

*The Commonwealth of Massachusetts*  
Executive Office of Health & Human Services  
Department of Developmental Services

**KEEP THIS DOCUMENT FOR YOUR OWN RECORDS**

**NOTICE OF PRIVACY PRACTICES**

**THIS NOTICE DESCRIBES HOW PROTECTED HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.**

**Purpose:**

This notice is to inform you about the Department of Developmental Services's privacy practices and legal duties related to protection of the privacy of your medical or health records that we create or receive. This notice also explains your rights regarding your health information and the Department's responsibilities. As explained below, we are required by law to ensure that medical or health information that identifies you is kept private.

If you have any questions about the content of this Notice of Privacy Practices, if you need to contact someone at the Department about any of the information contained in this Notice of Privacy Practices, or if you have a complaint about the Department's Privacy Practices, you may contact the Department's Privacy Office at:

Privacy Officer  
Department of Developmental Services  
500 Harrison Avenue  
Boston, MA 02118  
(888) 367-4435, ext. 7717

**I. What is Protected Health Information?**

Protected Health Information (**PHI**) is information which the Department gathers about your past, present or future health or condition, about the provision of health care to you, or about payment for health care. Whether based upon our confidentiality policies, or applicable law, the Department has a long-standing commitment to protect your privacy and any personal health information that we hold about you. Under federal law, we are required to give you this Notice about our privacy practices that explains how, when, and why we may use or disclose your PHI.

You may request a copy of the notice from any Department of Developmental Services Office. It is also posted on our website at [www.dds.state.ma.us](http://www.dds.state.ma.us).

**II. How May the Department Use and Disclose Your PHI?**

In order to provide services to you, DDS must use and disclose Protected Health Information in a variety of ways. The following are examples of the types of uses and disclosures of PHI that are permitted *without your authorization*.

Generally, the Department may use or disclose your PHI as follows:

- **For Treatment:** DDS may use PHI about you to provide you with treatment or services. For example, your treatment team members may internally discuss your PHI in order to develop and carry out a plan for your services. DDS may also disclose PHI about you to people or service providers outside the Department who may be involved in your medical care, but only the minimum necessary amount of information will be used or disclosed to carry this out.
- **To Obtain Payment:** DDS may use or disclose your PHI in order to bill and collect payment for your health care services. For example, DDS may release portions of your PHI to the Medicaid program, Social Security Office, staff at the Department, or to a private insurer.
- **For Health Care Operations:** DDS may use or disclose your PHI in the course of operating the Department's facilities, offices, developmental centers and all other Department programs. These uses and disclosures are necessary to run our programs including ensuring that all of our consumers receive quality care. For example, we may use your PHI for quality improvement to review our treatment and services and to evaluate the performance of Department and/or provider staff in caring for you. We may also disclose information to doctors, nurses, technicians, medical students and other personnel as listed above for review and learning purposes. It may also be necessary to obtain or exchange your information with other Massachusetts state agencies.

The law provides that we may use or disclose your PHI *without consent or authorization* in the following circumstances:

- **When Required By Law and For Specific Governmental Functions:** DDS may disclose PHI when a law requires that we report information about suspected abuse, neglect or domestic violence, or relating to suspected criminal activity, or in response to a court order. We may also disclose PHI to authorities that monitor compliance with these privacy requirements. We may also disclose PHI to government benefit programs relating to eligibility and enrollment, such as Medicaid, for workers' compensation claims, and for national security reasons, such as protection of the President.
- **For Public Health and Safety Activities:** DDS may disclose PHI when we are required to collect information about disease or injury, or to report vital statistics to a public health authority, reporting adverse medication reactions, product recalls, or preventing disease.
- **For Health Oversight Activities:** DDS may disclose PHI within the Department or to other agencies responsible for monitoring the health care system for such purposes as reporting or investigation of unusual incidents, and monitoring of the Medicaid program.
- **Relating to Decedents:** DDS may disclose PHI related to a death to coroners, medical examiners, or funeral directors, and to organ procurement organizations relating to organ, eye, or tissue donations or transplants. Information may also be disclosed in relation to internal or external investigations.
- **For Research, Audit or Evaluation Purposes:** In certain circumstances, and under the oversight of a research review committee, DDS may disclose PHI to approved researchers and their designees in order to assist research.
- **To Respond to Lawsuits and Legal Actions:** DDS may share health information about you in response to a court or administrative order, or in response to a subpoena to the extent authorized by state law or federal law, including but not limited to G.L. c. 123B, § 17 (DDS Records Confidentiality); G.L. c. 66A, § 2 (Fair Information Practices Act); G.L. c. 111, § 70(f) (HIV testing); G.L. c. 111B, § 11 (alcohol treatment); and G.L. c. 111E, § 18 (drug treatment).
- **To Avert Threat(s) to Health or Safety:** In order to avoid a serious threat to health or safety, DDS may disclose PHI as necessary to law enforcement or other persons who can reasonably prevent or lessen the threat of harm.

