

CF OPERATING PROCEDURE
NO. 60-17, Chapter 6

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, August 19, 2013

Personnel

HIPAA SANCTIONS POLICY

6-1. Purpose. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires that covered entities have and apply appropriate sanctions against their workforce for failure to comply with HIPAA's Privacy and Security Policies and Procedures. The Department must ensure the confidentiality and integrity of client protected health information (PHI and ePHI) as required by federal and state law. This operating procedure establishes guidance, and standards for members of the workforce and volunteers in carrying out the provisions of HIPAA. The operating procedure also identifies the corrective action(s) that may be imposed to address violations of this operating procedure.

6-2. Scope. This operating procedure applies to all Department employees and volunteers.

6-3. References.

a. HIPAA Privacy Rule, 45 CFR Parts 160 and 164.

b. HIPAA Security Rule, 45 CFR Parts 160, 162, and 164.

c. The Health Information Technology for Economic and Clinical Health (HITECH) Act, Pub.L. 111-5, Div. A, Title XIII, Div. B, Title IV, 123 Stat. 226, 467 (Feb. 17, 2009); as amended by Pub.L. 111-157, § 5(b), 124 Stat. 1117 (April 15, 2010).

d. The American Recovery and Reinvestment Act (ARRA) of 2009, PL 111-5, Div. B, Title IV, section 4101(a), (b), (f), 123 Stat. 467, 476 (February 17, 2009).

e. 2013 HIPAA Omnibus Rule.

6-4. Definition of Offense (for HIPAA violations).

a. Class I Offenses.

(1) Accessing information that you do not need to know to do your job;

(2) Sharing your computer access codes (user name & password);

(3) Leaving your computer unattended while you are logged into a PHI program;

(4) Sharing PHI with another employee without authorization;

(5) Copying PHI without authorization;

(6) Changing PHI without authorization;

(7) Discussing confidential information in a public area or in an area where the public could overhear the conversation;

- (8) Discussing confidential information with an unauthorized person; or,
- (9) Failure to cooperate with Privacy Officer.

b. Class II Offenses.

- (1) Second offense of any Class I offense (does not have to be the same offense);
- (2) Unauthorized use or disclosure of PHI; or,
- (3) Using another person's computer access codes (user name and password).

c. Class III Offenses.

- (1) Third offense of any Class I offense (does not have to be the same offense);
- (2) Second offense of any Class II offense (does not have to be the same offense);
- (3) Obtaining PHI under false pretenses; or,
- (4) Using and/or disclosing PHI for commercial advantage, personal gain or malicious harm.

6-5. Policy. HIPAA violations can be the basis for disciplinary action to be taken against Department employees under section 110.227, Florida Statutes, and Rule 60L-36.005, Standards of Conduct.

6-6. Sanctions. Any employee or volunteer who commits a violation of the HIPAA Privacy and HIPAA Security Policies and Procedures is subject to these sanctions:

- a. Class I Offenses shall receive a written reprimand.
- b. Class II Offenses shall receive:
 - (1) Written reprimand; or,
 - (2) Suspension (in reference to suspension period: minimum of one (1) day/maximum of three (3) days).
- c. Class III Offenses shall receive:
 - (1) Termination from employment; and,
 - (2) Criminal penalties as provided under HIPAA or other applicable Federal/State laws.

6-7. Duty To Report. Everyone subject to this operating procedure who observes, becomes aware of, or suspects a wrongful use or disclosure of PHI, or ePHI, in any client records, is required to notify their supervisor or the HIPAA Privacy Officer as soon as possible. The supervisor must immediately notify the HIPAA Privacy Officer. Everyone subject to this operating procedure who observes, becomes aware of, or suspects a security breach has occurred must notify the HIPAA Security Officer as soon as possible. If reported to a supervisor, the supervisor must immediately notify the HIPAA Privacy Officer. Failure to timely report such incidents as required constitutes a violation of this operating procedure.

6-8. No Retaliation. Retaliation for reporting an incident governed by this operating procedure is prohibited.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

DENNISE G. PARKER
Human Resources Director