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Minimum Necessary Information

I. Purpose

The intention of the DHH Minimum Necessary Information Policy is to:

- A. Improve the privacy of confidential information that is used or disclosed by DHH workforce in the course of their work; and
- B. Ensure that DHH workforce have access to the information they require to accomplish the DHH's mission, goals and objectives.

DHH staff and workforce members should refer to DHH Policy #72 (Public Information) prior to any use or disclosure of Protected Health Information (PHI). If the workforce member determines that there is a conflict between that policy and DHH HIPAA Privacy Policies, the workforce member must contact his/her supervisor prior to the use or disclosure. The supervisor shall then consult with the Privacy Officer and other appropriate DHH executive management.

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. Exceptions

The exceptions are listed in the policies.

VII. Policy: Minimum Necessary Information

- A. DHH will use or disclose only the minimum amount of information necessary to provide services and benefits to clients and when managing information on participants, and only to the extent provided in DHH policies and procedures.

- B. This policy does not apply to:
 - 1. Disclosures to or requests by a health care provider for treatment;
 - 2. Disclosures made to the client or participant or his/her Personal Representative about his or her own Individually Identifiable Health Information (IIHI);
 - 3. Uses or disclosures authorized by the client or participant or his/her Personal Representative authorized by law that is within the scope of the authorization;
 - 4. Disclosures made to the United States Department of Health and Human Services (DHHS), Office for Civil Rights, in accordance with subpart C of part 160 of the HIPAA Privacy Rule;
 - 5. Uses or disclosures that are required by law; and
 - 6. Uses or disclosures that are required for compliance with the HIPAA Transaction Rule. The minimum necessary standard does not apply to the required and situational optional data elements specified in the implementation guides under the Transaction Rule.

- C. Minimum Necessary Information
 - 1. When DHH policy permits use or disclosure of a client or participant's information to another entity, or when DHH requests an individual's information from another entity, DHH workforce must make reasonable efforts to limit the amount of PHI to the minimum necessary needed to accomplish the intended purpose of the use, disclosure, or request.
 - 2. If DHH policy permits making a particular disclosure to another entity, DHH workforce may rely on a requested disclosure as being the minimum necessary for the stated purpose when:
 - a. Making disclosures to public officials that are permitted under 45 CFR 164.512, and as stated in DHH Policy #19, "Uses and Disclosures of Client or Participant Information," if the public official represents the information requested is the minimum necessary for the stated purpose(s). A "public official" is any employee of a government agency who is

authorized to act on behalf of that agency in performing the lawful duties and responsibilities of that agency.

- b. The information is requested by another entity that is a "covered entity" under the HIPAA Privacy rules. A "covered entity" is a health plan, a health care provider who conducts electronic transactions, or a health care clearinghouse, if that entity represents that the information requested is the minimum necessary for the stated purpose(s);
- c. The information is requested by a professional who is a member of the workforce of a "covered entity" or is a business associate of the "covered entity" for the purpose of providing professional services to the "covered entity," if the professional represents that the information requested is the minimum necessary for the stated purpose(s); or
- d. Documentation or representations that comply with the applicable requirements of DHH Policy #21, "Uses and Disclosures for Research Purposes and Waivers" have been provided by a person requesting the information for research purposes.

D. Access and Uses of Information

DHH will establish role-based categories or other acceptable methods that identify types of information necessary for employees to do their jobs. DHH program areas will identify the category of information needed for persons, or classes of persons, in their respective workforces to carry out their duties, and will further identify any conditions appropriate to such access. categories will include all information, such as information accessible by computer, kept in files, or other forms of information consistent with DHH Policy #24, "Administrative, Technical and Physical Safeguards."

E. Routine and Recurring Disclosure of a Client or Participant's Information

1. For the purposes of this policy, a "routine and recurring" disclosure means the disclosure of records outside DHH, without the authorization of the individual, for a purpose that is compatible with the purpose for which the information was collected. The following identifies several examples of uses and disclosures that DHH has determined to be compatible with the purposes for which information is collected.
2. Routine and recurring uses include disclosures required by law.
3. If DHH deems it desirable or necessary, DHH may disclose information as routine and recurring use to the Louisiana Department of Justice for the purpose of obtaining its advice and legal services.

4. When Federal or State agencies, such as the DHHS Office for Civil Rights, the DHHS Office of Inspector General, the State of Louisiana Medicaid Fraud Control Unit, Louisiana Division of Administration, Louisiana Inspector General's Office, the Louisiana Legislative Auditor or other similar governmental agency have the legal authority to require DHH to produce records necessary to carry out audit or oversight of DHH programs or activities, DHH will make such records available as a routine and recurring use.
5. DHH will not disclose an individual's entire record unless the request specifically justifies why the entire record is needed, and applicable laws and policy permit the disclosure of all the information in the record to the requestor.

F. Non-Routine Disclosure of Client or Participant's Information

1. For the purpose of this policy, "non-routine disclosure" means the disclosure of records outside DHH that is not for a purpose for which it was collected.
2. For non-routine disclosures, DHH program areas will:
 - a. Implement procedures to limit the information disclosed to only the minimum amount of information necessary to accomplish the purpose for which the disclosure is sought, and
 - b. Review requests for non-routine disclosures on an individual basis.

G. DHH will not disclose an individual's entire record unless the request specifically justifies why the entire record is needed, and applicable laws and policy permit the disclosure of all the information in the record to the requestor.

H. DHH Request for an Individual's Information from Another Entity

When requesting information about an individual from another entity, DHH workforce members must limit requests to those that are reasonably necessary to accomplish the purpose for which the request is made.

1. DHH will not request an individual's entire medical record unless DHH can specifically justify why the entire medical record is needed.
2. DHH will only request the minimum necessary information to accomplish the purpose of each request for an individual's information.

3. DHH program areas will:
 - a. Implement procedures to limit the request for an individual's information to only the minimum amount of information necessary to accomplish the purpose for which the disclosure is sought; and
 - b. Review such requests on an individual basis in accordance with such procedures.

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 #23 - "DHH Business Associate Relationships"

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

DHH Policy #25 - "Enforcement, Sanctions, and Penalties for Violations of DHH HIPAA Privacy Policies"

Form(s):

DHH HIPAA Privacy form #401P – "Authorization to Release or Obtain Health Information for Eligibility in Program Enrollment"

DHH HIPAA Privacy form #402P - "Authorization to Release or Obtain Health Information" (Other than Eligibility in Program Enrollment)

DHH HIPAA Privacy form #701P - "Accounting of Disclosures Request Form"

Reference(s):

45 CFR Parts 160 and 164

Contacts:

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Office of the Secretary
Privacy Office
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