



MISSISSIPPI STATE DEPARTMENT OF HEALTH

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MISSISSIPPI STATE DEPARTMENT OF HEALTH

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Introduction

In order to comply with all applicable federal and state laws regarding the protection of Mississippi State Department of Health (MSDH) patients, Protected Health Information (PHI) and Personally Identifiable Information (PII), including the privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act), and their implementing regulations, including 45 C.F.R. Parts 160 and 164, Subparts A and E (Privacy Rule), and 45 C.F.R. Parts 160 and 164, Subparts A and C (Security Rule), the Privacy Act of 1974, and the federal regulations protecting information provided by the Social Security Administration (SSA), the MSDH's Privacy Policies contain the policies to be followed by all MSDH employees, contract workers, temporary workers, volunteers, Business Associates, contractors, subcontractors, subgrantees, and anyone who may access or view MSDH confidential information (collectively referred to in this document as "MSDH staff"). Questions concerning these policies shall be referred to the MSDH Privacy Officer.



MSDH Privacy Policy and Procedures Manual
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Preface

HIPAA’s Privacy Rule protects individually identifiable health information, called PHI, held or transmitted by a covered entity or its business associates, in any form or medium, whether electronic, paper, or verbal. PHI includes information that relates to: (1) an individual’s past, present, or future physical or mental health or condition; (2) the provision of healthcare to the individual; or (3) the past, present, or future payment for the provision of healthcare to the individual. PHI is “individually identifiable” when it contains certain identifiers of an individual or of that individual’s relatives, employers, or household members. These identifiers include the following:

- Names
- All geographic subdivisions smaller than a State
- All elements of dates (except year) for dates directly related to an individual (birth date, admission date, discharge date, or date of death)
- All ages over 89 and all dates (including year) indicative of such age
- Telephone numbers
- Fax numbers
- Email addresses
- Social security numbers
- Medical records numbers
- Account numbers
- Certificate or license numbers
- Vehicle identifiers and serial numbers, including license plate numbers
- Web URLs and IP addresses
- Biometric identifiers, including finger and voice prints
- Full face photographic images and any comparable images
- Any other unique number, code or characteristic that can be linked to an individual

The protection of MSDH patients through confidentiality, data integrity and availability is of paramount importance to MSDH. MSDH’s Privacy Policies shall be implemented by and in conjunction with MSDH’s Privacy Procedures for Disclosures of Information found in Appendix A. Violations of any such policies or procedures may result in severe disciplinary action up to, and including, termination of employment and possible referral for civil and/or criminal prosecution.

The statements made in this Manual represent MSDH’s general operating policies and procedures. For further details regarding these policies and procedures see 45 C.F.R. Parts 160 and 164.

All terms used in this document, but not otherwise defined, shall have the same meanings as assigned to those terms in HIPAA, the HITECH Act, the Privacy Act and their implementing regulations.



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Section 1. Assigning Privacy and Security Responsibilities

It is the policy of MSDH that specific individuals within its workforce are assigned the responsibility of implementing and maintaining compliance with Privacy and Security Regulations. Furthermore, these individuals shall be provided sufficient resources and authority to fulfill their responsibilities. There shall be one individual or job description designated as the MSDH Privacy Officer, and one individual or job description designated as the MSDH IT Security Officer.



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Section 2. Responsibility

The responsibility for designing and implementing procedures to execute the policies related to the privacy of health information lies with the MSDH Privacy Officer. Such procedures can be found in this document and in Appendix A.



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Section 3. Incident Response Team

The Incident Response Team is comprised of the Privacy Officer, the IT Security Officer, the Director of the Office of Health Information Technology (OHIT), the Director of Communications, the Chief Health Data, Operations and Research Officer, the Senior Deputy, Legal, the Director of Policy Evaluation, the Director of Data Governance and any additional members deemed appropriate on an ad hoc basis in the reasonable judgement of the Privacy Officer. In the event of a security incident that results in a wrongful disclosure of PHI/PII, the Privacy Officer, in conjunction with the Incident Response Team will take appropriate actions to prevent further inappropriate disclosures. In addition, Human Resources may be consulted as part of the review team to assist in the review and investigation of privacy incidents when required. If the Privacy Officer and Incident Response Team have not resolved the incident, the Privacy Officer shall involve anyone determined to be necessary to assist in the resolution of the incident. If participants need to be notified of any lost/stolen or compromised PHI, the Privacy Officer will ensure all affected individuals receive a notification letter.



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Section 4. Minimum Necessary Use and Disclosure of PHI

A. Policy

When using or disclosing PHI or when requesting PHI from another covered entity, MSDH shall make reasonable efforts to limit itself to the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request. MSDH is not required to apply the minimum necessary standard under the following circumstances:

1. Disclosures to or requests by a health care provider for treatment;
2. Disclosures to the Department of Health and Human Services (HHS) for compliance review or complaint investigation purposes;
3. Uses and disclosures made to the patient;
4. Disclosures authorized by the patient made pursuant to a valid authorization; and
5. Disclosures that are required by law, such as to report abuse, neglect, or domestic violence, for law enforcement purposes, for judicial or administrative proceedings, or for a mandate by law that compels MSDH to use or disclose PHI and that is enforceable in a court of law (court orders, court-ordered subpoenas, civil or authorized investigative demands).

It is the policy of MSDH that access to PHI shall be granted to MSDH staff (e.g., MSDH employees, contract workers, temporary workers, volunteers, Business Associates, contractors, subgrantees) based on the assigned job functions of the staff member. It is also the policy of MSDH that such access privileges shall not exceed the minimum necessary to accomplish the assigned job function. Additionally, each MSDH staff member shall agree to and sign a Confidentiality Agreement, Business Associate Agreement, and/or Data Use Agreement, as applicable, with respect to PHI.

B. Procedure

MSDH recognizes that each Office that uses or discloses PHI has a unique organizational structure and staff of that Office may perform various functions for that Office that require different levels of access to PHI. The responsibilities designated to these Offices vary across each Office and cannot be determined solely based on job title or description. For these reasons it is the responsibility of each Office that uses and discloses PHI to determine which persons or classes of persons, as appropriate, in its workforce who need access to PHI to carry out their duties; and for each such person or class of persons, the category or categories of PHI to which access is needed and any conditions appropriate to such access.



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Section 5. Authorization to Use or Disclose PHI

A. Policy

Generally, MSDH will *not* need to obtain a patient’s authorization when using and disclosing PHI for routine purposes (i.e. treatment, payment, or health care operations), or for other limited purposes, as described in MSDH’s *Notice of Privacy Practices for Protected Health Information*. Otherwise, MSDH must obtain a patient’s valid written authorization for the use or disclosure of PHI.

The HIPAA Authorization forms shall be in plain language and contain the core elements and statements required by 45 C.F.R. §§ 164.508(a)(3), 164.508(c). Please see the MSDH intranet page to find the Department’s *HIPAA Authorization* (Form 99).

*Exceptions to Authorization Requirements

PHI may be disclosed without an authorization if the disclosure is:

1. To the patient who is the subject of the information;
2. For the purpose of treatment¹;
3. For the purpose of MSDH’s payment activities, or the payment activities of the entity receiving the PHI²;
4. For the purpose of MSDH’s health-care operations³;
5. In limited circumstances, for the health care operations of another Covered Entity, if the other Covered Entity has or had a relationship with the patient;
6. To the Secretary of HHS for the purpose of determining compliance with the HIPAA Privacy Rule;
7. Required by other state or federal law (i.e. to report abuse, neglect, or domestic violence, for law enforcement purposes, or for judicial or administrative proceedings);
8. For public-health activities;

¹ MSDH may use and disclose PHI for a patient’s treatment and to provide the patient with treatment-related health care services.

² MSDH may use and disclose PHI so MSDH or others may bill and receive payment from the patient, an insurance company, or a third party for the treatment and services a patient received.

³ MSDH may use and disclose PHI for health care operations purposes. These uses and disclosures are necessary to make sure all MSDH patients receive quality care and to operate and manage MSDH’s duties.



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9. For health-oversight activities;
10. Immunization information to the patient, parent, legal custodian/guardian, caregiver, other provider (private or public), the patients' school or day care facility;
11. To provide decedent information to coroners, medical examiners, and funeral directors;
12. For research purposes that have been approved by an Institutional Review Board (IRB) or that meet another applicable authorization exception under 45 C.F.R. §164.512(i);
13. To avert a serious threat to health or safety;
14. For specialized government functions; and
15. To comply with worker's compensation laws.

PHI for Substance Use, Mental Health and Sexually Transmitted Diseases

*Pursuant to applicable law, MSDH staff shall obtain a written authorization (using Form 99) from the patient regarding all disclosures of PHI for alcohol and substance use, mental health (including psychotherapy notes), and sexually transmitted diseases, unless the disclosure is required by law. Psychotherapy notes must be requested using its own separate form.

B. Procedure

Refer to Appendix A for procedure.



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Section 6. Access to PHI by the Patient

A. Policy

Every patient has the right to access their PHI/PII. MSDH will respond to all requests to access a patient’s health information. It is the policy of MSDH that access to PHI/PII shall be granted to the patient who is the subject of such information when access is requested or, at the very least, within thirty (30) days. If MSDH does not maintain the PHI/PII requested, MSDH will inform the person requesting access to the location of such PHI/PII, if MSDH has knowledge of its location. MSDH may refuse such access to PHI/PII as permitted by law, including but not limited to, psychotherapy notes, PHI compiled or used in litigation, or access to PHI that is reasonably likely to endanger the life, physical safety, or cause substantial harm to a person.

*Please note this policy applies to *all* patients (including MSDH staff who may also be an MSDH patient). MSDH employees shall *not* utilize their own login credentials to access their own PHI/patient record or the records of their family members. MSDH employees may request access to their records by utilizing the appropriate channels for access as described in this section. An MSDH staff member who fails to abide by this policy is in violation of MSDH’s access requirements and could be subject to disciplinary action.

B. Procedure

1. MSDH staff who work with patients may disclose information to, and assist, patients over the phone or in person (provided MSDH staff confirm the requestor has the legal authority to view/receive such information). When assisting a patient (or their personal representative (see Section 7. Personal Representatives)), MSDH staff may provide information, which is contained in their file to resolve any issues. Only those patient requests for inspection or a copy of their medical record shall need to be submitted in writing (via the *Request for Patient Access to Protected Health Information* (Form 1110)).
2. MSDH staff, during the initial contact (or as soon as possible after the initial contact), shall inform the patient that a request for an inspection or copy of the records requires the request be submitted in writing on the *Request for Patient Access to Protected Health Information* Form 1110. A copy of the form can be provided either in person, by mail, fax, or downloaded online at www.msdh.ms.gov. MSDH staff shall assist in the completion of the written form as necessary. For patients with complete medical records, all requests for patient information shall route through Epic. MSDH staff shall ensure the completed request is immediately sent to Clinical Technology Integration (CTI) for processing.
3. CTI shall review the request form as soon as it is received. This review shall determine:



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- a) The exact amount and nature of the information requested.
 - b) Whether the requestor requires access (i.e. to inspect), copies of the information, a summary of information, or some combination.
 - c) The format of the requested copies, if any.
 - d) If the information is kept by MSDH.
4. CTI shall review the access request and determine if the request shall be granted or denied and document the grant in Epic or the denial in the paper file. A request for access may only be denied for the following reasons:
- a) The requested information includes psychotherapy notes (i.e. notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and *that are separate from the rest of the individual's medical record*. Psychotherapy notes do not include information about medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date).
 - b) The requested information was compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.
 - c) The records are subject to the Privacy Act, 5 U.S.C. §552a (contact the MSDH Privacy Officer if help is needed in making this determination).
 - d) The information was obtained by someone other than a health care provider under a promise of confidentiality and releasing it would be reasonably likely to reveal the source of the information.
 - e) A licensed health-care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person.
 - f) A patient's personal representative made the request and a licensed health-care provider has determined, in the exercise of professional judgment, that the provision of access to the personal representative is reasonably likely to cause substantial harm



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to the patient or someone else.

