

## **SANCTIONS FOR VIOLATING PRIVACY AND SECURITY POLICIES AND PROCEDURES - POLICY**

**RESPONSIBILITY:** Privacy Official or Designee(s), Security Official, Director of Human Resources

### **BACKGROUND:**

Federal HIPAA privacy regulations require covered entities to establish and apply sanctions against members of the workforce who violate the entity's privacy policies, and applicable state and federal law that relates to the privacy of protected health information.

### **POLICY:**

1. Members of the Department of Health and Human Resources (DHHR) workforce are subject to disciplinary action for violation of policies and procedures. Violations that jeopardize the privacy of protected health information are particularly serious. This seriousness will be reflected in the nature of the disciplinary action, up to and including dismissal from employment for good cause.
2. All members of the workforce will be treated fairly and equitably in the imposition of sanctions for privacy and security violations.
3. Progressive discipline sanctions will be integrated into DHHR's overall employee discipline policy, in accordance with the principle of "like penalty for like offense." This policy will be in writing.
  - 3.1 Offenses shall be categorized as follows:
    - 3.1.1 Failures due to reasonable cause and not due to willful neglect, and person cured within 30 days. Penalty: Reprimand through and including suspension without pay.
    - 3.1.2 Person knowingly and wrongfully disclosed PHI. Penalty: Reprimand and reassignment through and including dismissal.
4. Sanctions applicable to business associates will be incorporated into business associate contracts. See DISCLOSURE OF PROTECTED HEALTH INFORMATION TO BUSINESS ASSOCIATES AND OTHER CONTRACTORS POLICY.
5. Disciplinary actions due to breaches of privacy or security of PHI will be documented, and the documentation must be retained for six years or longer if required by state law or regulation. Disclosure of PHI in violation of policy is reportable under the ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION policy.

6. No member of the workforce, and no business associate, will be subject to sanctions for a disclosure of PHI made in good faith in accordance with the following policies:
  - 6.1. DISCLOSURE OF PROTECTED HEALTH INFORMATION BY “WHISTLEBLOWERS”
  - 6.2. DISCLOSURES OF PROTECTED HEALTH INFORMATION BY WORKFORCE MEMBERS WHO ARE THE VICTIMS OF A CRIME

Effective Date: 4/14/03

Dates Revised:



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Jerome E. Lovrien, Commissioner, Bureau for Behavioral Health and Health Facilities