

**Subject: Enforcement, Sanctions, and Penalties for PHI Violations**

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**Objective:**

- I. To specify enforcement, sanction, penalty, and disciplinary actions that may occur as a result of violation of Health Share/Tuality Health Alliance (THA) policies regarding the privacy and protection of protected health information (PHI).
- II. To provide THA staff with privacy guidelines, ensuring conformity to PHI privacy standards.

**Policy:**

- I. General Privacy Overview
  - a. All THA staff and volunteers must guard against improper uses or disclosures of an individual's information.
  - b. Any THA staff member that is uncertain of a permissible PHI disclosure is advised to consult with a supervisor.
    - The THA Privacy Officer is a resource for any THA staff member that cannot resolve a disclosure question; the THA Privacy Officer may be consulted in accordance with the operational procedures of THA.
    - The Tuality Healthcare (THC) Privacy Officer is another resource that may be consulted with questions regarding the use or disclosure of PHI.
  - c. THA staff members are required to be aware of their responsibilities under State and Federal law and THA privacy policies.
    - THA staff members are expected to sign an Employee Confidentiality and Conflict of Interest Statement indicating that they have been informed of THA business privacy practices and that they understand their responsibilities to ensure the privacy of individuals/THA members.
    - THA staff member must complete annual HIPAA training and testing as part of their performance development and in order to maintain their jobs.
    - Supervisors are responsible for assuring that staff members who have access to confidential information, whether it be electronic, hard copy, or through verbal communication, are informed of their responsibilities.
  - d. THA staff members who violate THA policies and procedures regarding the safeguarding of an individual's information are subject to disciplinary action, which may include:
    - Immediate dismissal from employment;
    - Legal action by the affected individual – the individual may want to pursue a tort claim against the state of Oregon or a lawsuit against the State and the employee.
  - e. THA staff members who knowingly and willfully violate State or Federal law to improperly use or disclose an individual's information may be subject to:

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- Criminal investigation and prosecution, both by the State and Federal government; and
  - Substantial fines and prison sentences upon conviction.
- f. If THA fails to enforce privacy safeguards, THA may be subject to administrative penalties by the Department of Health and Human Services (DHHS), including federal funding penalties.

II. Prohibition of Retaliation

Neither THA as an entity nor any THA employee will intimidate, threaten, coerce, discriminate against, or take any other form of retaliatory action against an individual who acts in any of the following ways:

- Exercises any right established under THA policy;
- Files a complaint with THA or with DHHS;
- Testifies, assists, or participates in an investigation, compliance review, proceeding, or hearing relating to THA policy; or
- Opposes any unlawful act or practice, provided that the individual or other person (including a THA employee) has a good faith belief that the act or practice being opposed is unlawful and that the manner of such opposition is reasonable.

III. Whistleblowing and Workforce Crime Victims

- a. A THA employee or THA business associate may disclose an individual's PHI under the following whistleblowing circumstances:
- The THA employee or business associate believes, in good faith, that THA has engaged in conduct that is unlawful or that otherwise violates professional standards or THA policy, or that the care, services, or conditions provided by THA could endanger THA staff, persons in THA care, or the public and the disclosure is to an oversight agency or public authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of THA; an appropriate healthcare accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or of misconduct by THA; or an attorney retained by or on behalf of the THA employee or business associate for the purpose of determining the legal options of the THA employee or business associate with regard to this THA policy.
- b. A THA employee may disclose limited PHI about an individual to a law enforcement official if the employee is the victim of a criminal act and the disclosure is:
- Only about the suspected perpetrator of the criminal act; and
  - Limited to the following information about the suspected perpetrator:

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- Name and address;
- Date and place of birth;
- Social security number;
- ABO blood type and Rh factor;
- Type of injury;
- Date and time of any treatment; and
- Date and time of death, if applicable.
- Pertaining to civil monetary penalties that the Federal Department of Health and Human Services (DHHS) may impose.

**References:** 45 CFR 164.530  
DHS 100-09: Enforcement, Sanctions, and Penalties for Violations  
of Individual Privacy

**Formulated:** March 11, 2003

**Reviewed:** November 2007  
September 2010  
October 2013  
September 2015

Formulated:	March 2003
Reviewed:	November 2007 September 2010 October 2013 September 2015
Revised:	