

MHDS of Mental Health and Developmental Services
Policy # IMRT-5.2 Protected Health Information: PHI General Requirement

Page 1 of 5

Policy: It is the policy of the MHDS of Mental Health and Developmental Services (MHDS) employees to use or disclose the minimum amount of consumer health information necessary to accomplish the specific purpose of a use or disclosure and will request only the minimum amount of consumer health information necessary to accomplish the specific purpose of the request.

Purpose: To support our commitment to consumer confidentiality and privacy, MHDS will take the appropriate steps to disclose only the minimum amount of protected health information necessary to accomplish the particular use or disclosure and to verify the identity and authority of individuals and entities requesting protected health information prior to its disclosure. In case of an unauthorized release of protected health information, MHDS will take steps to mitigate any harmful effect from the use or further disclosure of protected health information in violation of MHDS's policies and procedures by MHDS employees or MHDS business associates.

SCOPE: MHDS Wide

Procedures:

- I. MHDS personnel will receive training about the MHDS's privacy and security policies and practices related to protected health information.
- II. MHDS personnel will only use, disclose, or request a consumer's entire health record when the entire record is specifically justified as being necessary to accomplish the purpose of the use, disclosure, or request.
- III. MHDS has access control procedures to reasonably limit access to protected health information. Levels of access have been established based on employee classifications and the duties performed by individuals as well as the category of protected health information required to accomplish their duties and responsibilities on routine basis.
- IV. Each agency shall identify position(s) who are responsible for accessing records to determine if the individual is in the agency's catchment area. In the event a person involved in a high profile incident is/was a consumer, a MHDS Serious Incident Report will be initiated by that agency.
- V. MHDS personnel must ensure the individual requesting the protected health information understands the purpose for the use or disclosure of the information.
- VI. MHDS personnel must ensure a request for disclosure of protected health information identifies all individuals likely to use the information.

- VII. MHDS personnel will evaluate each request for disclosure of protected health information on a case-by-case basis.
- VIII. MHDS personnel may consider requests for disclosure of protected health information to be the minimum necessary information required when requested by:
 - A. Public health authority and law enforcement officials if they represent that the information requested is the minimum necessary for the stated purpose;
 - B. Other covered entities;
 - C. A professional who is a member of its workforce or is a business associate of MHDS providing professional services to the MHDS, if the professional represents the information requested is the minimum necessary for the stated purpose; or
 - D. A researcher with appropriate documentation, where the request for disclosure for MHDS protected health information has been approved by an Institutional Review Board or a Privacy Board.
- IX. Restrictions on limiting disclosures or requests of consumer health information to only the minimum amount necessary do not apply to the following uses or disclosures:
 - A. Disclosure to or requests by a provider for treatment;
 - B. Uses or disclosure made to the individual who is the subject of the information;
 - C. Uses or disclosure pursuant to an authorization;
 - D. Disclosures made to the federal Department of Health and Human Services;
 - E. Uses or disclosures required by law;
 - F. Uses or disclosure required for compliance with applicable laws and regulations.
- X. When verifying the identity and legal authority of a public official or a person acting on behalf of the public official requesting disclosure of protected health

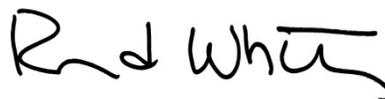
information, MHDS personnel may rely on the following when requested to disclose protected health information:

- A. Documentation, statements, or representations that, on their face, meet the applicable requirements for a disclosure of protected health information;
 - B. If the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;
 - C. A written statement on appropriate government letterhead that the person is acting under the government's authority;
 - D. Other evidence or documentation from an agency, such as a contract for services, memorandum of understanding, or purchase order, which establishes the person, is acting on behalf of the public official;
 - E. A written statement of the legal authority for the information;
 - F. If a written statement is not possible, an oral statement of such legal authority;
 - G. A request that is made pursuant to a warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal that constitutes legal authority.
- XI. MHDS personnel may rely on their professional judgment and follow the requirements of applicable state and other laws for the following uses or disclosures of protected health information:
- A. A use or disclosure for facility directories;
 - B. A use or disclosure to others for involvement in the individual's care; or
 - C. A disclosure to avert a serious threat to health and safety.
- XII. MHDS personnel must verify MHDS has a relationship with the individual or entity requesting the use or disclosure of protected health information.
- XIII. MHDS personnel must report any discrepancies in the verification of the identity and/or legal authority of an individual or entity requesting protected health information to the HIPAA Compliance Officer in a timely manner.
- XIV. After it is determined that use or disclosure of protected health information is appropriate, MHDS personnel will:

MHDS of Mental Health and Developmental Services
Policy # IMRT-5.2 Protected Health Information: PHI General Requirement

Page 4 of 5

- A. With appropriate access clearance, access the individual's protected health information using proper access and authorization procedures;
 - B. Deliver the requested protected health information to the individual in a secure and confidential manner within 30 days - precluding access by others who do not have appropriate access clearance to that information;
 - C. Provide a written statement of reasons if the protected information is not available within the 30-day time frame. A delay in providing protected information may be requested only one time; and
 - D. Document the request and delivery of the protected health information in the individual's case file.
- XV. In the event of an unauthorized release or disclosure of an individual's protected health information, regardless of responsible entity, MHDS personnel will:
- A. Report all incidents to their immediate supervisor and the HIPAA Compliance Officer or designee(s);
 - B. If the unauthorized disclosure was through electronic media, report the incident to the MHDS Information Security Officer;
 - C. Assess the impact on the individual of the disclosure;
 - D. Document the disclosure in the individual's record;
 - E. Take steps to mitigate the effect of the disclosure, if determined necessary; and
 - F. Recommend any required changes to policies, procedures, and practices to preclude any future unauthorized disclosures of protected health information.
- XVI. Each MHDS agency shall develop specific written procedures to implement the provisions of this policy or shall incorporate this policy into their agency policies.



ADMINISTRATOR

MHDS of Mental Health and Developmental Services
Policy # IMRT-5.2 Protected Health Information: PHI General Requirement

Page 5 of 5

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SUPERSEDES: POLICY #6.003 Protected Health Information PHI General Requirements

APPROVED BY MHDS ADMINISTRATOR: 05/25/12

APPROVED BY MHDS COMMISSION: 05/25/12