

DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

POLICIES AND PROCEDURES

Subject:

HIPAA SANCTIONS

Effective Date:
12/18/03

Policy Number:
HIPAA 03-3

Review Date:
11/2/06
Revision Date:
1/3/2007

Entity responsible:
Office of
Legal Counsel

1. **Purpose:**

To provide instructions to staff of the Department of Mental Health and Developmental Disabilities (DMHDD) on how to discipline workforce for failure to comply with DMHDD HIPAA privacy and security policies and procedures, in accordance with the requirements of the federal privacy and security regulations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

2. **Policy:**

All members of the DMHDD workforce are subject to discipline for failure to comply with DMHDD HIPAA privacy and security policies and procedures. Consistent with state law, Career Service employees who fail to comply with policies and procedures may be disciplined in accordance with the Rules of the Tennessee Department of Personnel, Chapter 1120-10, Disciplinary Action. Executive Service employees, contractors, volunteers, and trainees, may be disciplined in accordance with the terms of their contract and state law.

3. **Definitions:**

Workforce: Employees, contractors, volunteers, trainees, and other persons whose conduct, in the performance of work for DMHDD, is under the direct control and supervision of DMHDD, whether or not they are paid by DMHDD.

4. **Procedures/Responsibilities:**

4.1 The supervisor of a DMHDD workforce member found to have violated HIPAA policies and procedures, is responsible for recommending the appropriate level of discipline in accordance with Department of Personnel Rules and Central Office or RMHI policies, procedures, and guidelines.

- 4.2 All members of the DMHDD workforce must be trained on HIPAA policies and procedures. Members of the workforce who violate policies and procedures after training may be warned (written or verbal), suspended, transferred, demoted, or terminated, depending on the nature or severity of the violation.
- 4.3 Whistleblowers and workforce crime victims may not be disciplined for disclosure of protected health information (PHI) if, as provided under HIPAA Regulation 45 C.F.R. § 164.502(j), the disclosure is made in good faith. HIPAA Regulation 45 C.F.R. § 164.502(g) prohibits any intimidation, threats, coercion, discrimination, or retaliation against these individuals.
- 4.4 Incidents of policy and procedure violations and discipline taken against the workforce in the Central Office must be reported to the Central Office Privacy Officer. Incidents of policy and procedure violations and discipline taken against the workforce at a RMHI must be reported to the RMHI Privacy Officer. Violations of HIPAA policies and procedures and resulting discipline must be documented and maintained by the Privacy Officer in a written or electronic log system for at least six (6) years.

5. **Other Considerations:**

Authority:

HIPAA Regulations, 45 C.F.R., §§ 164.530(e)(1); 164.502(g); 164.502(j); Tenn. Code Ann. § 33-1-303; Tennessee Department of Personnel, Rule 1120-10.

Approved:



Commissioner

1/3/07

Date