

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:
12/15/04

Revision Date:
11/17/06

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 for failure to comply with DMHDD HIPAA privacy and security policies and procedures.

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, Civil 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 serve at the pleasure of the appointing authority and 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 a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.

4. **Procedures/Responsibilities:**

4.1 The supervisor of any member of the DMHDD workforce 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 the HIPAA Regulations (Regulations), Section 164.502 (j), the disclosure is made in good faith. Section 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 years.

5. Other Considerations:

Authority:

HIPAA Regulations, 45 CFR, Section 164.530 (e)(1), 164.502 (g), (j); T.C.A. Section 33-1-303; and Rule 1120-10, Tennessee Department of Personnel.

Approved:

Commissioner

Date