

 <p><b>GEORGIA DEPARTMENT OF COMMUNITY HEALTH</b></p>	<p><b>Policy Number: 907</b>  <b>Effective Date: April 14, 2003</b>  <b>Revision Date:</b></p>
<p><b>Privacy Policy</b></p>	<p><b>Individual Access</b></p>
<p><b>Originating Work Unit: Privacy Office</b></p>	<p><b>Category: Legal Compliance</b></p>

**SCOPE:**

This policy applies to all individuals, DCH employees, agents and contractors that perform duties in conjunction with the access, distribution, dissemination, modification and management of protected health information.

**POLICY:**

It is DCH's policy to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule by establishing means for an individual to access and inspect his/her PHI in a designated record set for as long as DCH maintains the PHI in the designated record set.

**REPORTING VIOLATIONS:**

Violation of this or any other DCH Privacy Policy is to be reported to the Privacy Officer.

**LEGAL AUTHORITY:**

**45 C.F.R. §164.524**  
**O.C.G.A. § 31-33-2**

Access of individuals to protected health information  
Furnishing copy of records to patient or provider

**SANCTIONS:**

See DCH Sanctions Policy and Procedure.

 <b>GEORGIA DEPARTMENT OF COMMUNITY HEALTH</b>	<b>Procedure Number: 907</b> <b>Effective Date: April 14, 2003</b> <b>Revision Date:</b>
	<b>Privacy Procedures</b>
<b>Individual Access</b>	<b>Originating Work Unit: Privacy Office</b>
<b>Category: Legal Compliance</b>	

### **PURPOSE**

An individual has the right of access to inspect and obtain a copy of PHI about them in a designated record set for as long as DCH maintains the PHI in the designated record set.

### **PROCEDURE:**

- ✓ DCH may deny access without providing the individual an opportunity for review in the following cases:
  - a. Psychotherapy notes
  - b. Information compiled in anticipation of, or for use in, a civil, criminal, or administrative action or proceeding
  - c. PHI maintained by DCH that is subject to the Clinical Laboratory exemptions
  - d. Information created or obtained in the course of research that includes treatment may be temporarily suspended for as long as the research is in progress
  - e. For records subject to the Privacy act, 5USC § 552a, access may be denied, if the denial of access would meet the requirements of that Act
  - f. If the PHI was obtained from someone other than a health care provider under the promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.
- ✓ DCH may deny access, provided the individual is given the right to have the denial reviewed, in the following circumstances:
  - a. A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person
  - b. The PHI makes reference to another person (unless the other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is likely to cause substantial harm to such other person
  - c. The request for access is made by the individual's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

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- ✓ If request to access PHI is denied, the individual has the right to have the denial reviewed by a licensed health care professional who is designated by DCH to act as a reviewing official and who did not participate in the original decision to deny. DCH must abide by the reviewing official's decision as final.
- ✓ If DCH denies a request to access PHI it must comply with the requirements of § 164.524(d) which include:
  - a. Making other information accessible
  - b. DCH must provide a timely, written denial in plain language that must include the basis for the denial, a statement of the individual's review (if applicable) and a description of the complaint procedures for complaints to DCH or to the Secretary of DHHS.
  - c. If DCH does not maintain the PHI for which access has been requested, but knows where the requested PHI is maintained, DCH must inform the individual where to direct the request for access
  - d. DCH must promptly refer a request for a review to the designated reviewing official. The designated official must make a determination within a reasonable period of time.
- ✓ DCH must act on a request for access generally within 30 days. There may be one extension for an additional 30 days.
- ✓ Denials must be in writing.
- ✓ DCH may charge reasonable fees for access based on actual cost, if the recipient agrees to the fees in advance
- ✓ DCH must document the designated record sets that are subject to access by individuals
- ✓ DCH must document the titles of persons or offices responsible for receiving and processing requests for access
- ✓ DCH must retain all documentation for 6 years.
- ✓ DCH will provide parents the right to access and control the health information about their minor children, with limited exceptions that are based on state or other applicable law and professional practice.

### **REPORTING VIOLATIONS:**

Violations should be reported to the DCH Privacy Officer.

### **LEGAL AUTHORITY:**

<b>45 C.F.R. §164.524</b>	Access of individuals to protected health information
<b>45 C.F.R. §160.306</b>	Complaints to the Secretary
<b>O.C.G.A. § 31-33-2</b>	Furnishing copy of records to patient or provider

### **SANCTIONS:**

See DCH Sanctions Policy and Procedure.

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