



Policy Number	CP-005
Policy:	Right-To-Know Law Requests
Section:	Compliance

I. Purpose

The Behavioral Health Alliance of Rural Pennsylvania (BHARP) will process Right-To-Know Law (RTKL) requests submitted to BHARP in accordance with Section 504 of the Right-To-Know Law, 65 P.S. §67.101 *et seq.*

BHARP has made this policy available to the public at its administrative offices and on its website, along with the BHARP RTKL Request Form. This policy is reviewed annually by the Compliance Committee for any necessary modifications.

II. Definitions:

The Right to Know Law or the Act – the Act of June 21, 1957 (P.L. 390, No. 212), titled the “Right-to-Know Law” (RTKL) as amended, by Act 2002-50 and Act 3 of 2008 also commonly referred to as the “Open Records Law;” 65 P.S. § 67.101 *et seq.*

Business Day – any weekday or regular business day (Monday through Friday from 9:00am to 5:00pm), except those days when the offices of BHARP are closed due to a holiday, severe weather, natural or other disaster, pandemic, epidemic or other public health and welfare emergencies, emergency declarations or at the request or direction of local, state or federal officials. Requests received after the close of the regular business hours will be considered as being received on the next business day.

Deemed denied – Any request that (i) is not responded within the initial five (5) Business Days period; (ii) is not responded at the expiration of the invoked thirty (30) calendar day extension period following the initial five (5) Business Days to respond; (iii) is not extended with the Requester’s written agreement if additional time in excess of the invoked 30-day extension is needed to respond; or (iv) is not responded at the expiration of any and all permissible extensions.

Interim Response – reply to a request with notice of invocation of an additional 30-day extension to respond, or any written notice to the Requester that additional time is needed to provide a final response.

Office of Open Records (OOR) – the administrative office established in the Department of Community and Economic Development for the Commonwealth of Pennsylvania.

Public Record – A record, including a financial record, of BHARP that

- (a) Is not exempt under Section 708 of the RTKL;

- (b) Is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or
- (c) Is not protected by a privilege (attorney-client privilege, doctor-patient privilege, the speech and debate privilege, or any other privilege recognized by a court interpreting the laws of Pennsylvania).

Record – information, in whatever format or medium, that documents a transaction or activity of BHARP and is created, received, or retained pursuant to law or in connection with a transaction, business or activity of BHARP.

Requester – a person or an entity that is a legal resident of the United States and requests records pursuant to RTKL.

Response – reply to a request made pursuant to RTKL. A response may be either (i) the act of providing to the Requester physical access to the requested record for inspection, or electronic access to a record, or access to a record on BHARP’s public website, or access through any other publicly accessible electronic means, or (ii) BHARP’s written notice

- (1) granting the request;
- (2) denying the request; or
- (3) granting the request in part and denying the request in part.

III. Procedures

A. Requests

A Requester must submit a request in writing by utilizing the approved BHARP RTKL request form located on the BHARP website.

Each written request shall include the name of the Requester and the address to which BHARP should address its response. BHARP will not accept and/or respond to verbal or anonymous requests.

The request should identify and describe the records with sufficient specificity to enable BHARP to ascertain which records are being sought. Failure to be reasonably specific may result in a denial of the request. Requesters should clearly indicate the preferred method of access to a public record by paper copies, electronic copies, or by in-person inspection.

The BHARP RTKL request form must be completed in its entirety and may be submitted via the website, mail, email, fax or in person to BHARP.

Website: www.bharp.org
Email: compliance@bharp.org
BHARP address: 301 Science Park Rd, State College, PA 16803
Fax number: 814-826-2972

B. Responses

BHARP will make a good faith effort to determine whether the requested record is a Public Record and will provide a timely response to the Requester.

If the requested record is a Public Record and the request is granted, BHARP shall provide the Requester with access to inspect a record in a format or medium maintained by BHARP by providing

access in the BHARP office if agreed to by the Requester; by sending a copy of a requested record to the Requester; or by notifying the requester that the record is available through publicly accessible electronic means.

If the request is for paper copies of records, BHARP may request that the Requester pays copying and postage fees. BHARP may withhold release of the record(s) until Requester prepays the fees if estimated fees exceed \$100. .

BHARP will invoke an additional 30 days to respond by notifying the Requester of the same if the any of the following exist:

- The RTKL request requires redaction of a public record;
- The RTKL request requires retrieval of a record from a remote location;
- A response within the five-business-day period cannot be accomplished due to bona fide staffing limitations;
- A legal review is necessary to determine whether the record requested is subject to access;
- The requester has not complied with BHARP's policies regarding access to public records; or
- The extent or nature of the request precludes a response within the required time period.

The 30-day extension notice must:

- Be sent to the Requester within five business from the date of the request;
- State that the request is being reviewed and the reason for the review;
- Give an estimate of any applicable fees owed when the record becomes available;
- Identify the date by which BHARP will issue its response. The date cannot be beyond five (5) business days plus thirty (30) calendar days from the date of the request.

If the date of an expected response is beyond the invoked 30 days extension, the request will be deemed denied unless the Requester has agreed in writing to the date specified in the notice.

If a written request is denied in whole or in part, BHARP will issue a final written response that will include the reasons and legal authority relied on by BHARP, and notice informing the Requester of their right to appeal the denial and an explanation of the procedure for the Requester to appeal.

C. Redactions

BHARP will only produce to the Requester documents that are Public Records (as defined in this policy and in the RTKL). Portions of the requested record(s) that are not Public Records shall be redacted before the record(s) are produced to the Requester.

