




Chapter: Information Management and Information Technology
Subject: Notice of Privacy Practices

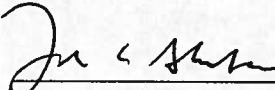
Applicability: DBHDD, including the state office, regional offices, state operated DBHDD hospitals and any state operated community programs.

Effective Date: September 1, 2011
Full Implementation Date: November 1, 2011
Next Review Date: September 2013
Approved:

Attachments:

Attachment A: Notice of Privacy Practices Form

 8/22/11
Elizabeth Bentley Watson, Esq. Date
Privacy Officer

 8/22/11
Frank E. Sheip, M.D., M.P.H., Commissioner Date

POLICY

It is the policy of DBHDD to provide adequate notice to individuals of the uses and disclosures of PHI it may make by providing a Notice of Privacy Practices to persons seeking or receiving services. DBHDD shall document its compliance with the notice requirements by retaining copies of the notices it issues. DBHDD shall not require individuals to waive their rights as provided in the Notice as a condition of treatment, payment or eligibility for benefits.

APPLICABILITY

DBHDD is a "covered entity" as defined in, and as governed by, the Health Insurance Portability and Accountability Act of 1996 and its regulations (HIPAA).

This policy is therefore applicable to any facility or program that is a part of DBHDD, including the state office, regional offices, state operated DBHDD hospitals and any state operated community programs.

This policy and associated forms are available as resources for providers, but DBHDD makes no representation or warranty that compliance with the provisions of this policy will ensure a provider's compliance with all applicable laws and regulations. Providers should seek their own legal counsel regarding compliance with laws and regulations on the subject matter of this policy.

DEFINITIONS

All defined terms used in this policy shall have the same meaning as defined in the Department of Behavioral Health and Developmental Disabilities' Confidentiality and HIPAA Policy #23-100.

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PROCEDURES

- A. All individuals seeking or receiving services are entitled to written notice of the privacy practices of the Department of Behavioral Health and Developmental Disabilities (DBHDD). DBHDD will ensure that a copy of the Notice of Privacy Practices (**Attachment A**) is provided to individuals, parents or legal custodians of minor individuals, and guardians of individuals who are seeking, applying for, or receiving services from DBHDD.
- B. The Notice must be in plain language and must include:
1. A header stating, "THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY."
 2. Information regarding uses and disclosures of PHI.
 3. Statement of an individual's privacy rights regarding protected health information.
 4. DBHDD's responsibilities under the Privacy Rule.
 5. A description of any federal or state laws or regulations that may apply in addition to, or instead of, HIPAA regulations.
 6. How to file complaints with the provider, DBHDD, or the Secretary of Health and Human Services.
 7. Name or title and phone number of the designated contact for more information on DBHDD's privacy practices.
 8. Effective date of the Notice.
- C. The Notice of Privacy Practices (Attachment A) must be used, without alteration of the substantive content, by DBHDD state-owned or state-operated facilities or programs. The facility or program may add its name and address and the contact information for the designated contact person at the facility or program who can provide information on privacy practices.
- D. Individuals must be given the Notice of Privacy Practices on the date of first service delivery, including services delivered electronically, or in an emergency treatment situation, as soon as reasonably practicable after the emergency treatment situation.
1. If the first service delivery to an individual is delivered electronically, the covered health care provider must provide electronic notice automatically and contemporaneously in response to the individual's first request for service.
 2. The individual who is the recipient of electronic notice retains the right to obtain a paper copy of the notice upon request.
- E. DBHDD must make good faith efforts to obtain a written acknowledgment of receipt of the Notice of Privacy Practices, even when it is given electronically. This acknowledgment may be made by the individual, parent or legal custodian (for minor individuals) or guardian of the person of an individual. In the event the individual, parent or legal custodian, or guardian declines to provide such an acknowledgment, the effort to obtain it and the reason why acknowledgment was not obtained, should

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be documented. A copy of the Notice of Privacy Practices (signed if possible) will be kept in the individual's clinical record.

- F. Every individual, and his/her parent or guardian if applicable, is entitled to a copy of the Notice of Privacy Practices upon request.
- G. DBHDD facilities, including regional offices, must ensure that the Notice of Privacy Practices is posted at all times in a prominent location where it is reasonable to expect individuals who are seeking or receiving services to be able to read the Notice. Additional copies must be available for distribution upon request.
- H. DBHDD will post the Notice of Privacy Practices upon its website and make the Notice available electronically through its website.
- I. DBHDD will promptly revise and re-distribute and post its Notice of Privacy Practices whenever there is a material change to uses and disclosures, the individual's rights, DBHDD's legal duties, or other privacy practices stated in the Notice. Distribution shall include DBHDD staff, regional offices, state-owned or state operated facilities, and individuals. Distribution to providers shall be through publication in the Provider Manual or its updates. Notice must be provided to individuals within 60 days of a material revision to the Notice.
- J. DBHDD shall not require individuals to waive their rights as provided in the Notice of Privacy Practices as a condition of treatment, payment or eligibility for benefits.

