatment, abuse, neglect, or exploitation.

HIPAA: (Health Insurance Portability and Accountability Act) was not intended to hinder the investigations of agencies authorized by law to receive reports of abuse, neglect, or domestic violence. Any release of health information will meet requirements set forth by Section 164.512(c) (1) (i) & (iii) of the HIPAA Privacy Rule. This section, entitled "Permitted Disclosures," states that a covered entity may disclose protected health information about an adult that the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social services or protective services agency, authorized by law to receive reports of such abuse, neglect or domestic violence to the

extent the disclosure is required by law, because it is believed that the disclosure is necessary to prevent serious harm to the adult.

REFERRAL PROCESS

The following referral process is recommended for each agency. This process will assist each referring agency to understand the expectations of the receiving agency upon referral of an adult, and will increase the number of appropriately executed referrals.

Resources to meet the client's needs may need to be parsed out to other community agencies or services: the local Area Agency on Aging, the Single Entry Point agency, Home Health, Assisted Living Facility, HCBS-SLS waiver services and so on.

Referral Process from the CCB to APS:

The CCB will refer adults that may need protective services to APS by filing a report with Gunnison County Health & Human Services. The referral is made because of the complex issues and is not based upon imminent danger to self or others or grave developmental disability, but because of complex issues surrounding the person's life. In the event that the matter does involve imminent danger to self or others or grave disability due to mental illness, the local mental health authority should be notified in addition to APS. Reports to APS from the CCB are appropriate when it is suspected or known that the adult is a victim of mistreatment, requires but has no caregiver services, and/or is unable to care for him or herself and is at risk of mistreatment. The report made to APS should provide as much information as possible, including:

- The concerns that prompted the report;
- Identifying information of the at-risk adult;
- Summary of the allegations;
- Information pertinent to safety issues for the adult and caseworker;
- Overview of the adult's functional capacity.

APS Response and Eligibility Determination

The report will be reviewed to determine whether or not the adult meets the definition of "at-risk" and whether or not allegations meet the definition of mistreatment or self-neglect. If the adult is determined eligible and allegations indicate the presence of or potential for mistreatment and/or self-neglect, the county will provide Adult Protective Services to the adult. **When providing protective services, county APS staff will:**

- Investigate the report of mistreatment and self-neglect of the at-risk adults;
- Utilize the least restrictive intervention to alleviate risk. An at-risk adult may expect that interventions will be provided in a manner that will cause minimal disruption to the at-risk adult's life;
- Honor the client's right to Self-Determination. An at-risk adult may refuse or reject adult protective services;
- Honor the client's right to Confidentiality. The provision of services and interventions are kept confidential unless a court orders the release of records;
- Provide protective services which may include, but are not limited to:

  - ✓ Receipt and investigation of reports of suspected abuse, neglect (including self-neglect), and exploitation
  - ✓ Counseling and casework services
  - ✓ Protection from mistreatment
  - ✓ Referral to community service providers
  - ✓ Arrangement of appropriate services
  - ✓ Assistance with applications for public benefits
  - ✓ Initiation of probate proceedings

- ✓ Work with other community agencies to prevent the future mistreatment or self-neglect of at-risk adults.

If the adult is determined ineligible and/or allegations do not indicate the presence of or potential for mistreatment and/or self-neglect, the county will attempt to provide information to the client or referring party regarding other services that may help alleviate the client and referring parties concerns.

Referral Process from APS to CCB:

Referrals to CCB are appropriate when the adult is experiencing one or a combination of the following:

- An imminent danger or threat to self or others, due to a developmental disability or debilitation;
- Experiencing a life crisis with developmental disabilities or symptoms; and/or
- In need of a developmental disabilities assessment for appropriate services provided by the CCB.

CCB Response and Eligibility Determination

If the adult is determined ineligible and/or the presenting situation does not warrant formal developmental disabilities intervention and/or treatment, CCB will: work with the adult and APS to make other, more appropriate referral.

If the adult is determined eligible for CCB, the CCB will: attempt to identify appropriate services and enroll the person if a vacancy exists; if a vacancy does not exist, attempt to obtain emergency resources from the state; or place the person on a waiting list.

BUSINESS AND NON-BUSINESS HOUR PROCESSES

County departments are required by APS program rule to have an established process to receive reports during business and non-business hours.

