

 <p>GEORGIA DEPARTMENT OF COMMUNITY HEALTH</p>	<p>Policy Number: 908</p> <p>Effective Date: April 14, 2003</p> <p>Revision Date:</p>
<p>Privacy Policy</p>	<p>Minimum Necessary</p>
<p>Originating Work Unit: Privacy Office</p>	<p>Category: Legal Compliance</p>

SCOPE:

This policy applies to all DCH employees that access, distribute, disseminate, modify or manage protected health information.

POLICY:

DCH policy is to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule by establishing and implementing minimum necessary requirements applicable to uses and disclosures of protected health information (PHI), as well as to requests for PHI from other entities.

When using or disclosing protected health information or when requesting protected health information from another covered entity, DCH will make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

REPORTING VIOLATIONS:

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

LEGAL AUTHORITY:

- 45 C.F.R. §164.502(b)** Uses and disclosures of protected health information: general rules; Standard: minimum necessary
 - 45 C.F.R. §164.514(d)** Other requirements relating to uses and disclosures of protected health information; minimum necessary requirements
 - 42 C.F.R. §§431.300-307** Safeguarding information on Medicaid applicants and recipients
- Preamble to Final Privacy Rule**, 65 Fed. Reg. 82499, 82543-45, 82631, 82712–82716,
82726 - Discussion of comments on Minimum Necessary (December 28, 2000)

SANCTIONS:

DCH will apply appropriate sanctions against members of its workforce who fail to comply with the DCH privacy policies and procedures or with the requirements of the regulations. Sanctions taken by HHS in enforcement against DCH are a separate matter.

Sanctions will be appropriate to the nature of the violation. For example, the type of sanction will vary depending on factors such as the severity of the violation, whether the violation was intentional or unintentional, and whether the violation indicated a pattern of improper use or disclosure of protected health information. Sanctions could range from warning to termination of employment with DCH.

Sanction policies will be documented so that employees are aware of what actions are prohibited and punishable. Training will be provided and expectations will be clear so individuals are not sanctioned for doing things that they did not know were inappropriate or wrong.

DCH will not impose sanctions for disclosures by whistleblowers or workforce member crime victims, where a disclosure is provided for by the privacy standards. In addition, complaints and cooperation in investigations under the privacy standards are not subject to sanctions.

For additional information, see the DCH Sanctions policy and procedures.

 <p>GEORGIA DEPARTMENT OF COMMUNITY HEALTH</p>	<p>Procedure Number: 908</p> <p>Effective Date: April 14, 2003</p> <p>Revision Date:</p>
<p>Privacy Procedures</p>	<p>Minimum Necessary</p>
<p>Originating Work Unit: Privacy Office</p>	<p>Category: Legal Compliance</p>

PURPOSE

DCH must make reasonable efforts to limit the protected health information that is used, disclosed, or requested from another entity to the minimum necessary information to accomplish the intended purpose of the use, disclosure or request.

In general terms, these procedures are intended to accomplish the following:

- Restrict access and use based on specific roles of members of the DCH workforce;
- Establish criteria to limit routine disclosures to the minimum necessary to achieve the purpose of the disclosure; and
- Limit requests to other covered entities to what is reasonably necessary for the particular use or disclosure.

PROCEDURE:

For **uses** of protected health information by the DCH workforce, the functional unit procedures will:

- Identify the persons or groups of persons who need access to protected health information to carry out their job function;
- Identify the type of protected health information to which each person or group needs access, as well as the conditions under which they need the access; and
- Make reasonable efforts to limit the access of its staff to only the information appropriate to their job requirements.

For **disclosures** of protected health information by the DCH workforce, the routine and recurring disclosures are distinguished from all other disclosures.

For **routine and recurring disclosures**, DCH procedures for functional units identify:

- The types of protected health information to be disclosed;
- The types of persons who would receive the protected health information;
- The conditions that would apply to such access; and
- Standards for disclosures to business associates who routinely contract with DCH.

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For **non-routine disclosures**, DCH procedures for functional units will:

- Develop reasonable criteria to limit the amount of information disclosed to the minimum necessary to accomplish the purpose of the disclosure; and
- Use these criteria to review these disclosures on an individual basis.

DCH may rely on a request as being for the minimum necessary amount of information if:

- The disclosure is to a public health official and is permitted under §164.512 and the public health official represents that the request is for the minimum necessary information;
- The request is from another covered entity;
- The request is from a professional in the DCH workforce or from a business associate in order to provide a professional service to DCH and the professional represents that the request is for the minimum necessary information; or
- The requestor provides documentation or representations that meet the requirements for use and disclosure of protected health information for research purposes as explained in §164.512(i).

When **requesting** protected health information from other covered entities, DCH will limit its request to that which is reasonably necessary to accomplish the purpose of the request. Routine and recurring requests are distinguished from all other requests.

For **routine, recurring requests**, DCH functional unit procedures will:

- Describe what information is reasonably necessary for the purpose of the request; and
- Limit the request for protected health information to that information.

For **all other requests** by DCH, the Department will review the request on an individual basis to determine that the protected health information requested is limited to the information reasonably necessary to accomplish the purpose of the request. While DCH may request information that is later disclosed to a third party (e.g., for quality improvement purposes), the request will meet the minimum necessary requirement.

Any request for an **entire medical record**, will be limited to instances where the entire medical record is specifically justified as reasonably necessary. DCH functional units that may request an entire medical record will have procedures that specifically justify why the entire medical record is required. (Disclosure of an entire medical record without such documentation is a “presumptive violation” of the Privacy Rule.)

Note: Persons providing treatment to an individual may access the entire medical record.

The minimum necessary standard does **not** apply to:

- Disclosures or requests by a health care provider for treatment;
- Uses or disclosures made to the individual or authorized by the individual;
- Disclosures made to the Secretary of Health and Human Services;
- Uses or disclosures required by law as described in §164.512(a);
- Uses for disclosures required to comply with the Privacy Rule; and
- Uses or disclosures that are incidental to an otherwise permitted use or disclosure

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REPORTING VIOLATIONS:

Violations should be reported to the DCH Privacy Officer.

LEGAL AUTHORITY:

45 CFR 164.502(b) Uses and disclosures of protected health information: general rules; Standard: minimum necessary

45 CFR 164.514(d) Other requirements relating to uses and disclosures of protected health information; minimum necessary requirements

42 C.F.R. §§431.300-307 Safeguarding information on Medicaid applicants and recipients

O.C.G.A. 49-4-150 Regulations as to maintenance and use of records

SANCTIONS:

DCH will apply appropriate sanctions against members of its workforce who fail to comply with the DCH privacy policies and procedures or with the requirements of the regulations. Sanctions taken by HHS in enforcement against DCH are a separate matter.

Sanctions will be appropriate to the nature of the violation. For example, the type of sanction will vary depending on factors such as the severity of the violation, whether the violation was intentional or unintentional, and whether the violation indicated a pattern of improper use or disclosure of protected health information. Sanctions could range from warning to termination of employment with DCH.

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