LEGAL REFERENCES

45 C.F.R § 164.520

<p>Georgia Department of Behavioral Health & Developmental Disabilities</p> <p>Facility/Program/Hospital Name Address, City, State, Zip Contact numbers</p> <p>DBHDD Policies 23-100 and 23-101</p> <p>NOTICE OF PRIVACY PRACTICES FORM</p>	<p>Stamp Plate</p>
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THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED BY THE DEPARTMENT AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY. This notice is effective September 1, 2011. It is provided to you under the Health Insurance Portability and Accountability Act of 1996 and related federal regulations (HIPAA). If you have questions about this Notice please contact your Treatment Provider or Services Provider, or the Department's Privacy Officer at the address below.

The Department of Behavioral Health and Developmental Disabilities (DBHDD) is an agency of the State of Georgia responsible for certain programs which deal with medical and other confidential information. Both federal and state laws establish strict requirements regarding the disclosure of confidential information, and the Department must comply with those laws. For situations where stricter disclosure requirements do not apply, this Notice of Privacy Practices describes how the Department may use and disclose your "protected health information" for treatment, payment, health care operations, and for certain other purposes. This notice also describes your rights regarding your protected health information. **Protected health information** is information that may personally identify you and relates to your past, present or future physical or mental health or condition and related health care services. The Department is required to provide you this Notice of Privacy Practices, and to abide by its terms, and may change the terms of this notice at any time. A new notice will be effective for all protected health information that the Department maintains at the time of issuance. The Department will provide you with any revised Notice of Privacy Practices by posting copies at its facilities, publication on the Department's website, in response to a telephone or facsimile request to the Privacy Officer, or in person at any facility where you receive services from the Department.

1. Uses and Disclosures of Protected Health Information: Your protected health information may be used and disclosed by the Department, its administrative and clinical staff and others involved in your care and treatment for the purpose of providing health care services to you, and to assist in obtaining payment of your health care bills.

a. Treatment: Your protected health information may be used to provide, coordinate, or manage your health care and any related services, including coordination of your health care with a third party that has your permission to have access to your protected health information, such as, for example, a health care professional who may be treating you, or to another health care provider such as a specialist or laboratory.

b. Payment: Your protected health information may be used to obtain payment for your health care services. For example, this may include activities that a health insurance plan requires before it approves or pays for health care services such as: making a determination of eligibility or coverage, reviewing services provided to you for medical necessity, and undertaking utilization review activities.

c. Health Care Operations: The Department may use or disclose your protected health information to support the business activities of the Department, including, for example, but not limited to, quality assessment activities, employee review activities, training, licensing, and other business activities. Your protected health information may be used to contact you about appointments or for other operational reasons. Your protected health information may be shared with third party "business associates" who perform various activities that assist us in the provision of your services.

2. Other Permitted or Required Uses and Disclosures with Your Authorization or Opportunity to Object: Other uses and disclosures of your protected health information will be made only with your written authorization, which you may revoke at any time to the extent that the Department has not acted upon your authorization, **except** as permitted or required by law as described below. The Department may use and disclose your protected health information when you authorize in writing such use or disclosure of all or part of your protected health information. If you are hospitalized, the Department may use and disclose certain protected health information to your representative, as that term is defined in the Georgia Mental Health Code, upon your admission or discharge; you may be given a chance to object to certain other disclosures to your representative.

a. Confidentiality of Alcohol and Drug Abuse Patient Records: The confidentiality of patient records which disclose any information identifying you as an alcohol or drug abuser is protected by federal law and regulations. This information generally will not be disclosed unless you consent in writing, the disclosure is allowed by a court order, or the disclosure is made to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation. Violation of these federal laws and regulations by the facility, treatment or service provider, or the Department, is a crime. You may report violations to appropriate authorities in accordance with the federal regulations. Federal regulations do not protect any information about a crime committed by you either at a facility or program or against any person who works at a facility or program or about any threat to commit such a crime. Federal regulations do not protect any information about suspected child abuse or neglect from being reported under State law to appropriate State or local authorities.

b. AIDS confidential information: AIDS confidential information, including HIV status or testing information, is confidential under state law. Generally, the Department will not disclose AIDS confidential information without your authorization. The Department may disclose this information in certain circumstances to protect persons at risk of infection by you, including your family and health care providers. The

Department may disclose AIDS confidential information in certain circumstances as part of your mental health commitment or by other legal procedures.

