
Title:	DPH Privacy and Security Manual
Chapter:	II. Administrative Policies, Workforce
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Purpose

The purpose of the Division of Public Health (DPH) workforce privacy policy is to address the DPH privacy requirements regarding the use and disclosure of individually identifiable health information (IIHI) by full time and part time employees. Additionally, this policy covers students, volunteers, trainees, contractors, personnel working through a temporary agency, and other persons whose conduct in the performance of work is under the direct control of the Division, whether or not they are paid by the Division, who are hereinafter referred to as “extended workforce”. This policy is in compliance with the [DHHS Policy and Procedure Manual, Section VIII, Security and Privacy](#), that establishes the NC Department of Health and Human Services (DHHS) workforce privacy requirements.

Policy Scope: The policy applies across the Division to all DPH workgroups who maintain, use, have access to, or come into contact with IIHI.

Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule addresses the protection of IIHI and mandates that covered entities provide appropriate privacy training to their workforce and extended workforce on the agency’s policies and procedures regarding protected health information (PHI).

The HIPAA Privacy Rule also requires that appropriate sanctions be established for the workforce and extended workforce for failure to comply with privacy requirements, including making reasonable efforts to lessen any resulting harmful effects of unauthorized use or disclosure of information.

DHHS has determined that every agency in the department that maintains IIHI must comply with this workforce policy to ensure that members of the DHHS workforce and extended workforce understand the importance of privacy protections and the consequences of inappropriate uses or disclosures of IIHI.

Policy

The Division shall ensure that members of its workforce and extended workforce make reasonable efforts to protect IIHI from intentional or unintentional use or disclosure that is in violation of the department's and the Divisions privacy policies and procedures, or that is in violation of Federal or State law. In the event that the Division should become aware of a privacy policy violation, the Division must make reasonable efforts to lessen any resulting harmful effects. DPH is committed to ensuring the protection of IIHI in a manner consistent with all requirements specified within this policy.

Implementation

Training

The Division shall ensure that its workforce and extended workforce are trained with respect to the protection of IIHI in accordance with the DHHS and DPH Privacy Policies and DPH privacy procedures, as appropriate in the performance of their job responsibilities. Training shall be provided to workforce/extended workforce with direct, inadvertent, or incidental access to such health information. This training is required for current members of the workforce and extended workforce, as well as new members of the workforce/extended workforce within a reasonable time after their employment.

DPH has developed procedures that ensure the appropriate privacy training of members of their workforce and extended workforce. DPH privacy training is customized and delivered to staff according to the level of access to IIHI required to fulfill job responsibilities. Basic privacy training must include awareness of the vulnerabilities of the health information in DPH's possession and procedures that must be followed to ensure the protection of that information as necessary for each individual to carry out his/her required job functions, including possible consequences for violation of privacy policies or procedures. Basic training is sufficient for some categories of staff, such as those staff members who are subject to inadvertent or incidental exposure to IIHI.

DPH privacy procedures provide for the documentation and retention of training attendance. Documentation of training shall include the workforce/extended workforce member's name, date of training and type of training provided (e.g., basic privacy) Training attendance documentation shall be retained for no less than six years from the last date of the individual's active participation as a member of the workforce or extended workforce.

When a change is made to DHHS and/or DPH Privacy Policies or DPH privacy procedures, each workforce member whose function(s) are impacted by the change shall receive the instruction necessary to implement the change within a reasonable amount of time after the change becomes effective.

Division of Public Health Training Procedure

The DPH Basic Privacy Training consists of an MS PowerPoint presentation and provides the essential requirements that every DPH workforce member must meet to ensure that IIHI is safeguarded and protected.

The DPH Basic Privacy Training is available in a variety of formats. The material is available on all shared LAN drives for workers to access. It can also be accessed on the DPH HIPAA website at <http://www.schs.state.nc.us/hipaa/>.

DPH workers can also request that a hard copy be mailed to them by emailing or calling the DPH HIPAA Office at HIPAA.DPH@ncmail.net or (919) 715-0441.

The DPH Human Resource staff administers the DPH basic privacy training for every DPH employee. New employees are provided with instructions on how to access the training material and directed to complete the training within 30 days of employment. Employees sign the training acknowledgement form after completing the basic privacy training and send a copy to DPH HR, who retains the training form in the employee file.

DPH Section Chiefs are responsible for ensuring that all non-DPH employees (contract staff, volunteers, interns, and partners working for extending periods on site at DPH) receive and acknowledge receipt of the DPH Basic Privacy Training. DPH Section Chiefs are responsible for maintaining the Privacy training records for non-DPH staff working under their direction. The DPH Sections work with the DPH HIPAA Office to determine whether more detailed and specific policy and procedural training is required for non-DPH staff working under their direction.

The DPH HIPAA Office provides customized and detailed privacy policy and procedure training the DPH workforce members who required to receive this level of training to fulfill their job functions.

Confidentiality Agreement

DPH has developed and implemented a Confidentiality Agreement in a format consistent with the DHSS confidentiality agreement template. The confidentiality agreement reinforces the understanding of members of the workforce/extended workforce to protect the confidentiality of any IIHI to which they may have access.

