

DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

POLICIES AND PROCEDURES

Subject:
USES AND DISCLOSURES OF PHI LIMITED TO THE MINIMUM NECESSARY

Effective Date:

5/15/04

Policy Number:

HIPAA 04-2

Review Date:

3/22/06

Revision Date:

5/2/06

Entity responsible:

Office of Legal Counsel

1. **Purpose:**

This policy provides guidance on how and when to limit to the minimum necessary, the use and disclosure of protected health information (PHI), as required under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended.

2. **Policy:**

2.1 The Department of Mental Health and Developmental Disabilities (DMHDD) will use or disclose only the minimum amount of PHI necessary to accomplish the purpose for which the disclosure is made. This is called the “minimum necessary” standard.

2.2 Uses and disclosures are not limited to the minimum necessary standard when:

2.2.1 Requested by a health care provider for the purpose of treatment.

2.2.2 Made to the individual/service recipient.

2.2.3 Made under a valid authorization.

2.2.4 Made to the Secretary of the U. S. Department of Health and Human Services during complaint investigations or compliance reviews, in accordance with HIPAA Regulation 45 C.F.R. § 160, Subpart C.

2.2.5 Required by state and federal laws; and

2.2.6 Required for compliance with HIPAA Regulation 45 C.F.R. § 164.502.

2.3 The minimum necessary standard applies to uses or disclosures of PHI made for the purpose of payment or operations.

- 2.4 For all uses or disclosures under the minimum necessary standard, the DMHDD and Regional Mental Health Institutes (RMHIs) may not use, disclose or request an entire medical record, except when the entire medical record is specifically justified as the amount of PHI that is reasonably necessary.
- 2.5 The DMHDD must identify employees who need access to PHI to carry out their job duties and responsibilities. For each such employee or class of employees, the DMHDD and each RMHI will identify the category or categories of PHI to which access is needed and any conditions appropriate to such access. Access to PHI will be given only to those employees whose jobs require it.

3. Procedure/Responsibility:

- 3.1 The Central Office Privacy Officer or designee is responsible for assuring that the minimum necessary policy is followed department-wide.
- 3.2 The Privacy Officer or designee at the Central Office and at each RMHI is responsible for assuring that the minimum necessary policy is followed, that all employees are trained on HIPAA policies and procedures, and understand them sufficiently to perform their job duties and responsibilities in compliance with the minimum necessary standard.
- 3.3 The Privacy Officer or designee at each RMHI making any disclosure of PHI shall consult with the Central Office Privacy Officer about questions regarding the minimum amount of PHI that is necessary for the purpose of the use or disclosure.
- 3.4 Employees whose jobs require use and disclosure of PHI must review each request and exclude any of the following direct identifiers to limit use or disclosure to what is reasonably necessary. (The list is not all-inclusive. The facts of each request will determine the amount of PHI that is reasonably necessary to accomplish the purpose of the use or disclosure.)
 - 3.4.1 Full name. If a name is necessary to the disclosure, use the last name and initial of the first name. The use of first name and last initial is acceptable in common areas of the RMHI, e.g., where names of service recipients are posted on room doors, etc.
 - 3.4.2 Social security number, account number or medical records number.
 - 3.4.3 Address, telephone number, fax number or e-mail address.
 - 3.4.4 Names, addresses, telephone numbers, fax numbers or e-mail addresses of relatives, friends, etc., if not necessary to the purpose of the use or disclosure.

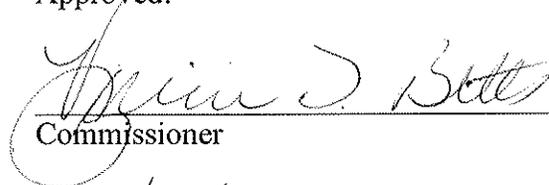
- 3.4.5 Photographs.
- 3.4.6 Device identifiers or serial numbers.
- 3.4.7 Vehicle identifiers or serial numbers, including license plate numbers.
- 3.4.8 Blood type or DNA, including finger and voice prints.

4. **Other Considerations:**

Authority:

HIPAA Regulations 45 C.F.R. § 160, Subpart C; 45 C.F.R. §§ 164.500, 164.502(b);
Tenn. Code Ann. §§ 33-1-303; 33-3-103 through 33-3-115; 42 C.F.R. § 2.12.

Approved:



Commissioner

5/2/06

Date