The Delta County Health & Human Services Department, herein known as Adult Protective Services (APS), receives reports during business hours on its Intake line at (970) 641-3244 (Gunnison County Health and Human Services). Business hours are Monday- Friday 8am to 5pm.

Reports made during non-business hours are received by Law Enforcement/911dispatch (970) 641-8000 and directed to County Department on-call employees as necessary. In this situation the protocol will be followed, which in most cases will result in a call to APS staff who will respond. An agency receiving a report during non-business hours should fax the report to APS on the next business day at fax number (970) 641-3738, Attention: Adult Protective Services.

Community Options Inc's regular business hours are Monday-Friday 8am to 5pm, and they can be reached at (970) 249-1412, and fax number (970) 249-0245. Non–emergency messages can be left on the voice mail of the same number during non-business hours. Emergency contact during non-business hours can be made through (970) 240-9200.

GUIDELINES FOR COORDINATED SERVICES

Service coordination between the CCB and APS will assist each agency in preventing gaps in or duplication of services and will improve service quality to the adult. When the CCB and APS are involved with the same adult, the agencies will seek corresponding written consent in order to share information and coordinate activities as the adult's presenting condition dictates. Information that is helpful to share may include:

- Service goals;
- Service plans;
- Anticipated service implementation and ending dates;
- Any significant changes in the adult's condition or situation, such as changes in medical status, living situation, or loss of benefits; and
- Any activity or decision by either agency that would significantly change the service plan.

In addition, the agencies will clarify on an as needed basis:

- The roles of each agency in ongoing service provision;
- The roles of each agency in emergency situations, such as emergency need for mental health, detoxification, or medical intervention;
- The agency that will act as primary case manager, to be determined on a case-by-case basis; and
- Provision for staff participation in any state required committees or teams (ie: APS Team, Human Rights Committee, Eligibility Committee)
- Joint, on-site crisis oriented work with at-risk clientele
- Joint investigations of CCB run group homes or other residential settings or program sites.

High-risk Cases Involving Adults Receiving CCB (Community Centered Board) and/or APS services:

Mutually served cases identified as high risk by APS or the CCB receiving the emergency will be treated in a coordinated manner.

- The agency (CCB or APS) that first identifies a high-risk situation for an adult receiving developmental disabilities and/or Adult Protective Services will immediately contact the other agency, by calling the other agency's respective intake, emergency, or crisis lines. Written information may be requested as necessary on a case by case basis.

- Some situations call for immediate action. When an agency identifies a high-risk situation, the agency will take immediate action to ensure the safety of the adult and of the public, by calling the appropriate emergency personnel to the scene as well as the other agency's respective intake, emergency, or crisis lines, to alert them of a concern. The agency that first identifies the high-risk situation will remain on scene until emergency personnel or other appropriate parties (potentially including the other agency's personnel) arrive to take responsibility for the at-risk adult and to ensure that their safety is secured, or that the immediate risk to the client is resolved before leaving.

- Further, the agency has the responsibility to notify the collaborating agencies of the action taken no later than the end of the next business day.

- Supervisors from the CCB and APS will work together to devise an immediate response to resolve the crisis using the resources available to both agencies. Specific services and distinct agency roles will be developed and clarified locally.

- Emergency joint case conferences may be called by either agency to devise contingency and longer term plans to address the high-risk situation.

- When feasible, joint home visits to the adult by APS and the CCB staff will be made to assess and resolve the high-risk situation.

High-risk Cases Involving APS Adults Living in the Community and Not Receiving CCB Services:

- The supervisor of the agency that identifies the high-risk situation for an adult not receiving CCB services will notify the supervisor of the other agency as soon as possible if it is believed that agency collaboration is necessary.

- The high-risk factors in the adult's situation and the need for priority attention will be explained.

CONFLICT RESOLUTION

APS and the respective CCB retain responsibility for making eligibility decisions regarding respective programs and services, and for determining the type, duration, and scope of services it will provide to eligible adults. In order to promote coordination and collaboration each entity shall attempt to resolve any conflicts in accordance with the process described below.

- In cases of disagreement between APS and CCB staff about an adult's eligibility for services or the appropriateness of a service offered by the CCB, every effort will be made to resolve the conflict at the practitioner level.

- If resolution cannot be achieved at the practitioner level, supervisory staff in each agency will confer to reach an acceptable resolution.

