

## Policy 3.5

<b>POLICY TITLE:</b>	<b>BREACH NOTIFICATION</b>	<b>POLICY #</b>	<b>3.5</b>	<b>REVIEW DATES</b>	
<b>Topic Area:</b>	<b>INFORMATION MANAGEMENT</b>				
<b>Applies to:</b>	LRE Staff, Member CMHSPs and LRE Business Associates				
<b>Review Cycle:</b>	Annual	<b>ISSUED BY:</b>	Chief Executive Officer		
<b>Developed and Maintained by:</b>	CEO and Designee	<b>APPROVED BY:</b>	Board of Directors		
<b>Supersedes:</b>	N/A	<b>Effective Date:</b>	08/20/2020	<b>Revised Date:</b>	12/16/21

### I. POLICY

The Health Insurance and Portability Accountability Act (**HIPAA**) requires that covered entities notify individuals whose unsecured protected health information has been impermissibly accessed, acquired, used, or disclosed, compromising the security or privacy of the protected health information. In certain circumstances, a breach must also be reported to the Secretary of HHS and through the media. Notification requirements only apply to breaches of unsecured PHI. If PHI is encrypted or destroyed in accordance with the HIPAA guidance, notification is not required.

The Lakeshore Regional Entity (LRE), its Business Associates (BA), contracted providers, Member Community Mental Health Service Programs (CMHSPs), and the LRE network will provide notification following the discovery of a breach of unsecured protected health information in accordance with 45 CFR 164.400-414 (notification in the case of breach of unsecured protected health information).

LRE's Breach Notification Process will be carried out in compliance with the Health Information Technology for Economic and Clinical Health (**HITECH**) Act of the American Recovery and Reinvestment Act of 2009 and its implementing rules and regulations, each as may be amended from time to time, including those regulatory amendments of the Department of Health and Human Services (HSS) published at 78 Fed. Reg. 5566 (Jan. 25, 2013), collectively "HIPAA."

### II. PURPOSE

To ensure LRE staff, member CMHSPs, regional contracted providers and other Business Associates take required actions when a breach occurs.

### III. APPLICABILITY AND RESPONSIBILITY

LRE staff, Member CMHSPs, Network Providers and LRE Business Associates

#### IV. MONITORING AND REVIEW

This policy will be reviewed by the CEO and designee, on an annual basis.

#### V. DEFINITIONS

**Breach:** The unauthorized acquisition, access, use or disclosure of unsecured PHI that compromises the privacy or security of the information. In order for a breach to occur, the acquisition, access, use or disclosure must be in violation of the Health Insurance and Portability Accountability Act (**HIPAA**) privacy rules.

**Disclosure:** The release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.

**Protected Health Information (PHI):** Protected health information means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium.

**Unsecured Protected Health Information (Unsecured PHI):** Unsecured PHI means all PHI except for ePHI secured through encryption, and ePHI or paper PHI that has been destroyed. HHS provides guidance prescribing acceptable encryption and destruction technologies and methodologies.

**Notification:** Contacting appropriate parties to notify them that there has been a breach of PHI. Depending on the breach situation, the following may need to be notified:

1. The individual(s) whose PHI has been breached
2. The media
3. HHS

Such notification must meet the minimum standards of both the HIPAA and HITECH Acts. The HIPAA breach notification rule can be found at 45 CFR 164.440-414.

**Business Associate:** A person or entity who performs functions or activities on behalf of, or certain services for, a covered entity that necessarily involve the use or disclosure of individually identifiable health information.

**Covered Entity:** A health plan, health care clearinghouse or health care provider that transmits any health information electronically in connection with a covered transaction. A covered entity may be a business associate of another covered entity. LRE is a covered entity.

**Workforce:** Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for LRE or a business associate, is under the direct control of LRE or a business associate, whether or not they are paid by LRE or a business associate.

#### VI. RELATED POLICIES AND PROCEDURES

- A. LRE Information Management Policies and Procedures
- B. LRE Compliance Policies and Procedures
- C. LRE Compliance Plan
- D. LRE Human Resources Policy and Procedures

#### VII. REFERENCES/LEGAL AUTHORITY

- A. Health Insurance Portability and Accountability Act of 1996
- B. Health Information Technology for Economic and Clinical Health Act of 2009

- C. Identity Theft Protection Act
- D. 45 CFR 164.440-414
- E. MDHHS Medicaid Specialty Supports and Services Contract

**VIII. CHANGE LOG**

<b>Date of Change</b>	<b>Description of Change</b>	<b>Responsible Party</b>
12/16/21	Separated policy/procedure	CEO and Designee