

CHAPTER 2

WORKFORCE MEMBERS' RESPONSIBILITIES

I. GENERAL RULE

DMH Workforce Members are responsible for preserving the integrity and confidentiality of Protected Health Information (PHI) created and/or maintained by DMH and for protecting against any unauthorized use or disclosure of PHI. Additionally, all DMH Workforce Members are expected to recognize and support the rights individuals possess regarding their PHI. These rights (Privacy Rights) include the following:

- The right to access their records. Access is subject to certain exceptions and to reasonable limitations related to the business processes of DMH. (See Chapter 11, [Right of Individuals or Personal Representatives to Access Protected Health Information Maintained by DMH.](#))
- The right to request an amendment to their records to correct alleged inaccuracies. Such amendments are subject to law, professional ethics, and professional judgment and standards. (See Chapter 13, [Right to Amend Protected Health Information.](#))
- The right to request the placement of a restriction on the use and disclosure of PHI. (See Chapter 15, [Right to Request Restrictions on the Use and/or Disclosure of Protected Health Information.](#))
- The right to an accounting of certain disclosures of PHI. (See Chapter 12, [Right to an Audit Trail of Certain Disclosures of Protected Health Information.](#))
- The right to confidential communications from DMH. (See Chapter 14, [Right to Request Confidential Communications.](#))

II. SPECIFIC REQUIREMENTS AND DMH PROCEDURES

A. Confidentiality Acknowledgment

1. **Required of all DMH Workforce Members.** All DMH Workforce Members must sign a Confidentiality Acknowledgment. The required Acknowledgment is included at the end of this Chapter.
2. **When it Must Be Signed.** An individual who is a DMH Workforce Member on April 14, 2003 must sign the Confidentiality Acknowledgment the earliest of (a) when he or she first receives training on this Privacy Handbook and/or on other DMH policies and procedures relating to PHI after April 14, 2003, or (b) August 15, 2003. An individual who becomes a DMH Workforce Member after April 14, 2003 must sign the Acknowledgment as of the date he/she starts working for DMH.
3. **Obtaining and Maintaining the Acknowledgment Form.**
 - a. **DMH Employees.** It is the responsibility of DMH Human Resource Offices to obtain and maintain a signed Confidentiality Acknowledgment for each DMH Workforce Member who is an employee of DMH. The signed Confidentiality Acknowledgments are to be maintained in employees' personnel records. To the extent possible, the obtaining of signed Acknowledgments shall be part of the Privacy Training that DMH Workforce Members are required to attend. (Section II.D.)
 - b. **Volunteers.** It is the responsibility of the Administrator-in-Charge, or designee, of the DMH location where a volunteer works or with which the volunteer is otherwise affiliated (e.g., Area or Site Office, Facility or Program) to obtain a signed Confidentiality Acknowledgment from the volunteer. The Administrator-in-Charge, or designee, shall maintain such acknowledgement for a minimum of six (6) years from the date the individual ceases his or her volunteer work at the DMH location. The Administrator-in-Charge, or designee, shall maintain a current list of all volunteers working at or affiliated with his/her DMH location.
 - c. **Contracted Workforce Members.** If DMH designates any contracted to be a DMH Workforce Member position, the vendor will be responsible for obtaining a signed Confidentiality Acknowledgment from the individual(s) filling the position and for providing the Administrator-in-Charge, or designee, of the DMH location(s) where such individual(s) will work with the original or a copy of the signed Confidentiality Acknowledgment.

The Administrator-in-Charge, or designee, must maintain such Confidentiality Acknowledgement(s) for a minimum of six (6) years from the date the individual ceases his/her work at the DMH location. However, if the contract is for the services of a single individual (e.g., consultant, hearing officer), the DMH Contract Office responsible for the contract will be responsible for obtaining and maintaining a signed Confidentiality Acknowledgment from the individual. The Administrator-in-Charge, or designee, shall maintain a current list of all contracted DMH Workforce Members working at his/her DMH location.

B. Compliance with DMH Regulations, Policy and Procedures

DMH Workforce Members are responsible for knowing and complying with all DMH regulations, policies and procedures related to creating and maintaining PHI. Workforce Members are expected to work together in a cooperative and collaborative manner to ensure that PHI created and maintained by DMH is protected and that individuals' Privacy Rights are respected.

C. Limiting Use and Disclosure of PHI

DMH Workforce Members must treat PHI that is created and/or maintained by DMH with the highest regard for confidentiality and the privacy of the subject of the PHI. DMH Workforce Members must not share or use PHI with other DMH Workforce Members or others outside of DMH unless necessary to their jobs and the use or disclosure is permissible under DMH policies and procedures. Personal use of PHI is expressly prohibited. DMH Workforce Members may not access PHI except as necessary to perform their jobs and in accordance with the Designated Record Set Access Documentation in Appendix B. DMH Workforce Members may not attempt to exceed the scope of their authorization to access PHI or attempt to circumvent any DMH data security mechanism. "Browsing" or "snooping" through DMH records, data or PHI is prohibited.

D. Duty to Attend Privacy Trainings

DMH Workforce Members must complete training(s) on policies and procedures related to PHI (Privacy Training) as directed by their supervisors. At a minimum, all DMH Workforce Members must complete Privacy Training as defined by the DMH Privacy Officer on or before August 15, 2003, or within a reasonable time after joining the Workforce. Each DMH Workforce Member attending or otherwise participating in Privacy Training is responsible for ensuring that his/her participation is formally noted in the manner prescribed for that training. A record of the

Privacy Trainings that a DMH Workforce Member attends will be maintained in the applicable Staff Development Office. At a minimum, such documentation shall be retained for six years from the date such Workforce Member ceases to be a DMH Workforce Member.

The Administrator-in-Charge, or designee, of each DMH location is responsible for arranging training for their Workforce Members, as is required, with the DMH Privacy Officer and Staff Development Office.

E. Duty to Report Violation of Privacy Policies or Procedures

A DMH Workforce Member who believes that another Workforce Member or a Business Associate has violated a DMH policy or procedure relating to PHI and/or otherwise violated the privacy of an individual whose PHI is maintained by DMH shall report such violation immediately to his/her supervisor and/or to the DMH Privacy Officer.

F. Refrain from Intimidation or Retaliatory Acts

No DMH Workforce Member shall intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any person, including a DMH Workforce Member, for filing a privacy complaint, for reporting a breach of the privacy policy or procedures, for assisting others to file a complaint or making a report, or for participating in a privacy related investigation, compliance review, proceeding or hearing. However, nothing in this Section II.F. shall preclude DMH from taking appropriate actions for complaints, etc., which are filed in bad faith.

III. LEGAL REFERENCE AND ATTACHMENT

HIPAA 45 CFR 164.530
Confidentiality Acknowledgment