- If a county Department of Human Services has an established Adult Protection (AP) team, and if approved by the supervisors of respective agencies, the case situation may be presented to the AP team for recommendations.

- If a dispute cannot be resolved at the supervisory level or APS team level, the dispute will be referred to the administrative level at each agency for resolution.

REVIEW

APS and the Community Options Inc. (CCB) will review the terms of this protocol as needed and requested by the other agency. APS and the CCB may seek the consultation of respective state programs in the development or revision of protocols.

SIGNED BY:

_____ _____

Director, Matthew Birnie, Gunnison County Manager Date

_____ _____

Director, Tom Turner, Community Options, Inc. Date

Variable	Adult Protective Services (APS)	Community Options Inc (CCB)	
Program Purpose And Authority	The APS Program is mandated to investigate reports of mistreatment and self-neglect of at-risk adults and to provide protective services. APS intervention requires the consent of the adult, unless an adult is determined by a court to lack adequate capacity for decision-making. "Protective Services for Adults at Risk of Mistreatment or Self-neglect," Section 26-3.1-101, C.R.S., et seq and Section 26-3.1-201, C.R.S., et seq.	Community Options is a CCB designated by the state of Colorado to provide Case Management, and to provide or arrange for other services to individuals with developmental disabilities CRS 27-10.5	
Population Served	The APS Program provides services to all at-risk adults in their respective counties, regardless of living arrangement or income. At-risk adults are individuals 18 years of age or older who are susceptible to mistreatment or self-neglect because they are unable to perform or obtain services necessary for their health, safety, or welfare, or lack sufficient capacity to make or communicate responsible decisions regarding their person or affairs.	COI provides services to people with intellectual and developmental disabilities in Montrose County.	
Eligibility	Adult Protective Services Eligibility: At-risk adults regardless of income, who are: • Unable to protect their own interests; • In need of assessment for protection; • In need of short term services due actual or potential mistreatment; or • In need of ongoing protection as the result of documented	Adult DDD Eligibility Criteria: Developmental Disability means a disability that is manifested before the person reaches twenty-two (22) years of age, constitutes a substantial disability and is attributable to mental retardation or related conditions which include cerebral palsy, epilepsy, autism or other neurological conditions when those conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation.	

	evidence of mistreatment.		
Services	The focus of the APS Program is on the individual at-risk adult and is targeted toward resolving and preventing future mistreatment by: • Conducting investigations; • Arranging, coordinating, and monitoring services, such as medical care or home maker services or applications for public benefits; • Initiating probate proceedings, when necessary; and • Providing awareness education to professional and community groups. The APS Program is not authorized to assess facility compliance or address general facility practices, unless concerns are in relation to a particular resident.	Case Management, as well as yearly Service Planning, is provided to all individuals determined to have a developmental disability, regardless of enrollment into services. Community Options provides a wide range of services and supports to individuals 18 and over. Two Medicaid waivers are utilized to provide Comprehensive as well as Support services.	
Administrative Structure	Local APS programs are administered by County Departments of Social/Human Services. Statewide oversight: The Colorado Department of Human Services (CDHS) through the Division of Aging and Adult Services.	As a private, non-profit, Community Options is administered by a volunteer board of directors. Community Options contracts with the, Colorado Department of Human Services, Division of Developmental Disabilities and the Department of Health Care Policy and Financing. Group Homes are also licensed by the Dept. of Public Health and Environment.	
Collaborative Agreements, Community Participation	County APS programs with 10 or more reports in one year must have an adult protection (multi-disciplinary) team. All counties must have collaborative agreements with local law enforcement and other agencies mandated to investigate reports of mistreatment.	COI participates in Adult Protection, MMH Ethics Committee and has MOUs with school districts for Child Find. We also seek out APS staff for relevant committees	

GLOSSARY

Abuse: The infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation; where unreasonable confinement or restraint is imposed; or where there is subjection to nonconsensual sexual conduct or contact classified as a crime under the "Colorado Criminal Code", title 18, C.R.S.;

Caretaker Neglect: See Neglect.

Exploitation: The illegal or improper use of an at-risk adult for another adult's advantage, such as forcing the adult to panhandle.

Financial Exploitation: The illegal or improper use of an at-risk adult's financial resources for another adult's profit or advantage.

