

25.1

Enforcement, Sanctions, and Penalties for Violations of DHH HIPAA Privacy Policies

I. Purpose

The intent of this policy is to specify enforcement, sanction, penalty, and disciplinary actions that may result from violation of DHH policies regarding the privacy and protection of an individual's information and to offer guidelines on how to conform to the required standards.

II. Applicability

DHH's HIPAA Privacy Policies are applicable to DHH's workforce and its business associates.

III. Implementation

The implementation date of these policies is April 14, 2003.

IV. Definitions

The definitions are included in the body of these policies.

V. Responsibilities

DHH's workforce and its business associates are responsible for assuring that DHH's HIPAA Privacy Policies are followed. The DHH Privacy Officer and the Program Privacy Officers are responsible for the implementation, resolution and enforcement of all aspects related to DHH HIPAA Privacy Policies.

VI. E x c e p t i o n s

Exceptions are listed in the policies.

VII. Policy: Enforcement, Sanctions and Penalties for Violations of DHH HIPAA Privacy Policies

A. General

1. All employees, volunteers, interns and members of the DHH workforce must guard against improper uses or disclosures of a DHH client or participant's information. DHH employees, volunteers, interns and members of the DHH

workforce who are uncertain if a disclosure is permitted are advised to consult with a supervisor in the DHH workplace. The DHH Privacy Officer is a resource for any DHH workplace that cannot resolve a disclosure question, and may be consulted in accordance with the operational procedures of that DHH workplace.

2. Uses or disclosures which are incidental do not constitute a violation of DHH HIPAA Privacy Policies.
3. All employees are required to be aware of their responsibilities under DHH privacy policies. DHH workforce members will be expected to sign a DHH "Privacy Program Statement of Understanding" (DHH HIPAA Privacy #801P) indicating that they have been informed of the business practices in DHH as relates to privacy, and they understand their responsibilities to ensure the privacy of DHH clients and participants.
4. Supervisors are responsible for assuring that workplace members who have access to confidential information, whether it is electronic, hard copy, or orally, are informed of their responsibilities.
5. DHH workforce members who violate DHH policies and procedures regarding the safeguarding of an individual's information are subject to disciplinary action by DHH up to and including immediate dismissal from employment, and legal action by the individual.
6. DHH workforce members who knowingly and willfully violate State or Federal law for improper use or disclosure of an individual's information are subject to criminal investigation and prosecution or civil monetary penalties.
7. If DHH fails to enforce privacy safeguards, DHH as a state agency may be subject to administrative penalties by the Department of Health and Human Services (DHHS), including federal funding penalties.

B. Retaliation Prohibited

Neither DHH, as an entity nor any DHH workforce member will intimidate, threaten, coerce, discriminate against, or take any other form of retaliatory action against:

1. Any individual for exercising any right established under DHH policy, or for participating in any process established under DHH policy, including the filing of a complaint with DHH or with DHHS.
2. Any individual or other person for:

- a) Filing of a complaint with DHH or with DHHS as provided in DHH privacy policies;
- b) Testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing relating to DHH policy and procedures; or
- c) Opposing any unlawful act or practice, provided that:
 - (1) The individual or other person (including a DHH employee) has a good faith belief that the act or practice being opposed is unlawful; and
 - (2) The manner of such opposition is reasonable and does not involve use or disclosure of an individual's protected information in violation of DHH policy.

C. Disclosures by Whistleblowers and Workforce Crime Victims

1. A DHH workforce member or business associate may disclose an individual's protected information if:
 - a) The DHH workforce member or business associate believes, in good faith, that DHH has engaged in conduct that is unlawful or that otherwise violates professional standards or DHH policy, or that the care, services, or conditions provided by DHH could endanger DHH workforce, persons in DHH care, or the public; and
 - b) The disclosure is to:
 - (1) An oversight agency or public authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of DHH;
 - (2) An appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or of misconduct by DHH; or
 - (3) An attorney retained by or on behalf of the DHH workforce member or business associate for the purpose of determining the legal options of the DHH employee or Business Associate with regard to this DHH policy.
2. A DHH workforce member may disclose limited protected information about an individual to a law enforcement official if the workforce member is the victim of a criminal act and the disclosure is:
 - a) About only the suspected perpetrator of the criminal act; and
 - b) Limited to the following information about the suspected perpetrator:

- (1) Name and address;
- (2) Date and place of birth;
- (3) Social Security number;
- (4) ABO blood type and Rh factor;
- (5) Type of any injury;
- (6) Date and time of any treatment; and
- (7) Date and time of death, if applicable.

D. Reporting and Review

All enforcement, sanctions, and penalties for violations of DHH HIPAA Privacy Policies as outlined in DHH Policy #25 shall be reported to and are subject to review by the DHH Privacy Office.

Policies:

DHH Policy #17 - "General Privacy Policy"

DHH Policy #18 - "Client and Participant Privacy Rights"

DHH Policy #19 - "Use and Disclosures of Client or Participant
Information"

DHH Policy #20 - "De-identification of Client and Participant Information and Use of Limited Data
Sets"

DHH Policy #21 - "Uses and Disclosures for External Research Requests, Internal Research Needs
and Waiver of Privacy Rights for Research Purposes"

DHH Policy #22 - "Minimum Necessary Information"

DHH Policy #23 - "DHH Business Associate Relationships"

DHH Policy #24 - "Administrative, Technical, and Physical Safeguards"

Form(s):

DHH HIPAA Privacy form #801P, "Privacy Program Statement of Understanding"

Reference(s):

45 CFR 164.530

Contact(s):

State of Louisiana
Department of Health and Hospitals
Office of the Secretary
Privacy Office
P.O. Box 629
Baton Rouge, LA 70821-0629
Phone : 1-877-559-9664
Email : privacy-dhh@dhh.la.gov