5. If a request is denied:

- a) CTI shall ensure that the requestor is granted access to all PHI that is *not* subject to the grounds for the denial.
- b) The requestor shall be informed of the MSDH decision on the *Denial Response to Request for Patient Access to Protected Health Information* form. MSDH shall include the basis for the denial, the patient’s review rights and their complaint rights.
- c) The MSDH Privacy Officer shall arrange for the review of denied inspection requests if the patient requests such a review. This review shall be conducted by a licensed health care professional who is designated by MSDH to act as a reviewing official and who did not participate in the original denial decision.
- d) Review requests shall be documented in writing.
- e) The MSDH Privacy Officer shall instruct the reviewer to document the results of the review. Such reviews shall be completed within ten (10) business days of receipt of the review request by the patient.
- f) All original copies shall be filed in the patient’s file.

6. If a request is granted:

- a) CTI shall submit the request to the MSDH Office with access to the information requested for retrieval. The information shall be compiled and returned to the MSDH staff member or to the patient within ten (10) business days.
- b) Each Office shall ensure that the response clearly states the charges incurred for copying or summary preparation (if any). Such charges shall be calculated as outlined on the form.
- c) If the request is granted, access shall be provided within thirty (30) days of receipt of the request form.
- d) CTI shall arrange for any records copying or transferring within five (5) business days of receipt of prepayment. In any case, any records copying or transfer shall be completed within thirty (30) days of receipt of the request form.



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- e) CTI shall calculate the total amount to charge for processing the request (if any). MSDH staff shall also charge the value of postage used (if any), and for consulting fees for preparation of summaries of PHI, if a summary is requested. MSDH shall accept payment in the form of check or money order, payable to the MS State Department of Health. The funds shall be processed through Finance in a manner consistent with applicable policy and procedures.

- f) If the patient requests an inspection of his/her records, MSDH staff shall be present when the inspection occurs. The patient or their personal representative (see Section 7). Access by Personal Representatives) will be given a scheduled time and location to view the records. MSDH staff shall be present at all times when the requestor is reviewing any original records.



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Section 7. Access by Personal Representatives

A. Policy

It is the policy of MSDH that access to PHI shall be granted to personal representatives of a patient as though they were the patient themselves, but only to the extent that such access is appropriate to the nature of the relationship between the personal representative and the patient (e.g., a power of attorney may specify limitations on the personal representative's authority to act on the patient's behalf). MSDH shall not grant access to personal representatives in cases where such access is reasonably likely to cause substantial harm to a person. Finally, MSDH shall conform to the relevant custody status and the strictures of state, local, case, and other applicable law when disclosing information about minors to either of their parents.

B. Procedure

1. MSDH staff shall recognize the circumstances when a personal representative relationship exists. These circumstances include:
 - a) If the person has the authority to act on behalf of the patient when making health care decisions (consult the MSDH Privacy Officer if there is a question in making a determination; if the MSDH Privacy Officer has any questions, he/she shall consult the MSDH Legal Department).
 - b) The executor or administrator of a deceased person's estate is a personal representative of the decedent.
 - c) A parent, guardian, or other person acting *in loco parentis* of an unemancipated minor is a personal representative unless:
 - 1) The minor refuses to authorize the parent, guardian, or other person acting *in loco parentis*.
 - 2) The minor may lawfully obtain the treatment without parental consent and the minor, a court, or someone else who can lawfully consent to the treatment does so.
 - 3) The parent, guardian, or other person acting *in loco parentis* assents to a confidentiality agreement between the minor and the health-care provider.
2. MSDH staff shall validate the personal representative relationship. If the nature of the relationship can be clearly inferred from the circumstances (e.g., when a parent brings a child in to complete an application) you may view such as a personal representative of the



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patient. Otherwise, obtain written verification of the relationship between the two parties (such as a power of attorney or custody agreement).

3. MSDH staff shall restrict disclosures to personal representatives to those that are appropriate according to the nature of the relationship between the personal representative and the patient (e.g. a power of attorney may specify limitations on the representative's authority to act on behalf of the patient).

C. Procedures for Disclosing PHI about Minors to Their Parents/Guardians

1. MSDH staff shall determine if the parent or guardian is a personal representative (see the MSDH Privacy Officer or Appendix A to make that determination). If so, treat the parent or guardian as any other personal representative, except for information contained in the records regarding services which a minor can receive without the consent of a parent or guardian. In Mississippi, those services are:
 - a) Treatment for sexually transmitted diseases (STD) for an unemancipated minor under age 21;
 - b) Treatment for mental or emotional problems resulting from alcohol or drugs for unemancipated minors over age 15;
 - c) Abortion services for an unemancipated minor female under age 18 and under a court order;
 - d) Family planning services for minors under age 21 who are parents or are married;
 - e) Pregnancy or childbirth services for unemancipated minor females regardless of age.



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Section 8. Deceased Patients

A. Policy

It is the policy of MSDH that privacy protections extend to information concerning deceased patients for a period of fifty (50) years after death.

B. Procedure

1. MSDH staff shall follow the same protocol with respect to the disclosure of information for deceased individuals as for disclosures to patients (or their personal representatives (see Section 7. Access by Personal Representatives)). Refer to Section 6. Access to PHI by the Patient and Appendix A.
2. It is permissible for MSDH staff to inform a family member, personal representative, or another person responsible for the decedent's care that they have died. MSDH may also disclose to a family member, a personal representative, or another person who was involved in their care or payment for health care prior to their death, the decedent's PHI that is relevant to such person's involvement, unless doing so is inconsistent with any of the decedent's prior expressed preferences that are known to MSDH. ***A request from such source shall be presented to the MSDH Privacy Officer in writing for verification prior to any disclosure.***
3. MSDH staff may disclose information about a deceased individual to coroners, medical examiners, or funeral directors only as necessary to carry out their duties. ***A request from such source shall be presented to the MSDH Privacy Officer and/or Vital Records in writing for verification prior to any disclosure.***



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Section 9. Verification of Identity

A. Policy

It is the policy of MSDH to verify the identity of a person requesting PHI and the authority of any such person to have access to the PHI.

B. Procedure

- a) MSDH staff are responsible for determining who is making a request for PHI. Please follow the guidance in the particular disclosure sections of Appendix A for specific issues.
- b) Whenever preparing information for disclosure, MSDH staff shall verify the identity of the individual or the entity making the request. Remember MSDH staff shall only disclose information with a proper authorization or for the purposes described in Appendix A.
- c) If the request is made in person, verification of identity may be accomplished by asking for photo identification (such as a driver's license). A copy of the I.D. must be attached to the request and placed in the patient's record. If photo identification is not available, MSDH staff may verify identity by verifying the requestor's name, address, date of birth and/or the last four digits of the requestor's social security number.
- d) If the request is made over the phone, verification will be accomplished by requesting identifying information such as a social security number, birth date, and/or Insurance ID number and confirming this information matches what is in the patient's record. All telephone calls requesting information should be transferred to the appropriate Office to handle the type of request being made.
- e) If the request is made in writing, verification will be accomplished by requesting a copy of the requestor's photo identification, if available, and the signature on the written request must be compared with the signature in the patient's record. If photo identification is not available, MSDH staff may verify identity by verifying the requestor's name, address, date of birth and/or the last four digits of the requestor's social security number. In addition, MSDH staff will verify the validity of the written request by contacting the requestor by phone.
- f) The identity of providers shall be verified in accordance with Appendix A (Section 8).
- g) MSDH staff shall verify the identity of a contractor and the contractor's right to obtain



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PHI. At times, the Centers for Medicare & Medicaid Services (CMS) or other governing bodies will contract with third parties to conduct surveys, audits, etc. MSDH staff shall verify the contractor's rights to obtain PHI by:

- 1) Having the governing body provide an original letter outlining:
 - (a) The relationship between the governing body and contractor;
 - (b) The period of time the contractor shall act on their behalf;
 - (c) The right under applicable law for the information to be provided; and
 - (d) Contact name/number of the governing body.
 - 2) Send a copy of the letter to Legal and the MSDH Privacy Officer for verification before any disclosures are made.
- h) Under most circumstances, a properly signed Authorization form shall be the easiest way to obtain records from MSDH.



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Section 10. Notice of Privacy Practices

A. Policy

It is the policy of MSDH that a Notice of Privacy Practices be published, that this Notice and any revisions to it be provided to all patients at the earliest practicable time and within the timeframe required by law, and that all uses and disclosures of PHI are executed in accordance with MSDH's Notice of Privacy Practices.

B. Procedure

1. The MSDH Privacy Officer shall maintain the Notice of Privacy Practices and update the notice when changes occur.
2. The MSDH Privacy Officer shall maintain all versions of the Notice in MSDH's HIPAA Compliance File.
3. All MSDH Offices and County Health Departments shall post the notice in the reception area.
4. MSDH will make the information contained in the Notice available to MSDH's patients in any language or format which is necessary for MSDH to meet its obligations under the Civil Rights Act of 1964 and the Rehabilitation Act of 1973. Oral translation issues should be handled through Office of Preventative Health. Any problems with MSDH translation services should be directed to the Office of Preventative Health.
5. When the Notice changes, the MSDH Privacy Officer shall recommend the method by which to post the most current notice.
6. MSDH Offices, County Health Departments, and the website shall maintain copies of the full Notice at all times. The most current version of the Notice shall always be available on the MSDH website for viewing, downloading, and printing.
7. As of the compliance date, April 14, 2003, and as any new HIPAA compliance dates are established, MSDH offices shall provide the notice to all patients who have not previously been given the notice. MSDH County Health Departments shall provide a copy of the Notice to all patients determined seen by MSDH.



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Section 11. Restriction Requests

A. Policy

A patient has the right to request that otherwise permitted uses and disclosures of PHI be restricted. MSDH is *not* required to comply with such requests for restriction but will consider and may agree to a restriction. It is the policy of MSDH that serious consideration shall be given to all requests for restrictions on uses and disclosures of PHI as published in MSDH's Notice of Privacy Practices. Furthermore, if a particular restriction is agreed to, then MSDH is bound by that restriction.

B. Procedure

1. The MSDH Privacy Officer shall manage requests for restrictions. All documentation associated with the request will be placed in the patient's file.
2. Restriction requests must be submitted in writing with the use of the *Request for Use and Disclosure Restrictions on Protected Health Information* Form 1171.
3. The MSDH Privacy Officer will review the request in consultation with other MSDH staff and program areas to determine the feasibility of the request. MSDH shall give primary consideration to the need for access to PHI for treatment and payment purposes in making its determination.
4. The MSDH Privacy Officer shall respond to the patient's request in writing.
5. Restriction Accepted:
 - a) If MSDH agrees to the requested restriction, MSDH must abide by the accepted restriction with the following exceptions:
 - 1) MSDH may use the restricted PHI, or may disclose such information to a health-care provider if:
 - (a) The patient is in need of emergency treatment, and
 - (b) The restricted PHI is needed to provide emergency treatment. In this case, MSDH will release the information, but ask the emergency treatment provider not to further use or disclose the patient's PHI.
 - 2) MSDH may disclose the information to the individual who made the restriction request.



