


Enforcements, Sanctions and Penalties for Violations of LDH HIPAA Privacy Policies

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|  | Louisiana Department of Health (LDH) | |
| | Policy Number | 25.1 |
| | Effective Date | April 14, 2003 |
| | Inquiries to | Office of the Secretary Bureau of Legal Services P.O. Box 3836 Baton Rouge, Louisiana 70821-3836 (225) 342-1112 FAX (225) 342-2232 |

If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/overrule/supersede the conflicting section within the Program Office or facility policy.

I. PURPOSE

The intent of this policy is to specify enforcement, sanction, penalty, and disciplinary actions that may result from violation of The Louisiana Department of Health (LDH) policies regarding the privacy and protection of an individual's information and to offer guidelines on how to conform to the required standards.

II. APPLICABILITY

LDH's HIPAA Privacy Policies are applicable to LDH's workforce and its business associates.

III. EFFECTIVE DATE

The implementation date of these policies is April 14, 2003.

IV. DEFINITIONS

The definitions are included in the body of these policies.

V. RESPONSIBILITIES

LDH's workforce and its business associates are responsible for assuring that LDH's HIPAA Privacy Policies are followed. The LDH Privacy Officer and the Program Privacy Officers are responsible for the implementation, resolution and enforcement of all aspects related to LDH HIPAA Privacy Policies.

VI. EXCEPTIONS

Exceptions are listed in the policies.

VII. POLICY: ENFORCEMENT, SANCTIONS AND PENALTIES FOR VIOLATIONS OF LDH HIPAA PRIVACY POLICIES

A. General

1. All employees, volunteers, interns and members of the LDH workforce must guard against improper uses or disclosures of a LDH client or participant's information. LDH employees, volunteers, interns and members of the LDH workforce who are uncertain if a disclosure is permitted are advised to consult with a supervisor in the LDH workplace. The LDH Privacy Officer is a resource for any LDH workplace that cannot resolve a disclosure question, and may be consulted in accordance with the operational procedures of that LDH workplace.
2. Uses or disclosures which are incidental do not constitute a violation of LDH HIPAA Privacy Policies.
3. All employees are required to be aware of their responsibilities under LDH privacy policies. LDH workforce members will be expected to sign a LDH "Privacy Program Statement of Understanding" (LDH HIPAA Privacy #801P) indicating that they have been informed of the business practices in LDH as relates to privacy, and they understand their responsibilities to ensure the privacy of LDH clients and participants.
4. Supervisors are responsible for assuring that workplace members who have access to confidential information, whether it is electronic, hard copy, or orally, are informed of their responsibilities.
5. LDH workforce members who violate LDH policies and procedures regarding the safeguarding of an individual's information are subject to disciplinary action by LDH up to and including immediate dismissal from employment, and legal action by the individual.
6. LDH workforce members who knowingly and willfully violate State or Federal law for improper use or disclosure of an individual's information are subject to criminal investigation and prosecution or civil monetary penalties.
7. If LDH fails to enforce privacy safeguards, LDH as a state agency may be subject to administrative penalties by the Department of Health and Human Services (DHHS), including federal funding penalties.

B. Retaliation Prohibited

Neither LDH, as an entity nor any LDH workforce member will intimidate, threaten, coerce, discriminate against, or take any other form of retaliatory action against:

1. Any individual for exercising any right established under LDH policy, or for participating in any process established under LDH policy, including the filing of a complaint with LDH or with DHHS.
2. Any individual or other person for:
 - a) Filing of a complaint with LDH or with DHHS as provided in LDH privacy policies;
 - b) Testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing relating to LDH policy and procedures; or
 - c) Opposing any unlawful act or practice, provided that:
 - (1) The individual or other person (including a LDH employee) has a good faith belief that the act or practice being opposed is unlawful; and
 - (2) The manner of such opposition is reasonable and does not involve use or disclosure of an individual's protected information in violation of LDH policy.

C. Disclosures by Whistleblowers and Workforce Crime Victims

1. A LDH workforce member or business associate may disclose an individual's protected information if:
 - a) The LDH workforce member or business associate believes, in good faith, that LDH has engaged in conduct that is unlawful or that otherwise violates professional standards or LDH policy, or that the care, services, or conditions provided by LDH could endanger LDH workforce, persons in LDH care, or the public; and
 - b) The disclosure is to:
 - (1) An oversight agency or public authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of LDH;
 - (2) An appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or of misconduct by LDH; or
 - (3) An attorney retained by or on behalf of the LDH workforce member or business associate for the purpose of determining the legal options of the LDH employee or Business Associate with regard to this LDH policy.

2. A LDH workforce member may disclose limited protected information about an individual to a law enforcement official if the workforce member is the victim of a criminal act and the disclosure is:
 - a) About only the suspected perpetrator of the criminal act; and
 - b) Limited to the following information about the suspected perpetrator:
 - (1) Name and address;
 - (2) Date and place of birth;
 - (3) Social Security number;
 - (4) ABO blood type and Rh factor;
 - (5) Type of any injury;
 - (6) Date and time of any treatment; and
 - (7) Date and time of death, if applicable.

D. Reporting and Review

All enforcement, sanctions, and penalties for violations of LDH HIPAA Privacy Policies as outlined in LDH Policy #25 shall be reported to and are subject to review by the LDH Privacy Office.

Policies:

LDH Policy #17 - "General Privacy Policy"

LDH Policy #18 - "Client and Participant Privacy Rights"

LDH Policy #19 - "Use and Disclosures of Client or Participant Information"

LDH Policy #20 - "De-identification of Client and Participant Information and Use of Limited Data Sets"

LDH Policy #21 - "Uses and Disclosures for External Research Requests, Internal Research Needs and Waiver of Privacy Rights for Research Purposes"

LDH Policy #22 - "Minimum Necessary Information"

LDH Policy #23 - "LDH Business Associate Relationships"

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

Form(s):

LDH HIPAA Privacy form #801P, "Privacy Program Statement of Understanding"

Reference(s):

45 CFR 164.530

Contact(s):

State of Louisiana

Louisiana Department of Health

Office of the Secretary

Privacy Office

P.O. Box 629

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VIII. REVISION HISTORY

| Date | Revision |
|----------------|-----------------|
| April 14, 2003 | Policy created |
| August 8, 2017 | Policy reviewed |
| June 5, 2019 | Policy reviewed |