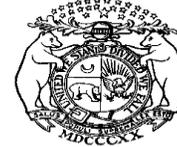




MISSOURI DEPARTMENT OF MENTAL HEALTH

MARK STRINGER, DEPARTMENT DIRECTOR



DEPARTMENT OPERATING REGULATION NUMBER

DOR 8.080

CHAPTER Regulatory Compliance	SUBCHAPTER HIPAA Regulation	EFFECTIVE DATE 6/23/16	NUMBER OF PAGES 5	PAGE NUMBER Page 1 of 5
SUBJECT Ensuring Confidentiality of Protected Health Information for DMH Staff Working Away from a Facility Setting		AUTHORITY Section 630.050, RSMo	HISTORY See Below	
PERSON RESPONSIBLE General Counsel			SUNSET DATE 7/1/19	

PURPOSE: In compliance with the Health Insurance Portability and Accountability Act of 1996 (45 CFR Sections 164 et seq., it is the policy of the Missouri Department of Mental Health (DMH) to provide procedures for best practices for employees to utilize in the field when traveling outside DMH facilities. These

procedures are to protect the privacy of Protected Health Information (PHI) of consumers in compliance with federal and state laws governing the use and disclosure of such PHI.

APPLICATION: DMH, its facilities and workforce.

(1) Definitions:

(A) **Authorized persons:** Those individuals involved in the treatment, payment or health care operations pertaining to the subject of the PHI.

(B) **Designated Record Set:** A group of records maintained by or for a covered entity from which personal health information is retrieved by the name of the individual or by identifying number.

(C) **Electronic Device:** Workstations, laptops, tablets, phones, or other electronic devices used to conduct DMH business.

(D) **Protected Health Information (PHI):** Individually identifiable health Information that is transmitted or maintained in any form or medium, by a covered entity, health plan or clearinghouse as defined under the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Part 160 and 164.

(E) **Individually Identifiable Health Information:** Any information, including demographic information, collected from an individual that -

- 1. is created or received by a healthcare provider, health plan, employer, healthcare clearinghouse, or health information network; and
- 2. related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual, and
 - a. identifies the individual, or
 - b. there is reasonable basis to believe that the information can be used to identify the individual.

(F) **Vehicle:** Any mode of transportation utilized in DMH business.

(2) Staff checking out an electronic device which will be used outside of a DMH facility will sign the Portable Device Agreement attached to this DOR.



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(3) PHI that is unattended shall be secured in a manner to protect such information from persons without authorized access to this PHI.

(A) Vehicles containing any PHI shall be kept locked while unoccupied. PHI shall be kept locked in the trunk of the vehicle, when possible. In the event of extreme temperature situations, an electronic device containing PHI shall be maintained in the temperature controlled cab in a case while the vehicle is occupied.

1. In the event of a vehicle accident any DMH employee who suspects there is PHI in the vehicle shall make every reasonable attempt to make sure that the PHI is not accessible to anyone who does not need to have access to it, after assuring the health and safety of any individual(s).

(B) Upon an employee leaving an area where they have materials containing PHI, e.g. to use the restroom, the employee shall take the materials with them or ensure that the area is protected from viewing by those without authorization by locking the area, or informing facility personnel if they are facility records, or using some other reasonable intervention.

(C) Electronic devices containing PHI and other forms of PHI shall not be left in a hotel room for the day when cleaning service is expected. Upon leaving the hotel, employees shall take these items with them or ensure they are locked in the valuables area at the front desk or locked in a safe in the room if one is available

(D) Employees shall travel in the field taking only PHI necessary to carry out their duties.

(E) Any documentation, equipment or electronic device that may contain PHI shall be secured from access by those without authorization to the PHI. This includes all locations including an employee's home.

(F) If a designated record set is checked out from a DMH facility, the medical records policy of the facility shall be followed. If not a DMH facility, careful consideration should be used to determine whether checking out any original records containing PHI is appropriate, and what measures may be used to secure these when unattended.

(G) Data contained on all electronic devices should be backed-up to a disk or to the network when at all possible to avoid loss of PHI.

(H) If PHI in any form is lost or stolen, the facility or Central Office Privacy Officer (as applicable), or designee, shall be notified as soon as practical, not to exceed two business days, in order to initiate the mitigation process.

(I) Laptops shall be completely shut down when being transported or left unsecured in order to activate the encryption software. This encryption will render any data unusable should the device be stolen or misplaced.

(4) PHI that is potentially within view of others, even if DMH staff is present, shall be protected in a manner that such information is not communicated to persons without authorized access to this PHI.

(A) All PHI within a vehicle shall be maintained so as to protect from plain view through the windows of the vehicle.



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(B) Any electronic device containing PHI shall not have the screen placed in view of others and if left unattended briefly, a screen saver with password shall be employed consistent with the DMH’s security requirements.

(C) All documentation containing PHI shall be maintained out of the view of unauthorized persons.