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- 3) MSDH may use and disclose PHI when statutorily required to use and disclose the information under the HIPAA Privacy Rule.
 - b) The MSDH Privacy Officer will notify appropriate staff of the restriction.
6. MSDH staff shall only act on requests that are documented in writing.
7. Each time a patient desires to change the request, the patient must submit a new request in writing. The patient shall be notified that the new request must contain *all* desired restrictions that are to be in effect—not just new, additional restrictions. The MSDH Privacy Officer shall maintain the old (terminated) restriction request in the HIPAA compliance file for a period of six (6) years past the date on which they were last in effect.
8. MSDH may terminate a restriction for any of the following reasons (and utilize the *Termination of Use and Disclosure Restrictions on Protected Health Information Form 1172* where applicable):
 - a) The patient agrees to, or requests the termination in writing, and the termination is documented.
 - b) MSDH informs the patient that it is terminating its agreement to a restriction. However, the termination is only effective with respect to PHI created or received after it has informed the patient of the termination.
 - c) The MSDH Privacy Officer shall document any termination of restrictions on the original approved request. The MSDH Privacy Officer shall send a copy of the written termination request (attached to a copy of the original request) to the patient if their request is terminated, in whole or in part.
 - d) The MSDH Privacy Officer shall file all documentation related to the restriction in MSDH’s HIPAA Compliance file. A copy of the documentation shall also be included in the patient’s file. This documentation shall be retained for a period of six (6) years past the date it was last in effect.



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Section 12. Confidential Communications Channels

A. Policy

It is the policy of MSDH that confidential communication channels (i.e., communication by alternative means or locations) shall be used, as requested by patients, if the request is reasonable and the patient believes it is needed for their safety. This may include email, telephone, alternate address, fax, or any other means a patient may request.

B. Procedure

1. The MSDH Privacy Officer shall manage requests for confidential communication. All documentation associated with this request will be placed in the patient's file.
2. The confidential communication request must be submitted in writing and/or processed through EPIC's patient registration process.
3. If necessary, the MSDH Privacy Officer will review the request in consultation with other MSDH staff and program areas to determine if the request should be granted or denied. MSDH shall grant the request if:
 - a) The request is reasonable, and
 - b) The patient clearly states that the disclosure of all or part of that information could endanger the patient.
4. For requests received in writing and submitted outside of EPIC, the MSDH Privacy Officer shall respond to the patient in writing.
5. If MSDH denies the request for restriction, the MSDH Privacy Officer shall provide a reason for the denial in writing.
6. MSDH shall grant reasonable requests, although this grant may be contingent on the patient's agreement to reimburse MSDH for additional costs incurred to fulfill the request. MSDH staff shall inform the patient of any reasonable costs associated with granting the request.
7. The MSDH Privacy Officer/MSDH staff will notify appropriate staff, including MSDH contractors, of the restriction.
9. For requests originally submitted in writing, each time a patient desires to change the



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request, the patient shall submit a new request in writing. The new request shall terminate all previous requests. The patient shall be notified that the new request must contain all desired restrictions that are to be in effect—not just new, additional restrictions. The MSDH Privacy Officer shall maintain the old (terminated) restriction request in the HIPAA compliance file for a period of six (6) years past the date on which they were last in effect.



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Section 13. Amendment of Incomplete or Incorrect PHI

A. Policy

All requests for amendment of incorrect PHI maintained by MSDH or one of MSDH's business associates shall be considered in a timely fashion. If such requests demonstrate that the information is actually incorrect, MSDH shall allow amending language to be added to the appropriate document, and this addition shall be rendered in a timely fashion. It is also the policy of MSDH that notice of such corrections shall be given to any entity with which the incorrect information has been shared. Under no circumstance shall any original amended information be changed, removed, altered, or stricken. Corrections to inaccurate PHI shall be added to the appropriate record of the patient. A patient can request an amendment to his or her PHI that was not created by MSDH, but the individual must provide MSDH with a reasonable basis to believe the originator of the information is no longer available to act on the request. MSDH has the right to deny the request to amend in certain circumstances.

B. Procedure

1. A patient has the right to have MSDH amend PHI or a record about the patient in a designated record set, for as long as the PHI is maintained in the designated record set. A designated record set is a group of records maintained by, or for, MSDH that is one of the following:
 - a) The medical records and billing records about a patient maintained by or for a covered health-care provider.
 - b) The enrollment, payment, claims adjudication, and case or medical management records systems maintained by or for MSDH.
 - c) The record is used, in whole or in part, by or for MSDH to make decisions about patients.
2. The MSDH Privacy Officer in conjunction with Clinical Technology Integration shall manage requests for amendments. All documentation associated with the request shall be placed in the patient's file.
3. A request for amendment must be submitted in writing.
4. CTI in consultation with the MSDH Privacy Officer shall determine whether to accept or deny the request. The request may be denied only for one of the following reasons:



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- a) The request is not in writing.
 - b) The information is accurate and complete as it is.
 - c) The information did not originate at MSDH, unless the patient (or their personal representative) provides a reasonable basis to believe that the originator of the information is no longer available to act on the request.
 - d) The information is *not* part of the designated record set maintained by MSDH.
 - e) The information is *not* available for inspection under Section 6. Access to PHI by the Patient.
5. If the request is granted:
- a) The MSDH Privacy Officer shall notify the patient by mail that the request was granted.
 - b) The MSDH Privacy Officer will forward the request to the office that can affect the change. Under no circumstances shall any original amended information be changed, removed, altered, or stricken. Corrections to inaccurate PHI shall be added to the appropriate record of the patient.
 - c) MSDH shall notify the patient by mail that the change was made as requested and send a copy of the amended information to the individual or entities that the patient requested be notified (if any).
 - d) Clinical Technology Integration and/or the Office of Health Information Technology (OHIT) shall send a copy of the amendment to any other entities or business associates who may have received the incorrect information.
 - e) Clinical Technology Integration and/or OHIT shall notify appropriate staff of the amendment to ensure that accurate information is used and/or disclosed from that point forward.
 - f) The MSDH Privacy Officer shall file all documentation related to the amendment in MSDH's HIPAA Compliance file. A copy of the documentation shall also be included in the patient's file.
6. If the request is denied:



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- a) The MSDH Privacy Officer shall notify the patient by mail within sixty (60) days of receipt of the request.
- b) At minimum, the denial shall include:
 - 1) The basis for the denial.
 - 2) A statement informing the patient of their right to submit a written statement disagreeing with the denial.
 - 3) A statement that if the patient does *not* submit a statement of disagreement, the individual may request that MSDH provide the patient's request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment.
 - 4) A description of how the patient may submit a complaint to MSDH or HHS, including the name, or title, and telephone number of the Privacy Officer and the HHS contact person or office.
7. If the requestor files a statement of disagreement with the denial:
 - a) The MSDH Privacy Officer shall file the statement with the original request and the response in the HIPAA Compliance file.
 - b) The MSDH Privacy Officer will compose a rebuttal and file it with the statement of disagreement and provide a copy of the rebuttal to the requestor.
 - c) The statement will be provided with all future disclosures of information.



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Section 14. Disclosure Accounting

A. Policy

A patient may request and receive an accounting of disclosures of their PHI. The patient may request an accounting for disclosures that have been made up to six (6) years prior to the date of his or her request; however, MSDH is not required to account for any disclosures that occurred prior to the HIPAA compliance date of April 14, 2003. The accounting will include all disclosures *except* the following:

1. Disclosures made to carry out treatment, payment, and health-care operations;
2. Disclosures made to the patient;
3. “Incidental” disclosures (i.e., a secondary disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a result of another use or disclosure that is permitted by the Privacy Rule);
4. Disclosures that were authorized by the patient;
5. Disclosures regarding the patient’s health care, payment of such health care, or notification of the patient’s condition, location, or death that were made to a family member, relative, friend, personal representative, or other person responsible for the patient’s care (as allowed by law), and the patient agreed or did not object;
6. Disclosures made for national security or intelligence purposes;
7. Disclosures made to correctional institutions or law enforcement officials;
8. Disclosures made as part of a Limited Data Set; and
9. Disclosures that occurred prior to the compliance date.

B. Procedure

1. All requests for an accounting of disclosures will be managed by the MSDH Privacy Officer and/or CTI.
2. Requests for an accounting of disclosures must be received in writing.
3. The MSDH Privacy Officer shall review the request. This review shall verify the



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accounting request is valid and for disclosures that are required to be accounted for under HIPAA and any other applicable law.

4. An accounting of disclosures may be suspended at the request of a health-oversight agency or law enforcement official if certain conditions are met. The health-oversight agency or law enforcement official shall submit a written statement explaining that such an accounting would be reasonably likely to impede the official or agency's activities and specify the time for which such a suspension is required. If a MSDH staff member receives a request to suspend a patient's right to receive an accounting of disclosures, the staff member shall contact the MSDH Privacy Officer.
5. The MSDH Privacy Officer shall request the appropriate office to compile a list of every disclosure for the time period requested (no more than six (6) years prior to the date of the request) which are subject to an accounting. After the appropriate office completes the list, the list shall be returned to the MSDH Privacy Officer. The MSDH Privacy Officer shall ensure that each entry contains:
 - a) The date of disclosure;
 - b) The name of the entity or person who received the PHI and, if known, the address of such entity or person;
 - c) A brief description of the PHI disclosed; and
 - d) A brief statement of the purpose for each disclosure that reasonably informs the patient of the basis for the disclosure.
6. If MSDH has made multiple disclosures of the PHI to the same person or entity for a single purpose, or pursuant to a single authorization, the accounting may, with respect to such multiple disclosures, provide:
 - a) The information required above for the first disclosure during the accounting period;
 - b) The frequency, periodicity, or number of the disclosures made during the accounting period; and
 - c) The date of the last such disclosure during the accounting period.
7. If, during the period covered by the accounting, MSDH has made disclosures of PHI for a particular research purpose in accordance with 45 C.F.R. §164.512(i) for fifty (50) or more individuals, the accounting may, but is *not* required to, with respect to such disclosures for



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which the PHI about individual may have been included, provide:

- a) The name of the protocol or other research activity;
- b) A description, in plain language, of the research protocol or other research activity, including the purpose of the research and the criteria for selecting particular records;
- c) A brief description of the type of PHI that was disclosed;
- d) The date or period of time during which such disclosure occurred, or may have occurred, including the date of the last such disclosure during the accounting period;
- e) The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
- f) A statement that the PHI of the patient may or may not have been disclosed for a particular protocol or other research activity.

If MSDH provides an accounting for research disclosures and if it is reasonably likely that the PHI of the patient was disclosed for such research protocol or activity, MSDH shall, at the request of the patient, assist in contacting the entity that sponsored the research and the researcher.

8. MSDH must act on the patient's request for an accounting no later than sixty (60) days after receipt of such a request by mailing the accounting to the patient. If MSDH is unable to provide the accounting within this time frame, it may extend the time to provide the accounting by no more than thirty (30) days, provided that MSDH provides the patient with a written statement of the reasons for delay and the date by which MSDH will provide the accounting. MSDH may have only one such extension of time for action on a request for an accounting.
9. The first accounting of disclosures to the patient in any twelve (12) month period must be provided at no charge. MSDH shall charge a fee for each subsequent request for an accounting by the same patient within the same twelve (12) month period, provided that MSDH informs the patient in advance of the fee and provides the patient with an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee. Such fees shall be calculated as outlined in the MSDH General Agency Manual.
10. The MSDH Privacy Officer shall file the request and the disclosure accounting provided to the requestor in MSDH's HIPAA Compliance file.



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11. Any time an accounting for disclosures is provided, all disclosure information provided to the requestor shall be retained for six (6) years from the date of the accounting of disclosures.



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Section 15. Research

A. Policy

It is the policy of MSDH that any uses or disclosures of PHI for research activities shall be performed only:

1. After a valid patient authorization is in effect;
2. If MSDH obtains documentation that an alteration to or waiver, in whole or in part, of patient authorization has been approved by an Institutional Review Board (IRB);
3. If the PHI is used or disclosed in a limited data set in accordance with a valid Data Use Agreement;
4. If the PHI has been de-identified;
5. When the use or disclosure is a review of PHI performed on the MSDH premises, no PHI is removed from MSDH premises, and is solely preparatory and necessary to the research;
or
6. When the use or disclosure of PHI is solely for research of decedent PHI, is necessary for such research, and MSDH receives documentation of the decedent's death.