### **III. Uses and Disclosures of PHI Requiring your Authorization.**

For uses and disclosures other than treatment, payment and healthcare operations purposes we are required to have your written authorization, unless the use or disclosure falls within one of the exceptions described above. Authorizations may

be revoked at any time to stop future uses/disclosures except to the extent that we have already undertaken an action in reliance upon your authorization.

#### **IV. Limited Uses and Disclosures to Families, Friends, and Others Provided You Do Not Object**

We may disclose a limited amount of your PHI to families, friends, or others involved in your care if we inform you about the disclosure in advance and you do not object, as long as the law does not otherwise prohibit the disclosure.

#### **V. Your Preference(s) for How DDS Shares Your Protected Health Information**

For certain health information you can inform DDS your preferences for how/what we may share. In these cases, you have both the right and choice to inform DDS to:

- Share information with your family, close friends, or others involved in your care;
- Share information in a disaster relief situation;
- Include your information in a hospital/facility directory;
- Contact you for fundraising efforts.

If you are not able to tell us your preferences, for example if you are unconscious, DDS may share your information if we believe it is in your best interest. We may also share your information when necessary to lessen a serious and imminent threat to health or safety.

#### **VI. Prohibited Disclosures**

The Department will never use or disclose your protected health information for marketing purposes, for sale of your information, or for most sharing of your psychotherapy notes unless you have provided your written permission authorizing such. In the case of fundraising, DDS may contact you for fundraising efforts – but you may advise DDS not to contact you again.

#### **VII. Your Rights Regarding Your Protected Health Information**

You have the following rights relating to your protected health information:

- **To Obtain a Copy of this Notice of Privacy Practices:** You may ask DDS for a paper copy of this notice at any time.
- **To Inspect and Request a Copy of Your PHI:** Unless access to your records is restricted for clear and documented treatment reasons, you have a right to inspect and obtain a copy of your paper and electronic protected health information upon your written request. A request should be made to the Privacy Officer through your service coordinator or Area Office. DDS will respond to your request within 30 days. If you want copies of your PHI, a charge may be assessed.
- **To Choose Someone to Act for You:** If you have given someone medical power of attorney or if someone is your legal guardian, that person may exercise your rights and make choices about your health information to the extent authorized by law. DDS will respect the requests/choices of your legally authorized representative to the extent authorized by law.
- **To Request Restrictions on Uses/Disclosures:** You have the right to ask that DDS limit how we use or disclose your PHI or request that DDS not use or share certain health information for treatment, payment, or health care operations. The Department will consider your request, but is not legally bound to agree to the restriction if it may affect your care or service provision. If you pay for service or health care item out-of-pocket in full, you can ask that DDS not share that information for the purposes of payment or our operations with your health insurer.

- **To Choose How We May Contact You:** You have the right to ask that DDS send you information at an alternative address or by an alternative means; including request(s) that we contact you by confidential communications.
- **To Request Amendment of your PHI:** If you believe there is a mistake or missing information in our record of your PHI, you may request, in writing, that DDS correct or add to the record. DDS will respond within 60 days of receiving your request. Any denial will state the reason for denial and explain your rights to have the request and denial, along with any statement in response that you provide, appended to your PHI.
- **To Request an Accounting of What Disclosures Have Been Made:** In certain circumstances, you have a right to get a list of when, to whom, for what purpose, and what content of your PHI has been released.
- **To File a Complaint:** If you think DDS may have violated your privacy rights, or you disagree with a decision the Department has made about access to your PHI, you may file a complaint with the DDS Privacy Officer. You may also file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights by sending a letter to 200 Independence Avenue, S.W., Washington, D.C. 20201, calling 1-877-696-6775, or by visiting HHS's Website at: [www.hhs.gov/ocr/privacy/hipaa/complaints/](http://www.hhs.gov/ocr/privacy/hipaa/complaints/). The Department will take no retaliatory action against you if you make such a complaint.

### **VIII. DDS's Privacy and Security Responsibilities**

The Department has the following responsibilities relating to your protected health information:

- **Protect the Privacy of Your Health Information:** DDS is required by law to maintain the privacy and security of your protected health information.
- **Notify You of Breaches:** DDS will contact you promptly if there is a breach of security that may have compromised the privacy or security of your unsecured health information.
- **Notice of Privacy Practices:** DDS must adhere to the duties and privacy practices described in this notice and make copies of such available to you.
- **Authorized Uses and Disclosures:** DDS will not use or share your information other than as described in this notice unless authorized by you in writing. You may also change your mind and revoke your authorization at any time by contacting the Department in-writing.

For additional information see: [www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html](http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html).

#### **Application and Effective Date:**

This notice applies to the use or disclosure of protected health information at all Department Facilities, Offices, Developmental or Regional Centers, and all other Department programs; including the use or disclosure of PHI by individuals or entities engaged in an organized health care arrangement (OHCA) with the Department. Any individual or entity so engaged with DDS in an OHCA shall adhere to DDS's duties and privacy practices as described in this notice.

This notice is effective as of April 14, 2003 (as revised September 1, 2014). The Department reserves the right to make changes to its privacy practices and the terms of this Notice at any time. The new notice will be available upon request, in any DDS Office, and on the Department's website.