3. Permitted or Required Uses and Disclosures without Your Authorization or Opportunity to Object: The Department may use or disclose your protected health information without your authorization for continuity of your care or for your treatment in an emergency or when clinically required; when required to do so by law; for public health purposes; to a person who may be at risk of contracting a communicable disease; to a health oversight agency; to an authority authorized to receive reports of abuse or neglect; in certain legal proceedings, such as hearings regarding your hospitalization or commitment or to comply with workers' compensation laws; and for certain law enforcement purposes. Protected health information may also be disclosed without your authorization to a coroner or medical examiner, and to the legal representative of your estate.

4. Required Uses and Disclosures: Under the law, the Department must make certain disclosures to you, and to the Secretary of the United States Department of Health and Human Services when required to investigate or determine the Department's compliance with the requirements of HIPAA regulations beginning at 45 CFR Section 164.500.

5. Your Rights: The following is a statement of your rights with respect to your protected health information and a brief description of how you may exercise these rights.

a. You have the right to inspect and copy your protected health information: You may inspect and obtain a copy of protected health information about you for as long as the Department maintains the protected health information. This information includes medical and billing records and other records the Department uses for making medical and other decisions about you. A reasonable, cost-based fee for copying, postage and labor expense may apply. Under federal law you may not inspect or copy psychotherapy notes; information compiled in anticipation of, or for use in, a civil, criminal, or administrative proceeding, or protected health information that is subject to a federal or state law prohibiting access to such information. While you are hospitalized, your physician may restrict your right to review your records if it would be harmful to your physical or mental health.

b. You have the right to request restriction of your protected health information: You may ask the Department not to use or disclose any part of your protected health information for the purposes of treatment, payment or healthcare operations, and not to disclose protected health information to family members or friends who may be involved in your care. Such a request must state the specific restriction requested and to whom you want the restriction to apply. The Department is not required to agree to a restriction you request, and if the Department believes it is in your best interest to permit use and disclosure of your protected health information, your protected health information will not be restricted, except as required by law. If the Department does agree to the requested restriction, the Department may not use or disclose your protected health information in violation of that restriction unless it is needed to provide emergency treatment.

c. You have the right to request to receive confidential communications from us by alternative means or at an alternative location: Upon written request to a person listed in section 6 below, the Department will accommodate reasonable requests for alternative means for the communication of confidential information with you, but may condition this accommodation upon your provision of an alternative address or other method of contact. The Department will not request an explanation from you as to the basis for the request.

d. You may have the right to request amendment of your protected health information: If the Department created your protected health information, you may request an amendment of that information for as long as it is maintained by the Department. The Department may deny your request for an amendment, and if it does so will provide information as to any further rights you may have with respect to such denial. Please contact one of the persons listed in section 6 below if you have questions about amending your protected health information.

e. You have the right to receive an accounting of certain disclosures the Department has made of your protected health information: This right applies only to disclosures for purposes other than treatment, payment or healthcare operations, and does not apply to any disclosures the Department made to you, to family members or friends or representatives, as defined in the Georgia Mental Health Code, who are involved in your care, or for national security, intelligence or notification purposes. You have the right to receive legally specified information regarding disclosures occurring in the six (6) years before your request, subject to certain exceptions, restrictions and limitations.

f. You have the right to obtain a paper copy of this notice from the Department, upon request.

6. Complaints: You may complain to us and to the United States Secretary of Health and Human Services if you believe your privacy rights have been violated. You may file a complaint in writing with the Department facility providing your treatment or services, or your treatment provider or services provider under contract or agreement with the Department which maintains your protected health information at telephone _____, facsimile _____, or by mail to _____. You must state the basis for your complaint. Neither the facility, the provider, nor the Department will retaliate against you for filing a complaint. You may also contact the **Department's Privacy Officer by telephone at (404) 657-2282, facsimile (404) 657-2173, or by mail to 2 Peachtree Street NW, Room 22.240, Atlanta, Georgia 30303-3142,** for further information about the complaint process or this notice.

Please sign a copy of this Notice of Privacy Practices for your provider's and the Department's records.

I have received a copy of this Notice on the date indicated below.

Signature of Individual or Legally Authorized Person

Date

Stamp Plate