If MSDH is also the researcher, MSDH must still obtain the proper authorization or fit within one of the exceptions listed above before using PHI for research purposes.

A. Procedure:

1. If MSDH desires to engage in research activities, which include the disclosure of patient PHI, the MSDH office responsible for the activity shall obtain a valid authorization from each patient (or their personal representative) (see Section 7. Access by Personal Representatives) before disclosing information for research purposes, unless an exception or waiver of such authorization applies.
2. Research includes a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. MSDH may disclose PHI for research purposes under the following circumstances:
 - a) Individual Authorization: The patient has signed a valid authorization;



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- b) Board Approval of Waiver: The MSDH IRB approved a proper waiver of the need to obtain patient consent;
 - c) Limited Data Set: The PHI is used or disclosed in a limited data set in accordance with a valid Data Use Agreement;
 - d) De-Identification: The PHI has been de-identified;
 - e) Preparatory to Research: PHI may be used or disclosed to a researcher as necessary to prepare a research protocol or for similar purposes preparatory to research if MSDH obtains the following representations from the researcher: (a) the use or disclosure is sought solely to revive PHI as necessary to prepare a research protocol or for similar purposes preparatory to research; (b) no PHI will be removed from MSDH by the researcher in the course of the review; and (c) the PHI for which use or access is sought is necessary for the research purposes;
 - f) Decedent’s Research: PHI may be used or disclosed to a researcher for research on decedents if MSDH obtains the following from the researcher: (a) a representation that the use or disclosure sought is solely for research on the PHI of decedents; (b) documentation of the death of the patient and/or research subject(s); (c) a representation that the PHI for which use or disclosure is sought is necessary for research purposes.
3. Activities which require the disclosure of PHI shall come through the MSDH Privacy Officer and the MSDH Legal Department for creation of the appropriate contract, Business Associate Agreement, and/or Data Use Agreement.



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Section 16. De-Identified Data and Limited Data Sets

A. Policy

It is the policy of MSDH to disclose de-identified data only if it has been properly de-identified. MSDH may use and disclose a limited data set without a patient’s authorization for the purposes of research, public health, or health-care operations if MSDH enters into a Data Use Agreement with the intended recipient of the limited data set. MSDH may use PHI to create a limited data set, or to disclose PHI to a Business Associate to create a limited data set on behalf of MSDH.

B. Procedure

1. De-identification of patient information, in accordance with 45 C.F.R. § 164.514(b), can be done through the Safe Harbor Method or Expert Determination.
2. Use of the Safe Harbor Method shall include the removal of the following identifiers of the patient, or the relatives, employers or household members of the patient:
 - a) Names,
 - b) All geographic subdivisions smaller than a State, including:
 - 1) Street address;
 - 2) City;
 - 3) County;
 - 4) Precinct;
 - 5) Zip code, and their equivalent geocodes, if according to the current publicly available data from the Bureau of the Census (See Appendix A) the geographic unit formed by combining all zip codes with the same three initial three digits contains 20,000 or fewer people. If the geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people, MSDH may provide the first three digits of the zip code.
 - c) All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death.



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- d) All ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of 90 or older.
 - e) Telephone numbers
 - f) Fax numbers
 - g) Email addresses
 - h) Social security numbers
 - i) Medical record numbers
 - j) Medicaid patient numbers
 - k) Account numbers
 - l) Certificate or license numbers
 - m) Vehicle identifiers and serial numbers, including license plate numbers
 - n) Device identifiers and serial numbers
 - o) Web Universal Resource Locators (URL's)
 - p) Internet Protocol (IP) address numbers
 - q) Biometric identifiers, including finger and voice prints
 - r) Full face photographic images and any comparable images
 - s) Any other identifying number, characteristic, or code, that reasonably could be used to identify an individual, except as permitted for re-identification
3. De-identification through Expert Determination can be conducted by MSDH only if:
- a) Conducted by a person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable:



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- 1) Applies such principles and methods, determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is a subject of the information; and
 - 2) Documents the methods and results of the analysis that justify such determination.
4. Re-identification numbers or codes may be assigned by MSDH to de-identified information which shall permit MSDH to re-identify the records provided that:
- a) The number or code is *not* derived from or related to information about the individual and is *not* otherwise capable of being translated so as to identify the individual; and
 - b) MSDH does *not* use or disclose the number or code for any other purpose and does *not* disclose the mechanism for re-identification.
3. MSDH may disclose a Limited Data Set if MSDH enters into a Data Use Agreement with the Limited Data Set recipient. The Limited Data Set-Data Use Agreement is located on the intranet (Form 1090).
- a) A limited data set is PHI that excludes the following direct identifiers of the patient's or their relatives, employers, or household members:
 - 1) Names;
 - 2) Postal address information, other than town, city, state, and zip codes;
 - 3) Telephone numbers;
 - 4) Fax numbers;
 - 5) Electronic mail addresses;
 - 6) Social security numbers;
 - 7) Medical record numbers;
 - 8) Health plan patient numbers;
 - 9) Account numbers;



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- 10) Certificate/license numbers;
 - 11) Vehicle identifiers and serial numbers (including license plate numbers);
 - 12) Web Universal Resource Locators (URLs);
 - 13) Internet Protocol (IP) address numbers;
 - 14) Biometric identifiers, including finger and voiceprints; and
 - 15) Full face photographs and comparable images.
4. The Data Use Agreement must:
- a) Establish the permitted uses and disclosures of the limited data set;
 - b) Establish who is permitted to use or receive the limited data set; and
 - c) Provide that the recipient of the information will:
 - 1) Not use or further disclose the information other than as permitted by the agreement;
 - 2) Use appropriate safeguards to prevent use and disclosure other than as permitted by the agreement;
 - 3) Report to the MSDH any uses or disclosures that recipient is aware of that is not provided for by the agreement;
 - 4) Ensure that the recipient's agents who have access to the information agree to the same restrictions as imposed on the recipient; and
 - 5) Not identify the information or contact the individuals.



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Section 17. Marketing Activities

A. Policy:

1. It is the policy of MSDH that any uses or disclosures of PHI for marketing activities shall be performed only after a valid patient authorization is in effect. Marketing includes communication about a product or service that encourages patients to purchase or use the product or service. Marketing does not include, and an authorization is not required for communications made:
 - a) To provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the patient (only if any financial remuneration received by MSDH in exchange for making the communication is reasonably related to MSDH's cost of making the communication).
 - b) For treatment of a patient by a health-care provider, including case management or care coordination for the patient, or to direct or recommend alternative treatments, therapies, health-care providers, or settings of care to the patient (as long as MSDH does not receive any financial remuneration in exchange for making the communication).
 - c) To describe a health-related product or service (or payment for such product or service) that is provided by MSDH (as long as MSDH does not receive any financial remuneration in exchange for making the communication).
 - d) For case management or care coordination, contacting patients with information about treatment alternatives, and related functions to the extent these activities do not fall within the definition of treatment (as long as MSDH does not receive any financial remuneration in exchange for making the communication).

B. Procedure:

1. Authorization is required for the use of PHI in marketing communications, unless one of the exceptions listed above applies.
2. Marketing activities which require the disclosure of PHI shall come through the MSDH Privacy Officer and the MSDH Legal Department for review and approval of the appropriate contract, Business Associate Agreement, and/or Data Use Agreement.



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Section 18. Sale of Protected Health Information (PHI)

A. Policy:

1. It is the policy of MSDH that any uses or disclosures of PHI that constitutes a sale of PHI shall be strictly prohibited. Sale of information includes a disclosure of PHI by MSDH or a business associate, if applicable, where MSDH or the business associate directly or indirectly receives remuneration from or on behalf of the recipient of the PHI in exchange for the PHI. Sale of PHI does not include a disclosure of PHI:
 - a) For public health purposes pursuant to 45 C.F.R. § 164.512(b) or 164.514(e);
 - b) For research purposes pursuant to 45 C.F.R. § 164.512(i) or 164.514(e), where the only remuneration received by MSDH or the business associate is a reasonable cost- based fee to cover the cost to prepare and transmit the PHI for such purposes;
 - c) For treatment and payment purposes pursuant to 45 C.F.R. § 164.506(a);
 - d) For the sale, transfer, merger, or consolidation of all or part of MSDH and for related due diligence and pursuant to 45 C.F.R. § 164.506(a);
 - e) To or by a business associate for activities that the business associate undertakes on behalf of MSDH, or on behalf of a business associate in the case of a subcontractor, pursuant to 45 C.F.R. §§ 164.502(e) and 164.504(e), and the only remuneration provided is by MSDH to the business associate, or by the business associate to the subcontractor, if applicable, for the performance of such activities;
 - f) To a patient, when requested under 45 C.F.R. § 164.524 or 164.528;
 - g) Required by law as permitted under 45. C.F.R. § 164.512(a); and
 - h) For any other purpose permitted by and in accordance with the applicable requirements of HIPAA, where the only remuneration received by MSDH or a business associate is a reasonable, cost-based fee to cover the cost to prepare and transmit the PHI for such purpose or a fee otherwise expressly permitted by other law.

B. Procedure:

1. Potential activities that may require the sale of PHI are strictly prohibited and shall be reviewed by the MSDH Privacy Officer and the MSDH Legal Department.



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Section 19. Judicial and Administrative Proceedings

A. Policy

It is the policy of MSDH that information be disclosed for the purposes of a judicial or administrative proceeding only when: (1) accompanied by a court or administrative order or grand jury subpoena; or (2) when accompanied by a subpoena or discovery request that includes either the authorization of the patient to whom the information applies, documented assurances that a good faith effort has been made to adequately notify the patient of the request for his/her information and there are no outstanding objections by the patient, or a qualified protective order issued by the court. If a subpoena or discovery request is submitted to MSDH without one of those assurances, MSDH shall notify the requestor. In no case shall MSDH disclose information other than that required by the court order, subpoena, or discovery request.

B. Procedure

Activities which require the disclosure of PHI for judicial or administrative proceedings shall come through the MSDH Privacy Officer and the MSDH Legal Department for review and approval before any disclosures of PHI are made to the requesting entity.



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Section 20. Complaints

A. Policy

1. It is the responsibility of this Agency to ensure the privacy of PHI as well as to ensure that such information is used and disclosed in accordance with all applicable laws and regulations. Any concerned individual has the right to file a complaint concerning privacy issues without fear of reprisal.
2. It is the policy of MSDH that all complaints relating to the privacy and security of PHI shall be investigated and resolved in a timely fashion and as required by law. Furthermore, it is the policy of MSDH that all complaints shall be addressed to the MSDH Privacy Officer. Complaints submitted to the MSDH Privacy Officer will be documented, reviewed, and acted upon, if necessary. MSDH staff shall *not* retaliate against any individual who seeks to file a complaint with MSDH and/or HHS if they believe a breach of privacy has occurred.

B. Procedure

1. All patients (or their personal representative (See Section 7. Access by Personal Representatives)) will be notified of their right to complain to MSDH or HHS in MSDH's *Notice of Privacy Practices*.
2. All privacy complaints must be submitted in writing. The complaint must describe the acts believed to be in violation of HIPAA requirements.
4. The MSDH Privacy Officer, Human Resources, and OHIT (when necessary) will investigate alleged complaints to determine if a breach of privacy has occurred. The MSDH Privacy Officer, Human Resources, and OHIT (when applicable) shall be immediately notified upon receipt of a privacy complaint.
5. MSDH staff shall cooperate with any privacy complaint investigation and provide the time and resources necessary to determine the facts surrounding the complaint.
6. The Privacy Officer shall determine the substance of the findings, document such findings and the resolution of the complaint, and communicate the outcome of the complaint with the complainant within thirty (30) days from receipt of the complaint.
7. If the complainant is dissatisfied with the disposition of his or her complaint, their matter shall be referred to the MSDH Legal Department.