Guardian: An adult at least twenty-one years of age, resident or non-resident, who has been appointed by the court to make decisions for an adult found to lack decision-making capacity. The court may grant the guardian authority to make all decisions for the adult (ward) or may grant a limited guardianship that limits the duties, powers, and/or duration of the guardianship. APS units are not required to take guardianship of any clients receiving their services. CCB's are not allowed to take guardianship of any clients receiving their services.

An emergency guardian may be appointed without notice only if the court finds from testimony that the adult will be substantially harmed if appointment of a guardian is delayed. The emergency guardian's authority may not exceed sixty days and the guardian may exercise only the powers specified in the court order. Appointment of an emergency guardian is not a determination of the adult's incapacity. An emergency guardian or the powers granted may be removed or modified by the court at any time.

If the court finds that a guardian is not effectively performing the guardian's duties and that the welfare of the ward requires immediate action, it may appoint a temporary substitute guardian for the ward for a specified period not exceeding six months.

High Risk: "High risk" refers to a situation in which there is imminent risk to the adult's health or safety or public safety is in immediate jeopardy. The primary focus in high-risk cases will be the resolution of the immediate or pending crisis.

Incapacitated Adult: An adult, other than a minor, who is unable to effectively receive and/or evaluate information or make or communicate decisions to such an extent that the adult lacks the ability to satisfy essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance. (Section 15-14-102, C.R.S.) A licensed physician or psychologist determines the adult is incapacitated and a court must declare the adult to lack decision-making capacity.

Mistreatment: For purposes of this protocol, includes physical, self, and sexual abuse, self and caretaker neglect and financial and other exploitation.

Neglect: "Caretaker neglect" occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision is not secured for the at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable adult in the same situation would exercise; except that the withholding of artificial nourishment in accordance with the "Colorado Medical Treatment Decision Act", article 18 of title 15, C.R.S., shall not be considered as abuse.

Self- Neglect: An act or failure to act whereby an at-risk adult substantially endangers his/her own health, safety, welfare, or life by not seeking or obtaining services necessary to meet his/her essential human needs. Choice of lifestyle or living arrangements shall not, by itself, be evidence of self-neglect.

DISCLOSING PROTECTED HEALTH INFORMATION
ABOUT VICTIMS OF ABUSE, NEGLECT, OR
DOMESTIC VIOLENCE

45 C.F.R. §164.512(c)

(c) Standard: disclosures about victims of abuse, neglect or domestic violence.
(1) Permitted disclosures. Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:
(i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;
(ii) If the individual agrees to the disclosure; or
(iii) To the extent the disclosure is expressly authorized by statute or regulation and:
(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or
(B) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.
(2) Informing the individual. A covered entity that makes a disclosure permitted by paragraph (c)(1) of this section must promptly inform the individual that such a report has been or will be made, except if:
(i) The covered entity, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or
(ii) The covered entity would be informing a personal representative, and the covered entity reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

Allowed Disclosure of Protected Health Information

Under the circumstances described below, the HIPAA Privacy rule allows Covered Entities to disclose Protected Health Information about an individual whom the Covered Entity reasonably believes to be a victim of abuse, neglect, or domestic violence. References to "individual" should be construed to mean the individual believed to be the victim. The rule allows such disclosure to be made to any governmental authority authorized by law to receive reports of such abuse, neglect, or domestic violence, such as adult protective or social services agencies, state survey and certification agencies, ombudsmen for the aging or those in long-term care facilities, and law enforcement or oversight.

The Privacy rule specifies three circumstances in which disclosures of Protected Health Information is allowed in order to report abuse, neglect or domestic violence. First, the rule allows disclosure of Protected Health Information related to abuse if required by law and the disclosure complies with and is limited to the relevant requirements of such law.

Second, Covered Entities are allowed to disclose Protected Health Information related to abuse if the individual has agreed to such disclosure. When considering the possibility of disclosing Protected Health Information in an abuse situation pursuant to this section, Covered Entities should seek the individual's agreement whenever possible.