BHARP shall redact parts of the requested record(s) that contain the following categories of information as exempt from disclosure under Section 708(b):

1. Loss of Funds/Personal Security: Records that, if disclosed, would result in the loss of federal or state funds. Also, records whose release would be reasonably likely to result in substantial and demonstrable risk of physical harm to a person or to his or her personal security.

2. Public Safety: Records that, if disclosed, would be reasonably likely to jeopardize homeland security or public safety or preparedness.

3. Infrastructure Security: Records that, if disclosed, would be reasonably likely to endanger the safety or security of a building, public utility, infrastructure or information storage system.

4. Computer Security: Records that, if disclosed, would be reasonably likely to jeopardize computer security.

5. Health Records: Medical, psychological and related records that contain individually identifiable health information.

6. Personal Identification: Records containing all or part of a person's Social Security number; driver's license number, personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; employee numbers or other confidential personal identification numbers; a spouse's name, marital status, beneficiary or dependent information. Also, records containing home addresses of law-enforcement officers and judges.

7. Personnel Records: Letters of reference or recommendation, unless they involve an appointment to fill a vacancy in an elected office or an appointed office that requires confirmation by the state Senate. Also, performance ratings or reviews; academic transcripts; state civil-service test results and certain local test results; applications of job applicants who are not hired; workplace support services information; written criticism about a public employee; grievance material; information about discipline, demotion or discharge contained in a personnel file, unless it involves final action by an agency that results in demotion or discharge.

8. Collective Bargaining: Records related to collective-bargaining strategy or negotiations and exhibits and transcripts in arbitration cases involving collective-bargaining disputes or grievances. Final contracts and arbitration awards are public.

9. Drafts: Drafts of bills, resolutions, regulations, policies, management directives and ordinances.

10. Deliberations: Records reflecting internal, pre-decisional deliberations of BHARP, such as a budget recommendation, a legislative proposal or the strategy for winning approval of such proposals. (Records requesting state funding or grants or the results of public-opinion polls are public. Also public are documents that are presented to a quorum of a public board for deliberation - such as the packets board members routinely receive - so long as they are not otherwise exempt under the law.)

11. Trade Secrets: Records that reveal trade secrets or other confidential proprietary information.

12. Working Papers: Notes and working papers used by a public official or employee strictly for personal use, such as message or routing slips.

13. Donations: Records revealing the identity of a person who makes a donation to BHARP, unless the donation is intended to provide remuneration or other tangible benefit to a public official or employee.

14. Unpublished Academic Records: Unpublished lecture notes, manuscripts, articles, creative works, research material and scholarly correspondence related to a community college or state-owned university.

15. Academic Transcripts: Academic transcripts; examinations; examination questions and answers; and examination scoring keys used by schools and licensing agencies.

16. Criminal Investigative Records: Records related to or resulting in a criminal investigation.

17. Non-Criminal Investigative Records: Records related to non-criminal investigations, including complaints submitted to agencies, work papers underlying an audit and records that reveal the identities of confidential sources. (Records of civil fines or penalties, settlement agreements, license revocations or similar decisional documents are public.)

18. 911 Calls: Recordings and transcripts of 911 calls, although an agency or court may release these if deemed to be in the public's interest. Time-response logs are public.

19. DNA & RNA: Records containing DNA & RNA information.

20. Autopsies: Contents of autopsy report, except for the victim's name, cause of death and manner of death.

21. Minutes: Draft minutes of any public meeting until the next scheduled meeting of the agency. Any records of private, executive-session discussions.

22. Appraisals and Reviews: Records involving real-estate appraisals, engineering estimates, environmental reviews, audits and other evaluations involving a potential agency lease, acquisition or disposal of real property. Exception ends when a final decision is made

D. Appeals

To challenge the denial, partial denial, or deemed denial of a request for BHARP records, an appeal may be filed using the Commonwealth Office of Open Records appeal form, available at <http://www.openrecords.pa.gov/Appeals/AppealForm.cfm>, or by contacting the OOR at the following address:

Office of Open Records
Commonwealth of Pennsylvania
333 Market St., 16th Floor
Harrisburg, PA 17101-2234
openrecords@pa.gov

All appeals must be filed within fifteen (15) business days of the mailing date of BHARP's denial, partial denial, or deemed denial to the Requester. An appeal must be in writing, state the grounds upon which the Requester asserts the requested records are Public Records, must address BHARP's grounds for denying the request, and must include a copy of BHARP's response sent to the Requester.

If the requested records affect a legal or security interest of a BHARP employee, contain confidential or proprietary records of a person or entity, or are held by a contractor or vendor of BHARP, BHARP must notify the interested parties immediately and provide proof of that notice to the Office of Open Records within seven (7) business days from the date of the Official Notice of Appeal. Notice of the interested parties shall be made by (1) providing a copy of all documents included with the appeal to OOR, and (2) advising that interested persons may request to participate in the appeal

E. Fees

Applicable fees to be charged by BHARP under the RTKL are as follows:

- Fees determined by BHARP shall follow the Commonwealth's Office of Open Records (OOR) fee structure available at [Official Fee Structure](#)

BHARP may require a Requester to prepay an estimate of the fees if the fees required to fulfil the request are expected to exceed \$100.00

IV. Record Retention

BHARP's record retention policy is available at [location, physical or online, where the retention policy is available for public review].

Notwithstanding any other record retention policy, once an RTKL request is received, BHARP shall maintain, preserve, retain, protect, and not destroy any and all records that are potentially responsive to the request until the request is fulfilled and all associated appeals are resolved.

V. Commonwealth RTKL requests

BHARP and its subcontractors shall comply with the Commonwealth's RTKL polices, as outlined in Appendix B of the Behavioral Health HealthChoices Program, Standards & Requirements (PS&R).

VI. Replacing Policy: N/A