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8. If the MSDH Privacy Officer determines that a violation occurred, the Privacy Officer will recommend appropriate sanctions against the person or entity who failed to comply with MSDH's privacy policies and procedures and instruct the person or entity to take corrective actions, if necessary. The Privacy Officer and Human Resources, if necessary, will document any sanctions imposed.



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Section 21. Prohibited Activities

- A. It is the policy of MSDH that no MSDH staff member may threaten, intimidate, coerce, harass, discriminate against, or take any other retaliatory action against any persons who exercise their rights under HIPAA, including filing a complaint or testifying, assisting, or participating in a HIPAA investigation, compliance review, proceeding or hearing.
- B. It is also the policy of MSDH that no MSDH staff member may condition treatment or payment on the patient’s choice to receive or opt out of receiving fundraising communications (if applicable). Finally, it is the policy of MSDH that no MSDH staff member may condition treatment, payment, enrollment, or eligibility for benefits on the provision of an authorization, except:
1. The provision of research-related treatment may be conditioned on provision of an authorization for the use or disclosure of PHI for such research.
 2. The provision of health care that is solely for the purpose of creating PHI for disclosure to a third party may be conditioned on provision of an authorization for the disclosure of the PHI to such third party.



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Section 22. Safeguards

A. Policy

It is the policy of MSDH to ensure, to the extent possible, that PHI is not intentionally or unintentionally used or disclosed in a manner that would violate the HIPAA Privacy Rule or any other federal or state regulation governing confidentiality and privacy of health information. It is the policy of MSDH that appropriate administrative, technical, and physical safeguards shall be in place to reasonably safeguard PHI from any intentional or unintentional use or disclosure that is in violation of HIPAA (or any other federal or state law) and to reasonably safeguard PHI to limit incidental uses or disclosures made pursuant to an otherwise permitted or required use or disclosure. These safeguards shall extend to the oral communication of PHI and such PHI that is removed from MSDH in physical or electronic form. Each office may develop additional policies and procedures that are stricter than the parameters set forth below in order to maximize the privacy of PHI in light of the unique circumstances of a particular office. However, those policies must be reviewed and approved by the Privacy Officer prior to implementation.

B. Procedure

1. As with any means of uses or disclosures of information, MSDH staff shall remain vigilant and aware of circumstances around the workplace during which such uses or disclosures are made. MSDH staff shall adhere to these procedures.
2. Verbal Uses:
 - a) Exercise due care to avoid unnecessary disclosures of PHI through oral communications, such as avoiding such conversations in public areas.
 - b) Meetings during which PHI is discussed:
 - 1) Meetings will be conducted in an area that is not easily accessible to unauthorized persons.
 - 2) Meetings will be conducted in a room with a door that closes, if possible.
 - 3) Voices will be kept to a moderate level to avoid unauthorized persons from overhearing.
 - 4) Only staff members who “need to know” the information will be present at the meeting. (See Section 4. Minimum Necessary)



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- 5) The PHI that is shared or discussed at the meeting will be limited to the minimum amount necessary to accomplish the purpose of sharing the PHI.
- c) Telephone Conversations:
- 1) Telephones used for discussing PHI are located in as private an area as possible.
 - 2) Staff members will take reasonable measures to assure that unauthorized persons do not overhear telephone conversations involving PHI. Reasonable measures may include:
 - (a) Lowering their voice;
 - (b) Requesting that unauthorized persons step away from the telephone area; and/or
 - (c) Moving to a telephone in a more private area before continuing the conversation.
 - 3) PHI shared over the phone will be limited to the minimum amount necessary to accomplish the purpose of the use or disclosure.
 - 4) When calling a patient, MSDH staff shall ask to speak with the person by name (or their personal representative when appropriate) and ask them to verify a personal identifier, such as their mailing address or date of birth, to ensure that they are speaking to the correct person.
 - 5) Limit messages left on answering machines and voicemails to messages that do not link an individual's name to their PHI.
 - 6) When calling a provider (or its contractor), MSDH staff shall verify the number they have called by listening for the name of the provider (or contractor).
 - 7) When speaking directly with a patient (or their personal representative) or a provider (or its contractor), MSDH staff shall clearly indicate who they are and that they work for MSDH. Providers are required to comply with HIPAA regulations, as well as MSDH, so MSDH staff shall be aware that a provider may ask them to verify their identity.
3. Written/Paper PHI:



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- a) All documents containing PHI should be stored appropriately, such as in locked filing cabinets, to reduce the potential for incidental use or disclosure. Documents should not be easily accessible to any unauthorized staff or visitors.
- b) Dispose of documents containing PHI in a secure manner, such as by shredding. Paper PHI should never be placed in recycling bins or trash cans. Instead, it should be placed in a secure shredding bin or shredded by a MSDH staff member. Clients and other visitors may accidentally leave paper PHI in public locations, MSDH staff who encounter paper PHI in public areas should pick it up and shred it.
- c) Any unnecessary information should be removed from the document (whether by using a marker, white out, an electronic editing tool or some other form of redaction). Note: These alterations should be made to a copy, and not to the original document.
- d) The use of a fax or copier shall generate a hardcopy of information and such hard copies shall remain inaccessible to the general public. Paper PHI should *not* be left unattended on photocopiers, printers, fax machines, or in other common areas, such as conference rooms.

4. Desks and Workstations:

- a) When using PHI, MSDH staff should avoid unnecessarily exposing documents containing PHI.
- b) Paper PHI should be placed face down or facing away from the view of others when the MSDH staff member is not working with the document(s).
- c) Blank coversheets should be placed over the front of sign-in sheets and records that are located in semi-public areas. Similarly, any binders or file folders used to house patient records should be closed and PHI should not be readily visible by others.

5. Transmitting Paper PHI:

a) By Mail:

- 1) When it is necessary to send paper PHI through the mail, Offices should implement procedures for ensuring the right documents are sent to the intended recipient such as:
 - (a) When documents are sorted and packaged manually, a verification method should be used to ensure that the right documents are sent to the intended



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recipient.

(b) When documents are sorted and packaged by machines, the machines should be checked regularly to ensure continued accuracy.

- 2) In general, identifiers (such as a name, Social Security number, or other identifiers) should not be visible on the face of any letters or packages when the letter or package is being sent to someone other than the patient or the patient's representative.
- 3) Whenever possible and practical, packages containing PHI should be tracked to ensure receipt by the intended recipient.
- 4) In the event that documents are sent to, or received by, an unintended recipient, MSDH staff should obtain the person's contact information, attempt to identify the misdirected document, and then contact their Supervisor and the MSDH Privacy Officer. Generally, MSDH staff should instruct the recipient of misdirected mail to await further instruction from the MSDH Privacy Officer. Recipients should *not* throw misdirected mail in the trash or recycling bin. The MSDH Privacy Officer may instruct the recipient to return or shred the document, depending on the facts, but it is very important that MSDH staff attempt to determine the nature of the misdirected information before it is destroyed.

b) By Fax:

- 1) Routine transmission of PHI by fax is not recommended. If information must be faxed, PHI shall be limited to those recipients who have a need to gain access to the information. The information to be faxed shall be limited to the "minimum necessary" (See Section 4. Minimum Necessary) to accomplish the proposed function. A MSDH Confidential Fax Transmission Cover Sheet (Form #667 E) must be used which includes a required confidential statement prohibiting redisclosure.
- 2) When faxing documents containing PHI, always:
 - (a) Confirm the fax number to which you are sending the information and confirm that you have entered it correctly into the fax machine.
 - (b) Use a cover sheet. The cover sheet should *not* include any identifiers (i.e. patient name, Social Security number, etc.) and should include the following Confidentiality Note: "This facsimile transmission and all attachments are



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confidential and/or proprietary to the Mississippi State Department of Health, and may contain sensitive information, including, but not limited to, protected health information as defined by the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The information contained in and attached to this facsimile is intended for the exclusive use of the individual or entity named herein. The use, disclosure, copying, or distribution by any means, to anyone other than the intended recipient without the prior written permission of the Mississippi State Department of Health, is strictly prohibited. Any such unauthorized use, disclosure, copying, or distribution may violate federal and/or state privacy laws, including, but not limited to, HIPAA. If you have received this facsimile or any attachments in error, please notify the sender and await further instructions. Thank you for your assistance in the protection of confidential information.”

(c) The sender must be knowledgeable of what information is being requested and by whom. The sender should confirm receipt with the requesting party.

3) In the event a fax is received by an unintended recipient, MSDH staff should obtain the person’s contact information, attempt to identify the misdirected document, and then contact their Supervisor and the MSDH Privacy Officer. Generally, MSDH staff members should instruct the recipient of the misdirected fax to await further instructions from the MSDH Privacy Officer. Recipients should *not* throw a misdirected fax in the trash or recycling bin. The MSDH Privacy Officer may instruct the recipient to return or shred the document, depending on the facts, but it is very important that MSDH staff attempt to determine the nature of the misdirected information before it is destroyed.

c) By Email:

1) All email which contains PHI sent to an outside entity must be encrypted by the sender at rest and in transit. OHIT will provide any necessary training on the use of encrypted email.

2) The transmission of PHI between MSDH and a patient via email is permitted if the sender has ensured the following conditions are met:

a) The patient has been made fully aware of the risks associated with transmitting PHI via email;

b) The patient has provided a valid email address.



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c) The email contains no excessive history or attachments.

- 3) Email which contains PHI shall be limited to those email recipients who have a need to gain access to the information. The information shall be limited to the “minimum necessary” (See Section 4. Minimum Necessary) to accomplish the proposed function.
- 4) MSDH staff shall present a Confidentiality Note at the end of the email. The Confidentiality Note should state the following: “This message and all attachments are confidential and/or proprietary to the Mississippi State Department of Health, and may contain sensitive information, including, but not limited to, protected health information as defined by the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The information contained in and attached to this message is intended for the exclusive use of the intended recipient. The use, disclosure, copying, or distribution by any means, to anyone other than the intended recipient without the prior written permission of the Mississippi State Department of Health, is strictly prohibited. Any such unauthorized disclosure, copying, distribution may violate federal and/or state privacy laws, including, but not limited to HIPAA. If you have received this message or any attachments in error, please notify the sender by replying to the email or contact the telephone number above and delete this message from your computer without additional disclosure. Thank you for your assistance in the protection of confidential information.”
- 7) In the event that an email is received by an unintended recipient, MSDH Staff should obtain the person’s contact information, attempt to identify the misdirected email, and then contact the MSDH Privacy Officer and IT Security Officer. Generally, the MSDH staff member should instruct the recipient of the misdirected email to await further instruction from the MSDH Privacy Officer.

6. Transporting Paper PHI:

- a) When transporting paper PHI within MSDH, an envelope, folder, file, cart or box should be used to house paper PHI documents in transit. No patient identifiers should be visible.
- b) Documents containing paper PHI should not be removed from MSDH unless the workforce member has a legitimate business need and supervisor approval to do so. Paper PHI should never be left unattended in a vehicle, agency or personal, or other unsecure location. Paper PHI should always be in the trunk of a locked vehicle during



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transport to ensure the security of the documents. Workforce members should never take PHI home unless they have a legitimate business need and prior written approval from their supervisor. If approval is granted, workforce members should take steps to safeguard paper PHI in their homes and prevent others from viewing the documents, such as by storing such PHI in a locked box.

- c) Original documents may not be removed from MSDH except by court order, subpoena or as otherwise required by law.