All current DPH workforce/extended workforce members with direct, inadvertent, or incidental access to IIHI shall be required to sign a Confidentiality Agreement acknowledging their understanding of the Division's privacy policies and procedures and the consequences of any violation.

All new workforce/extended workforce members with direct, inadvertent, or incidental access to IIHI shall be required to sign a Confidentiality Agreement within a reasonable amount of time after employment, but no later than upon completion of privacy training.

Confidentiality Agreements shall be retained for at least as long as the individual remains a member of the workforce or extended workforce.

Procedure for the Division of Public Health Confidentiality Agreement

The DPH Human Resource staff administers the DPH Confidentiality Agreement for DPH employees. All new DPH employees receive the confidentiality agreement during their new employee orientation. DPH Human Resources review the requirements and have the new employee sign it. DPH HR retains a copy of the signed confidentiality agreement in the employee's file.

DPH Section Chiefs are responsible for ensuring that all non-DPH employees (contract staff, volunteers, interns, and partners working for extending periods on site at DPH) receive and acknowledge receipt of the DPH Confidentiality Agreement. DPH Section Chiefs are responsible for maintaining the signed confidentiality agreement for non-DPH staff working under their direction.

The DPH Confidentiality Agreement is available from DPH Human Resources. It can also be accessed on the DPH HIPAA web site at <http://www.schs.state.nc.us/hipaa/>. A DPH workforce member can review the form online, print and sign it, and send to DPH Human Resources or their Section Chief, as appropriate.

Sanctions

Sanctions against employees who fail to comply with the DHHS and DPH privacy policies shall be in accordance with the State Personnel Act and related personnel policies, except that the sanctions for educators subject to Chapter 115C of the North Carolina General Statutes shall be in accordance with NCGS 115C-325. Appropriate sanctions for non-compliant contractors and other workforce members who are not state employees shall be imposed consistent with the terms of their contracts or operative working arrangements.

The Division will review each incident individually, taking into consideration the severity of the incident, circumstances surrounding the incident, the harm done to the client and to the agency, and any possible repercussions as a result of the use or disclosure made by staff. All instances of sanctioning shall be documented through existing personnel processes.

The DHHS Privacy Officer and DPH Agency Privacy Official shall be notified of any privacy violations and, to the extent permitted by law, any sanctions applied.

No Retaliation

The Division shall not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for the following reasons:

- Exercising his/her privacy rights
- Participating in any process relating to privacy compliance

- Filing a complaint with the Secretary of the U.S. Department of Health and Human Services
- Participating in a privacy related investigation, privacy compliance review, proceeding, or hearing
- Engaging in reasonable opposition to any act or practice that the person believes to be unlawful as long as the action does not involve disclosure of IIHI.

Retaliation shall not occur for individuals who make a disclosure to a health oversight agency, public health authority, or an attorney retained by or on behalf of the individual to determine legal options, provided that the individual believes in good faith that an agency has done any of the following:

- Performed an unlawful act
- Violated professional or clinical standards
- Endangered a client or the public through the care, services, or conditions provided.

The Division is not considered to have violated HIPAA Privacy Rules if a member of its workforce or extended workforce, who is the victim of a criminal act, discloses IIHI to a law enforcement officer about the suspected perpetrator, and the health information is the minimum needed to appropriately address the criminal act.

Business Practices

All Division business practices shall provide for preventing intentional unauthorized disclosure of IIHI to unauthorized parties through written or oral interactions, as well as minimizing unintentional conveyance. Business practices shall also provide for reasonable efforts to lessen any resulting harmful effects in the event that an agency should become aware of a HIPAA Privacy Rule violation by the agency or an agency's business associate.

Staff Identification

Members of the Division workforce and extended workforce are to display their Division of Public Health identification when performing job responsibilities for the Division, whether on Division premises or away from the workplace.

Note that badges are not required and actually discouraged when interacting with some clients in special situations where the interaction requires a "natural setting."

DPH Human Resources during new employee orientation ensures that each new employee arranges for and schedules a procedure to receive an identification badge. The procedures and type of identification varies depending on the individual's work location and job responsibilities.

DPH Section Chiefs are responsible for making sure that each non-DPH employee working under their direction arranges to have a badge.

DPH managers are responsible for ensuring that all workforce members working under their direction display their badge appropriately. For those members of the workforce who do not have a badge, DPH supervisors are responsible for ensuring that arrangements are made with DPH Human Resources for the badges.

Workers must report all lost or stolen badges to their supervisor immediately. Supervisors must notify DPH Human Resources. For highly secured areas, more stringent procedures are in place regarding lost or stolen badges.

References: DHHS Directive Number III-11; DHHS Policy and Procedure Manual, Section VIII, Security and Privacy, DPH HIPAA Compliance Statement, 42 CFR 164.530, NC General Statutes 132-6, NC General Statutes 130A, 10A NCAC

For relevant documents:

[Division of Public Health Confidentiality Agreement](#)

For questions or clarification on any of the information contained in this policy, please contact the DPH Privacy Office at HIPAA.DPH@ncmail.net.