Third, Covered Entities are allowed to disclose Protected Health Information about an individual without the individual's agreement if the disclosure is expressly authorized by statute or regulation and either: (1) the Covered Entity, in the exercise of its professional judgment, believes that the disclosure is necessary to prevent serious harm to the individual or to other potential victims; or (2) if the individual is unable to agree due to incapacity and a law enforcement or other authorized public official represents that the Protected Health Information for which disclosure is sought is not intended to be used against the individual, and that an immediate enforcement activity that depends on the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

The rule also requires Covered Entities to inform the individual that the Covered Entity has disclosed Protected Health Information to report abuse, neglect, or domestic violence. Covered Entities may provide this information orally. Written notification is not required, nor is it encouraged, due to the sensitivity of abuse situations and the potential for the abuser to cause further harm to the individual if, for example, a Covered Entity sends written notification to the home of the individual and the abuser intercepts the communication. Whenever possible, Covered Entities should inform the individual at the same time that they determine abuse has occurred and decide that the abuse should be reported. In cases involving patient incapacity, we encourage covered entities to inform the individual of such disclosures as soon as it is practicable to do so.
The rule provides two exceptions to the requirement to inform the victim about a report to a government authority, based on concern for future harm. First, a Covered Entity need not inform the victim if the Covered Entity, in the exercise of professional judgment, believes that informing the individual would place the individual at risk of serious harm. This exception is included in the rule to address the potential for future harm, either physical or emotional, that the individual may face from knowing that the report has been made. Second, a covered entity may choose not to meet the requirement for informing the victim, if the covered entity actually would be informing a personal representative (such as a parent of a minor) and the Covered Entity reasonably believes that such person is responsible for the abuse, neglect, or other injury that has already occurred and that informing that person would not be in the individual's best interests.

Purpose

Covered Entities are required to exercise professional judgment in conjunction with applicable statutes and regulations when disclosing Protected Health Information regarding an individual who is a possible victim of abuse, neglect, or domestic violence. Department has developed this policy to ensure any use or disclosure of Protected Health Information related to victims of abuse, neglect, or domestic violence is in compliance with all applicable laws and regulations.

Policy

1. Department may disclose Protected Health Information about an individual whom it reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive such reports.

Procedures

1. Department may disclose Protected Health Information about an individual whom the Covered Entity reasonably believes to be a victim of abuse, neglect, or domestic violence:

(a) if the individual agrees to the disclosure (communication between Department and individual, including agreement, may be oral);

(b) to the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law; or

(c) to the extent the disclosure is expressly authorized by statute or regulation and:

(i) Department, in the exercise of professional judgment, believes the disclosure to be necessary to prevent serious harm to the individual or other potential victims; or

(ii) if the individual is incapacitated and unable to agree to disclosing their Protected Health Information, a law enforcement or public official authorized to receive the report represents that the Protected Health Information, for which disclosure is sought, is not intended to be used against the individual, and that immediate enforcement activity is dependent upon the disclosure and would be adversely affected by waiting until the individual is able to agree to the disclosure.

2. If Department discloses Protected Health Information about an individual, in accordance with Procedure #1, Department will promptly inform the individual, that such a disclosure has been or will be made except when Department:

(a) in the exercise of professional judgment, believes informing the individual would place him/her at risk of serious harm; or

(b) would be informing a personal representative, and Department reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by Department in the exercise of professional judgment.

3. Department will report child abuse or neglect without restriction to the public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect.

4. Personnel receiving a request from an individual or entity for use or disclosure of Protected Health Information will utilize APS FILE/SYSTEMS to determine whether the requesting individual is a person with whom Department has a knowing relationship.

5. Personnel will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting Protected Health Information.

6. Once it is determined that use or disclosure is appropriate, personnel with appropriate access clearance will access the individual's Protected Health Information using proper access and authorization procedures.
7. The requested Protected Health Information will be delivered to the individual in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.
8. MEDICAL RECORDS personnel will appropriately document the request and delivery of the Protected Health Information.
9. In the event that the identity and legal authority of an individual or entity requesting Protected Health Information cannot be verified, personnel will refrain from disclosing the requested information and report the case to the [PRIVACY OFFICER] in a timely manner.
10. Knowledge of a violation or potential violation of this policy must be reported directly to the HIPAA PRIVACY AND SECURITY OFFICER, or to the employee compliance hotline.

The State of Colorado Model HIPAA Policies and Procedures may be used by any Department or agency of the State of Colorado for internal purposes. Drafts of the Policies were purchased from Ernst & Young via a contract with the Colorado Department of Human Services under which the State, State agencies and counties may use the deliverables under the contract for internal purposes. The Policies were reviewed by the Colorado Office of the Attorney general to ensure that the HIPAA privacy regulations cited in the policies are an accurate representation of the HIPAA statutes and regulations.