7. Electronic Information

- a) See also MSDH General Agency Manual, Section 11.0:

- 1) The scope of these policies includes all data systems and/or networks that are used by any employee of the agency conducting agency business, as well as all software and data resident on any equipment owned or leased by the agency.

- b) Workforce Security (See MSDH General Agency Manual)

- 1) Access Establishment

- (a) All MSDH staff members must successfully complete the MSDH Privacy and IT Security Awareness Training within 48 hours of being granted access to MSDH resources.
- (b) Any MSDH staff member who needs network or phone access shall have the proper requests filed on their behalf by their Supervisor/Office Director (Form 907E).
- (c) The Supervisor/Office Director, with the assistance of the IT Security Officer and OHIT Staff, shall determine which levels of access and to which programs and folders each staff member shall need access. This decision shall be based upon the standard of “minimum necessary” (See Section 4. Minimum Necessary) within the staff members’ job titles and functions.

- 2) Safeguarding Passwords

- (a) Safeguarding passwords is of the utmost importance to the security of MSDH’s information systems and the confidentiality, integrity, and availability of PHI. Proper management of passwords is necessary for all MSDH staff members. All passwords must meet MSDH’s complexity requirements.



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- i. Passwords must contain at least eight (8) characters, but no more than fifteen (15).
- ii. Passwords must contain a combination of lower case and upper case letters.
- iii. Passwords must contain numbers.
- iv. Passwords must contain symbols (all characters not defined as letters or numbers) such as: ! @ # \$ % ^ &
- v. Passwords must be significantly different from prior passwords.
- vi. Passwords must not contain four (4) consecutive characters used from the previous password.
- vii. Passwords must not contain your name or user ID, or agency name.
- viii. Passwords must not be a common name/word.
- ix. Example of a strong password using an acronym and symbols: “April showers bring May flowers in 2005” = !AsbMfN2005\$

(b) MSDH staff shall *not* disclose their passwords to anyone including other staff members (MSDH staff shall *not* tape their passwords to their computer screens, laptops, or the bottom of their keyboards). This is considered a breach of security.

(c) If a MSDH staff member does disclose, either on purpose or by accident, their password to anyone, it is the staff member’s responsibility to immediately change their password to something sufficiently different so as to prevent someone else’s actions being attributed to the staff member (i.e. someone else uses the staff member’s login ID).

(d) If a MSDH staff member’s password has been compromised, the staff member shall contact OHIT and the MSDH Privacy and IT Security Officers immediately.

(e) MSDH staff members are ultimately responsible for safeguarding their own passwords. Any actions taken by a user logged in with the MSDH staff member’s login ID are considered to be actions that the MSDH staff member either performed or authorized the performance of on their behalf.

3) Termination/Modification of MSDH Access

(a) Upon termination/modification, the Supervisor/Office Director is responsible for initiating the removal of the MSDH staff member (or former MSDH staff member) of all physical and technical access to MSDH depending on the



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termination or modification.

- (b) The Supervisor/Office Director shall require the MSDH staff member (or former MSDH staff member) to relinquish any items which permit physical or technical access to facilities or systems in a manner that the MSDH staff member (or former MSDH staff member) is no longer authorized. This includes but is not limited to passwords, the LAN, voicemail; keys to offices, desks and filing cabinets; physical items such as laptops, tablet devices, state-owned cells phones, procurement cards, and security access cards.
 - (c) In order to terminate/modify network and phone access, the Supervisor/Office Director shall inform OHIT (Form 866 and 907) of any MSDH staff member (or former staff member) that is separated from employment or undergoing another applicable circumstance requiring termination or modification of access.
 - (d) Once a request is received, OHIT shall verify the request and act immediately to remove, grant, or limit access as appropriately requested.
 - (e) If a case arises where a MSDH staff member does *not* relinquish all means of MSDH access (physical and informational) required, measures shall be taken by the Supervisor/Office Director to ensure the security of the site/building and MSDH assets by escalating the issue as needed to MSDH’s IT Security Officer and Privacy Officer.
- 4) Workforce Clearance/Authorization Required
- (a) Supervisors/Office Directors are ultimately responsible for deterring improper use or disclosure of PHI, shall ensure that the principle of “minimum necessary” (See Section 4. Minimum Necessary) access is being followed in their offices as regards to the level of network access their employees have.
 - (b) The Supervisor/Office Director shall, at his/her discretion, determine the MSDH staff members who use and disclose PHI only have access to PHI that is necessary for them to perform their job function (See Section 4. Minimum Necessary).
 - (c) If, after consideration, the Supervisor/Office Director deems the level of access of a MSDH staff member too great, they are responsible for escalating the issue to OHIT in order to rectify the situation and ensure their office’s adherence to the principle of “minimum necessary.”



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- c) Security Incident Response (See also General Agency Manual, Section 11.0)
- 1) MSDH staff members who become aware that a security incident may have occurred shall:
 - (a) Notify their Supervisor/Office Director of the potential security incident, either physical or technological, and contact the MSDH Privacy and IT Security Officers immediately.
 - (b) Attempt to determine the scope of the incident (i.e. physical breach, account lockout, compromised password, inaccurate login attempt, suspected virus, etc.).
 - 2) The Privacy Officer and/or IT Security Officer are responsible for escalating the issue to OHIT so that OHIT may coordinate an Incident Response.
- d) Workstation Use/Security
- 1) MSDH workstations are the property of MSDH and shall only be used for those functions that directly pertain to the necessary functions of the MSDH staff member's job role.
 - 2) When possible, workstation monitors are to be placed in such a way that a passerby would be unlikely to see the screen without being noticed.
 - 3) As part of password management, passwords shall not be written down and stored in an unsecure place where they may conceivably be viewed by an unauthorized person. Keep passwords confidential. Passwords should not be shared with anyone even supervisors or upper management.
 - 4) When leaving the workstation unattended for any period of time, MSDH staff members shall lock the workstation.
 - 5) Employees observing unknown individuals at computers, printers, or fax machines shall identify and question the individual. At a minimum, their respective supervisor should be notified. The supervisor should then notify both the Privacy and IT Security Officers.
 - 6) Employees shall adhere to the MSDH Computer Network and Internet Access Policy and any other official policy and procedures related to the security of



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agency IT resources.

e) Technical Maintenance Personnel Authentication

- 1) If any person (including MSDH staff members) represents him/herself as someone who is intended to perform any sort of maintenance of which the MSDH staff member was not previously made aware, staff members shall follow these guidelines:
 - (a) The MSDH staff member shall gather information about the person's identity (e.g., name, company affiliation, MSDH contact), the purpose of the visit, what access is requested, and the time frame within which the maintenance shall be completed.
 - (b) The MSDH staff member shall verify the above gathered information by placing a call to OHIT prior to granting access in any form.
 - (c) Upon verification of the person's identity/purpose, the MSDH staff member shall find out whether the person should be escorted and/or monitored while performing such maintenance.

f) Hardware Transportation/Removal

- 1) Written approval must first be obtained by Property and OHIT prior to hardware or software being removed from the facility. OHIT will assess the reason(s) for a given request and make a decision that considers the requestor's access, job requirements, sensitivity of the components, period/frequency of removal, and any applicable policies and agreements. Requests must be documented in writing.
- 2) Upon returning equipment to MSDH, the equipment will be inspected by OHIT to the degree necessary. Virus checks should be performed on any writeable media. The components will then be returned to their appropriate location within MSDH. Procedures for loan and return of hardware from inside MSDH are documented in the MSDH Property Management Policies and Procedures.

g) Software Installation/Modification

- 1) Software and/or applications that are not licensed by MSDH and approved by OHIT must not be loaded on a MSDH Resource (e.g. MSDH computer, laptop, cellphone, iPad, etc.). Games and personal software packages and data are not to be stored or used on MSDH equipment. Only properly licensed business-related



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software packages should be used. All systems are audited regularly and unauthorized software may be removed without prior notification and could be reported to the appropriate authorities for further action.

- 2) To ensure MSDH remains compliant with software support and maintenance fees, OHIT maintains a log of all software licensed to MSDH. Software or applications to be downloaded or installed on MSDH devices must be performed by OHIT staff with the approval of the Director of OHIT.
 - 3) All software on MSDH desktop and laptop computers is licensed for MSDH use only. It is against Federal copyright law to copy software to another computer. No software is to be downloaded or copied to MSDH's computers from any external source. All software must be approved and loaded to computers by Help Desk staff. Anyone found to be in violation of this policy may be reprimanded according to the Mississippi State Employee Handbook as a breach of security. Software on MSDH staff member's workstations must be approved by the Director of OHIT in writing before loading or installing on a MSDH Resource (e.g. MSDH computer, laptop, cellphone, iPad, etc.).
 - 4) If a MSDH staff member needs/desires any additional software to be installed on the system, the staff member shall submit a request to their Supervisor/Office Director.
 - 5) The Supervisor/Office Director, being responsible for their staff member's productivity, shall determine if the need is justified.
 - 6) If the Supervisor/Office Director determines the software request is justified, the Supervisor/Office Director shall make a formal request to the Help Desk by email.
 - 7) OHIT, being responsible for network and workstation security, and therein the confidentiality, integrity, and availability of MSDH's information systems, shall make a determination as to whether the software would pose a threat to MSDH's information systems.
 - 8) If OHIT determines the software to be innocuous, Help Desk shall be responsible for the installation of the software in question, as well as having documentation of the software's installation, licensing agreements, and software updates on the MSDH staff member's workstation.
- h) Removable Media and PHI



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- 1) In the case where a MSDH staff member has an explicit justifiable need to transport and/or copy PHI to removable media (e.g., CD-ROM, paper, laptop not already deemed a repository of PHI, etc.) and remove it from MSDH property, the MSDH staff member shall receive authorization from their Supervisor/Office Director.
 - 2) The Supervisor/Office Director, ultimately responsible for the use and disclosure of PHI, shall, if deemed necessary under the principle of “minimum necessary”, authorize the MSDH staff member to copy/transfer the PHI in question to the removable media and track the media onto which the PHI was transferred/copied. The data transferred onto the removable media must be encrypted. Strong password controls must be implemented on the encrypted data.
 - 3) Once this copy is no longer necessary for use by the MSDH staff member who requested authorization, the MSDH staff member shall return the media to the Supervisor/Office Director for proper data destruction.
 - 4) In the case where the Supervisor/Office Director is unsure as to the proper procedure for data destruction, the Supervisor/Office Director shall contact the IT Security Officer for instructions as to the best practice for destruction of the copy of PHI.
 - 5) If the removable media is lost or stolen, it must immediately be reported to OHIT, MSDH’s Privacy and IT Security Officers, and the MSDH staff member’s Supervisor/Office Director. When the incident is reported, a complete log of all data stored on the device must be provided with a detailed report of the loss or theft of the device. Failure to maintain the log of information stored on the portable storage device shall be considered a breach of security.
- i) Media/Workstation Re-Use
- 1) Any media or workstation, which contains PHI and is to be re-used by a MSDH staff member who does *not* have access to this particular PHI shall be secured.
 - 2) Securing this media or workstation could involve data destruction (i.e. in the case of media no longer needed) or being securely wiped/deleted by an authorized Help Desk staff member where the media/workstation is to be re-used.
 - 3) The responsibility for determining the correct course of action is with the Supervisor/Office Director who is ultimately responsible for the particular media/workstation at issue.



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- 4) In a case where the Supervisor/Office Director is unclear as to the proper course of action with respect to the particular media/workstation, the MSDH staff member shall consult with the MSDH IT Security Officer and OHIT Staff to determine the proper course of action.