1. While working with PHI, the employee shall keep the documentation within line of sight or within arm’s reach.

2. This documentation shall be viewed in the most private settings available.

3. Only PHI documentation necessary for the task at hand shall be in view.

4. Briefcases containing PHI shall remain closed when not in use.

5. When having PHI material copied, the employee shall ensure that this material is only viewed by authorized persons.

6. When the employee is finished with reviewing facility records containing PHI, the records shall be returned to facility personnel and secured prior to the field employee departing, or in the case of an ongoing audit or investigation, etc., at the time of completion.

(D) Employees shall send and receive faxed materials containing PHI to and from DMH locations only, unless such locations are not readily available and timely transmission of records is necessary for safety needs. If in non-DMH locations:

1. When sending or receiving a fax containing PHI, the employee shall ensure only those authorized to view have access to the material during the process of transmission.

2. The fax cover sheet shall not contain PHI.

3. Upon sending or receiving material containing PHI, the employee or designee shall call the location to verify with the sender or the receiver that the transaction was successful.

4. The employee shall be waiting to receive the fax at the fax machine when the transmission is expected if the material could be accessed by those without authorization to view the PHI.

(E) To ensure confidentiality, field based employees shall not wear identification badges in public areas where they are conducting business with those individuals receiving services from DMH.

1. Any DMH identifying information shall not be in plain view such as agency logo on a notebook or briefcase, etc.

2. However, DMH facility staff shall wear badges or identification if they are accompanying a consumer to the hospital, clinic, doctor’s appointment, or some other formal appointment.



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(F) When using sign language interpreters where PHI may be transmitted, the most private setting available out of view of others shall be used.

(5) PHI that is verbally transmitted to others shall be protected in a manner that such information is not communicated to persons without authorized access to this PHI. Verbal transmission includes all conversational communication whether in a spoken language or a signed language.

(A) Conversations where PHI is discussed in a spoken language shall occur in the most private settings. There shall be as much distance as possible between any individuals without authorized access to the PHI.

(B) Conversations where PHI is discussed shall occur with the employee using a volume level which cannot be overheard by those without authorized access to the PHI. This includes telephone conversations. If there is no way to prevent being overheard, a specific code shall be used to identify an individual such as chart number, or consumer initials.

1. The employee shall make every effort to keep the volume level of all participants low enough so as to not be overheard.

2. Conversations shall involve using only the first name of an individual whenever possible.

(C) Conversations where PHI is discussed in a signed language or with sign language interpreting shall occur in the most private setting available out of view of others without authorized access to the PHI. This includes videophone conversations. If there is no way to prevent being seen, a specific code shall be used to identify an individual such as a chart number, or consumer initials.

1. The employee shall make every effort to control the signing space and body position of all participants to prevent the signing from being seen by those without authorized access.

2. Conversations shall involve using only the first name of an individual whenever possible.

(D) Wireless/cellular and cordless telephones shall be used for communicating PHI only if necessary.

1. Employees shall not communicate PHI on a cordless telephone, unless using a code specified in (5) (B).

2. There is currently no device to monitor digital cellular telephone calls, so PHI discussions are currently acceptable.

3. Employees shall not use SMS or instant text messaging to transmit PHI.

4. Employees shall not transmit PHI through their personal email addresses.

(6) PHI that may be shared with others in the course of an employee carrying out duties shall be protected in a manner that such information is not communicated to persons without authorized access to this PHI. This includes PHI that may be shared with sign language and spoken language interpreters and interpreting



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agencies.

(A) Sign language and spoken language interpreters shall be used by field staff in accordance with guidelines established by the DMH Office of Deaf Services. When the use of an interpreter is required, field staff shall contact the Office of Deaf Services for guidance.

(7) SANCTIONS: Failure of staff to comply or assure compliance with the DOR may result in disciplinary action, up to and including dismissal.

(8) LOCAL POLICIES: There shall be no facility policies pertaining to this topic. The DMH Operating Regulation shall control.

(9) REVIEW PROCESS: The Central Office Privacy Officer may collect information from the facility Privacy Officers annually to monitor compliance with this DOR.

Attachment: Portable Device Agreement

History: Original DOR effective January 1, 2003. Final DOR effective June 1, 2003. Amendment effective July 1, 2006. On July 1, 2009, the sunset date was extended to July 1, 2012. Amendment effective June 25, 2012. Amendment effective August 29, 2012. Amendment effective June 23, 2016.



PORTABLE DEVICE AGREEMENT

Being in possession of a portable computing device adds an extra layer of responsibility for protecting consumer health information. Users must take extra steps to ensure the security and privacy of consumer protected health information on a portable device. These protections are outlined in DOR 8.080 which should be read before taking possession of a portable device. By signing this form you are acknowledging that you are advised of your responsibilities and agreeing to take extra precautions including:

- Shut down laptops before transporting them in order to activate the encryption software.
- Password protect phones, tablets, or other devices which could hold consumer protected health information.
- Do not allow family members or others to use these devices.
- Never leave portable devices unlocked and unattended even in your home.

Data on portable devices represents a significant risk for a protected health information breach. Please be diligent in following the guidelines given for using these devices.

I agree I have read DOR 8.080 and will follow the guidelines outlined both in the Department DORs and in this agreement in regard to consumer protected health information.

Signature of custodian of device