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Section 23. Business Associates

A. Policy

1. It is the policy of MSDH that business associates shall be bound, both under the law and contractually (under a Business Associate Agreement), to safeguard PHI to the same degree as MSDH is required under HIPAA and as set forth in this policy. It is also the policy of MSDH that when a business associate materially breaches or violates their agreement with MSDH, MSDH shall, at its discretion, either:
 - a) Provide an opportunity for the business associate to cure the breach or end the violation and terminate the Business Associate Agreement and associated service contracts.
 - b) Immediately terminate the Business Associate Agreement and associated service contracts if the business associate has breached a material term of the Business Associate Agreement and cure is not possible.
2. MSDH may also enforce indemnification provisions requiring the business associate to defend its actions.

B. Procedure

1. A business associate is:
 - a) An entity or individual (other than a MSDH staff member) who on behalf of MSDH creates, receives, maintains, or transmits PHI for a function/activity regulated under HIPAA.
 - b) A subcontractor who creates, receives, maintains, or transmits PHI on behalf of a business associate of MSDH.
 - c) A Health Information Organization, E-prescribing Gateway, or other entity or individual that provides data transmission services with respect to PHI to MSDH and that requires access on a routine basis to PHI.
 - d) An entity or individual that offers a personal health record to one or more individuals on behalf of MSDH.
 - e) An entity or individual (other than a MSDH workforce member) who provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for MSDH, and the provision of the service



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involves the disclosure of PHI from MSDH or from a business associate of MSDH to the entity or individual.

f) Examples of business associates include:

- 1) Agencies providing accreditation services such as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).
 - 2) Medical Directors acting in their administrative role on behalf of a facility.
 - 3) Software vendors having access to PHI during the course of business.
 - 4) Computer hardware service companies having access to PHI in electronic form.
 - 5) Companies providing billing services that have access to PHI in the course of receiving electronic transactions to submit to payers for reimbursement.
 - 6) Payers performing functions that are in addition to, and not directly related to the provision of insurance.
 - 7) Shredding services that have direct access to PHI in order to do their job.
 - 8) An attorney whose legal services involve access to PHI.
 - 9) A CPA firm whose accounting services involve access to PHI.
2. Office Directors who want to enter into a contractual relationship with an entity for some service shall contact Human Resources for independent contracts and Policy Evaluation for all other agreements (i.e. subgrants, memorandum of understandings, etc.) for assistance.
 3. Prior to the disclosure of PHI, the MSDH Privacy Officer and the MSDH IT Security Officer or the Director of Data Governance shall create a Business Associate Agreement (and Data Use Agreement, if applicable) which shall identify the safeguards required for the business associate to comply with the terms of HIPAA. The Department's Business Associate Agreement is located on the intranet (Form 1063) and must route through the internal review process (Q-Pulse) with an underlying agreement for approval.
 4. The office involved shall *not* disclose PHI to an entity or individual until the agreement is fully routed and approved in Q-Pulse and a signed copy of the Business Associate Agreement (and Data Use Agreement, if applicable) is returned to the Department.



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Section 24. Training and Awareness

A. Policy

It is the policy of MSDH that all members of the MSDH workforce shall be trained on the policies and procedures governing PHI and how MSDH complies with the HIPAA Privacy and Security Regulations. New MSDH staff shall receive training on these matters within a reasonable time after they have joined the workforce. It is the policy of MSDH to provide training should any policy or procedure related to the Privacy and Security Regulations materially change. This training shall be provided within a reasonable time after the policy or procedure materially changes. Furthermore, it is the policy of MSDH that training shall be documented indicating participants, date, and subject matter.

B. Procedure

1. Procedures for Training the Workforce

- a) Human Resources shall maintain an up-to-date listing of staff and their job descriptions. This shall include contract workers and temporary office staff. This list shall be made available to the MSDH Privacy and IT Security Officers upon request.
- b) At minimum, all MSDH staff shall receive general HIPAA and IT security training. Each Supervisor/Office Director shall request specific detailed training if necessary for certain staff members. Supervisors/Office Directors shall need to provide job descriptions within their units if specific training is requested.
- c) The MSDH Privacy Officer and IT Security Officer shall implement a training program. Training shall be conducted in several formats to address the agency's statewide organization. Each training session shall be recorded in the training log (maintained by OHIT).

2. Procedures for Training New Workforce Members

- a) MSDH shall offer new staff, as well as temporary staff, a basic orientation in the policies and procedures, and general HIPAA awareness topics.
- b) OHIT shall ensure that new staff complete training within 48 hours of gaining computer access.
- c) OHIT shall document the online training sessions in the HIPAA training log (maintained by OHIT).



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3. Procedures for Ongoing Training of the Workforce

- a) OHIT shall keep a training reference guide using a) computer-based training, b) intranet informative topics, or c) any other means necessary as determined by the MSDH Privacy and IT Security Officers.
- b) All employees must complete the Department's online HIPAA and IT security training courses at least annually (no later than one (1) month following the anniversary of their start date) or their computer access will be terminated. OHIT shall be responsible for maintaining the training logs and reminding employees of their annual training requirement.
- c) The MSDH Privacy and IT Security Officers reserve the right to conduct refresher and/or other related trainings as needed.



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Section 25. PHI Breach Reporting

A breach occurs when PHI is acquired, accessed, used, or disclosed in a manner not permitted under HIPAA or any other federal or state law, which compromises the security or privacy of PHI including “accidental disclosures” such as misdirected mail, emails, and faxes. The Privacy Officer shall immediately investigate and attempt to resolve all reported suspected privacy breaches.

A breach shall be treated as discovered on the first day on which such breach is known to MSDH or by exercising reasonable diligence should have been known to MSDH. Staff members are required to report to his/her Supervisor/Office Director in person and in writing any event or circumstance that is believed to be an inappropriate use or disclosure of PHI. (Note: If the breach is suspected through a suspicious email, DO NOT forward the email. Provide notification of the breach through a separate email.) If the Supervisor/Office Director is unavailable, the staff member must notify the Privacy Officer within twenty-four (24) hours of the incident. The supervisor and staff member will consult with the Privacy Officer to determine whether the suspected incident warrants further investigation.

If the breach is believed to be caused by an outside party through the use of a malicious email, virus, or the like, please also inform the IT Security Officer.

The Privacy Officer will document all privacy incidents and corrective actions taken. Documentation shall include a description of corrective actions, if any are necessary, or an explanation of why corrective actions are not needed, and any mitigation actions taken for each specific privacy incident. All documentation of a privacy breach shall be maintained with the Privacy Officer and shall be retained for at least six (6) years from the date of the investigation. Such documentation is *not* considered part of the patient’s record.

Staff who fail to report known PHI/security incidents, or fail to report them promptly, may be subject to disciplinary action up to termination.



Mississippi State Department of Health Privacy Policy Manual 906		Topic: Notification to Affected Individuals
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Section 26. Notification to Affected Individuals

It is the policy of MSDH to notify its patients when their unsecured PHI has been impermissibly accessed, acquired, used, or disclosed, compromising the security or privacy of their PHI. These notification requirements apply to only breaches of PHI.

For breach response and notification purposes, a breach is presumed to have occurred unless MSDH can demonstrate that there is a low probability that the PHI has been compromised based on an assessment of the risk factors defined in 45 C.F.R. 164.402. Based on the outcome of the risk assessment, MSDH will determine the need to move forward with breach notification. The MSDH Privacy Officer must document the risk assessment and the outcome of the risk assessment process. All documentation related to the breach investigation, including the risk assessment, must be retained for a minimum of six (6) years.

If it is determined that breach notification must be sent to affected individuals, MSDH’s standard breach notification letter (as modified for the particular breach) will be sent to all affected individuals. MSDH also has the discretion to provide notification following an impermissible use or disclosure of PHI without performing a risk assessment. Notice to affected individuals shall be written in plain language and must contain the information specified in 45 C.F.R. 164.404.

This letter will be sent by first-class mail to the patient’s last known address. The notification may be provided in one or more mailings as information is available. If MSDH knows that the patient is deceased and has the address of the next of kin or personal representative of the patient, written notification by first-class mail to the next of kin or personal representative shall be carried out.

If there is insufficient or out-of-date contact information that precludes written or electronic notification, a substitute form of notice reasonably calculated to reach the patient shall be provided. If there is insufficient or out-of-date contact information for fewer than 10 individuals, then the substitute notice may be provided by an alternative form of written notice, by phone, or by other means. If there is insufficient or out-of-date contact information for ten (10) or more individuals, then the substitute notice shall be in the form of either a conspicuous posting for a period of ninety (90) days on the homepage of MSDH’s website, or a conspicuous notice in major print or broadcast media in the geographic areas where the individuals affected by the breach likely reside. The notice shall include a toll-free number that remains active for at least ninety (90) days where an individual can learn whether his or her PHI may be included in the breach.

The Privacy Officer shall make notice to affected individuals without unreasonable delay and in no case later than sixty (60) calendar days after the discovery of the breach. If MSDH determines notification requires urgency because of possible imminent misuse of unsecured PHI, notification



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may be provided by phone or other means, as appropriate, in addition to the methods noted above. It is the responsibility of MSDH to demonstrate that all notifications were made as required, including evidence demonstrating the necessity of any delay.

In the event a breach of unsecured PHI affects 500 or more MSDH patients, HHS will be notified at the same time notice is made to the affected individuals, in the matter specified on the HHS website. If fewer than 500 MSDH patients are affected, MSDH will maintain a log of the breaches to be submitted annually to the Secretary of HHS no later than sixty (60) days after the end of each calendar year, in the manner specified on the HHS website. The submission shall include all breaches discovered during the preceding calendar year.

In the event the breach affects more than 500 residents of a state, prominent media outlets serving the state and regional area will be notified without unreasonable delay and in no case later than sixty (60) calendar days after the discovery of the breach. The notice shall be provided in the form of a press release.



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Section 27. Mitigation

Any harmful effects of any improper use or disclosure of PHI shall be mitigated to the fullest extent possible. As a result, if an employee becomes aware of a disclosure of PHI, either by a MSDH staff member or contractor that is not in compliance with MSDH’s Policies and Procedures, immediately contact the MSDH Privacy Officer so that appropriate steps to mitigate the harm to the patient can be taken.



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Section 28. Sanctions

It is the policy of MSDH that sanctions shall be in effect for any member of the MSDH workforce who intentionally or unintentionally violates the HIPAA Privacy or Security Regulations and/or any of MSDH's policies or procedures related to the safeguarding of PHI. Group offenses are categorized in the MSDH Administrative Manual under Discipline and Grievance Policies. MSDH may refer any violation of privacy and security policies and procedures to state or federal agencies for prosecution.

HIPAA regulations require that imposed sanctions be consistent across the board irrespective of the status of the violator, with comparable discipline imposed for comparable violations. This practice will enable application of general principles that will lead to fair and consistent outcomes.



Mississippi State Department of Health Privacy Policy Manual 906		Topic: Retention of Records
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Section 29. Retention of Records

A. Policy

The HIPAA records retention requirement of six (6) years shall be strictly adhered to. All records designated by HIPAA in this retention requirement shall be maintained in a manner that allows for access within a reasonable period of time. The records retention time requirement may be extended at MSDH's discretion to meet with other governmental regulations, legal requirements, or those requirements imposed by MSDH's policies and procedures.

B. Procedure

1. All files in MSDH's HIPAA compliance file shall be retained for six (6) years from the date of last use.
2. All MSDH Offices shall denote any record related to patient information with an indication for a six (6) year retention period.
3. If any files that have previously been stamped with a retention date are either used or disclosed after the date of previous stamping, they shall be updated with a new retention date.
4. Documents which do not include PHI shall be managed under MSDH's Records Management Procedures.



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Section 30. Cooperation with Privacy Oversight Authorities

It is the policy of MSDH that oversight agencies such as the HHS Office for Civil Rights be given full support and cooperation in their efforts to ensure the protection of health information within MSDH. It is also the policy of MSDH that all personnel shall cooperate fully with all privacy compliance reviews and investigations.



Mississippi State Department of Health Privacy Policy Manual 906		Topic: Access to PHI Charges
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Section 31. Access to PHI Charges

It is the policy of MSDH that it may charge a reasonable, cost-based fee under certain circumstances for access to PHI. Please see the MSDH General Agency Manual.



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Section 32. Regulatory Currency

OHIT shall install any new software updates needed for HIPAA privacy and security compliance as soon as possible.

The MSDH Privacy Officer, IT Security Officer, and Director of Data Governance shall monitor and review any Privacy and Security C.F.R.'s which amend current regulations to recommend incorporation into MSDH policy and procedures as applicable.

All MSDH staff may use the following information sources to remain current on regulatory changes and their impact:

- A. Regular review of the HHS/OCR HIPAA website (<http://www.hhs.gov/ocr/privacy/index.html>); and/or
- B. Review of HHS/OCR compliance bulletins.

The MSDH Privacy Officer shall address regulatory changes and make recommendations to amend policies, procedures and forms as appropriate to accommodate regulatory changes and within the timeframe required by such change.



Mississippi State Department of Health Privacy Policies and Procedures
APPENDIX A



Privacy Procedures for Disclosures of Information

Revised: Jan. 2020
Effective: Jan. __, 2020
Next Scheduled Review:
Jan. 2021

In order to comply with all applicable federal and state laws regarding the protection of patient Protected Health Information (PHI) and Personally Identifiable Information (PII), including the privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act), and their implementing regulations, including 45 C.F.R. Parts 160 and 164, Subparts A and E (Privacy Rule), and 45 C.F.R. Parts 160 and 164, Subparts A and C (Security Rule), the Privacy Act of 1974, and the federal regulations protecting information provided by the Social Security Administration (SSA), the Mississippi State Department of Health's Privacy Policies contain the policies to be followed by all Mississippi State Department of Health (MSDH) employees, contract workers, temporary workers, volunteers, interns, Business Associates, contractors, subcontractors, subgrantees and anyone who may access or view MSDH confidential information. Questions concerning these policies shall be referred to the MSDH Privacy Officer.

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Preface

Compliance with HIPAA and all other federal and state privacy laws require procedures by which to properly use and disclose Protected Health Information (PHI). These procedures are designed to assure compliance with federal and state laws and regulations, as well as the internal policies of MSDH. They implement and shall be followed in conjunction with MSDH's Privacy Policies.

By following these procedures, MSDH can avoid privacy complaints and violations, which are punishable by administrative, civil, and criminal penalties. The Secretary of Health and Human Services (HHS) delegated to the Office for Civil Rights (OCR) the authority to investigate complaints of noncompliance with, and to make decisions regarding the interpretation, implementation, and enforcement of the HIPAA Privacy and Security Rules.

These procedures shall be reviewed periodically and updated as needed, and when statutory or regulatory changes affecting this document occur. Whenever there is a change in federal or state law or regulation that necessitates a change to this document, this document is deemed revised to comply with the required change. Each office shall review these procedures and its internal practices to assure compliance with these procedures.

As issues arise or there are changes in physical or network components, or to specifically address a policy or procedural change, please notify the MSDH Privacy Officer so recommended changes can be reviewed and inserted into the routine operating procedures of MSDH. MSDH employees are encouraged to make suggestions regarding these procedures to further MSDH's ability to comply with the privacy policies necessary to keep information confidential.

Employees shall follow these procedures as written. If for any reason these procedures cannot be performed as directed, contact your immediate supervisor or the MSDH Privacy Officer before continuing.

All terms used in this document, but not otherwise defined, shall have the same meanings as assigned to those terms in HIPAA, the HITECH Act, and their implementing regulations.



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Section 1.0 Disclosures - General

1.1 Procedures for All Disclosures

- A. MSDH staff, when presented with a request for disclosure of PHI (either orally or in writing), shall determine whether or not the disclosure requires an authorization (Form 99 or 1110 depending on who will receive the PHI) signed by the patient or the patient's personal representative (i.e., a person who has a legal relationship with the patient that establishes a right to make decisions concerning the health care of the patient) (see *Procedures for Dealing with Personal Representatives*, Section 1.4). All disclosures of PHI require a signed Authorization form from the patient except the following disclosures:
1. To the patient who is the subject of the information (use the Request for Patient Access to PHI form);
 2. For the purpose of treatment;
 3. For the purpose of MSDH's payment activities or the payment activities of the entity receiving the PHI;
 4. For the purpose of MSDH's health care operations;
 5. In limited circumstances, for the health care operations of another Covered Entity, if the other Covered Entity has or had a relationship with the patient;
 6. To the Secretary of the U.S. Department of HHS for the purpose of determining compliance with the HIPAA Privacy Rule;
 7. For public health activities;
 8. For health oversight activities;
 9. To provide decedent information to coroners, medical examiners, and funeral directors;
 10. Required by other state or federal law (i.e. to report abuse, neglect, or domestic violence, for law enforcement purposes, or judicial or administrative purposes);
 11. For research purposes that have been approved by a MSDH approved Institutional Review Board (IRB), or that meet another applicable authorization exception under 45 C.F.R. § 164.512(i);



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12. To avert a serious threat to health or safety;
 13. For specialized government functions; and
 14. To comply with worker's compensation laws.
- B. MSDH staff shall disclose only the least amount of information needed to accomplish the purpose of the disclosure. MSDH staff shall *not* disclose an entire patient file unless the entire file is the minimum amount of information needed to accomplish the purpose of the disclosure. Note: The "minimum necessary" rule does *not* apply to:
1. Disclosures to or requests by a health-care provider for treatment;
 2. Disclosures to HHS for compliance review or complaint investigation purposes;
 3. Disclosures to the patient concerning PHI that pertains to the patient;
 4. Disclosures authorized by the patient;
 5. Disclosures that are required by law (i.e., to report abuse, neglect, or domestic violence, for law enforcement purposes, or for judicial or administrative proceedings); and
 6. Disclosures necessary for HIPAA compliance.
- C. MSDH staff shall follow the policy and procedures for Verification of Identity (see *Privacy Policies*, Section 9) before permitting access to the requested information and acquiring copies of any necessary documents or permissions. If the disclosure is to a personal representative, MSDH staff shall ensure that the relationship of the individual to the patient is valid (see *Procedures for Dealing with Personal Representatives*, Section 1.4). MSDH staff shall be aware of any restrictions on the individual's authority to obtain patient information.
- D. If the disclosure is pursuant to an authorization signed by the patient, MSDH staff shall ensure that the authorization is valid. To be valid, an authorization shall fulfill the authorization requirements (see *Privacy Policies*, Section 5).
- E. MSDH staff shall determine whether the disclosure is "accountable" according to the policy and procedures described in *MSDH's Privacy Policies*, Section 14. A MSDH staff member shall document the information requested and the event, which required the accounting. All disclosures are accountable except for those exceptions listed in *MSDH's Privacy Policies*, Section 14.



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1.2 Procedures for Permissible Disclosures of PHI

- A. See *Privacy Policies*, Section 5, for disclosures requiring a written authorization from the patient, including disclosures of psychotherapy notes, for marketing, for sale of PHI, and of certain types of data (i.e., alcohol and substance abuse, mental health, and sexually transmitted diseases).
- B. Permissible disclosures of PHI not requiring a written authorization are:
1. Disclosures to the patient about the patient’s PHI, except:
 - a) Psychotherapy notes;
 - b) Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding;
 - c) PHI that is contained in records that are subject to the Privacy Act, 5 U.S.C. § 552a if the denial of access under the Privacy Act would meet the requirements of that law;
 - d) PHI obtained from someone other than a health-care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information;
 - e) If a licensed health-care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person;
 - f) If the PHI makes reference to another person (unless such other person is a health-care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
 - g) If the request for access is made by the patient's personal representative and a licensed health-care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the patient or another person.
 2. Disclosures for treatment, payment, or health-care operations, including:
 - a) For MSDH’s own treatment, payment, or health-care operations;



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- b) For treatment activities of a health-care provider;
 - c) To another covered entity or a health-care provider for the payment activities of the entity that receives the information; or
 - d) To another covered entity for health-care operations activities of the entity that receives the information, if each entity either has or had a relationship with the patient who is the subject of the PHI being requested, the PHI pertains to such relationship, and the disclosure is:
 - 1) For MSDH's own treatment, payment, or health-care operations or for treatment activities of a health care provider; or
 - 2) For the purpose of health-care fraud and abuse detection or compliance.
3. "Incidental" disclosures (i.e., a secondary disclosure that cannot reasonably be prevented, is limited in nature, and that occurs as a result of another use or disclosure that is permitted by the HIPAA Privacy Rule and MSDH has complied with the applicable requirements of the HIPAA Privacy Rule with respect to such otherwise permitted or required use or disclosure).
4. Disclosures authorized by the patient, unless otherwise prohibited by the HIPAA Privacy Rule.
5. Disclosures that are required by law (i.e., to report abuse, neglect, or domestic violence, for law enforcement purposes, or for judicial or administrative proceedings).
6. The following disclosures to family members, relatives, friends, personal representatives, or persons responsible for their care (see also *Procedures for Dealing with Personal Representatives*, Section 1.4):
- a) Disclosures of PHI to a family member, relative, or close personal friend of the patient, or any other person identified by the patient, directly related to such person's involvement with the patient's health care or payment related to such health care.
 - 1) If the patient is present for or available prior to the disclosure and has the capacity to make health care decisions, MSDH may disclose the PHI if MSDH either:
 - (a) Obtains the patient's agreement;
 - (b) Provides the patient with the opportunity to object to the disclosure, and the



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patient does not object; or

- (c) Reasonably infers from the circumstances, based on the exercise of professional judgment that the patient does not object to the disclosure.
- 2) If the patient is not present, or the opportunity to agree or object cannot practicably be provided because of the patient's incapacity or an emergency circumstance, MSDH may, in the exercise of professional judgment, determine whether the disclosure is in the best interest of the patient and, if so, disclose only the PHI that is directly relevant to the person's involvement with the patient's care, payment related to such health care, or needed for notification purposes. MSDH may use professional judgment and its experience with common practice to make reasonable inferences of the patient's best interest in allowing a person to act on behalf of the patient to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of PHI (if applicable).
 - 3) If the patient is deceased, MSDH may disclose to a family member, relative, close friend, personal representative, or other persons identified by the patient who were involved in the patient's care or payment for health care prior to the patient's death, PHI of patient that is relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the patient that is known to MSDH.
- b) Disclosures of PHI to notify or assist in the notification of (including identifying or locating) a family member, a personal representative, or another person responsible for the care of the patient or of the patient's location, general condition, or death.
- 1) If the patient is present for or available prior to the disclosure and has the capacity to make health care decisions, MSDH may disclose the PHI if MSDH either:
 - (a) Obtains the patient's agreement.
 - (b) Provides the patient with the opportunity to object to the disclosure, and the patient does not object.
 - (c) Reasonably infers from the circumstances, based on the exercise of professional judgment that the patient does not object to the disclosure.
 - 2) If the patient is not present, or the opportunity to agree or object cannot practicably be provided because of the patient's incapacity or an emergency circumstance, MSDH may, in the exercise of professional judgment, determine whether the



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disclosure is in the best interests of the patient and, if so, disclose only the PHI that is directly relevant to the person's involvement with the patient's care, payment related to such health care, or needed for notification purposes. MSDH may use professional judgment and its experience with common practice to make reasonable inferences of the patient's best interest in allowing a person to act on behalf of the patient to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of PHI (if applicable).

- 3) MSDH may disclose PHI to a public or private entity authorized by law or by its charter to assist in disaster relief efforts, for the purpose of coordinating with such entities to notify, or assist in the notification of (including identifying or locating), a family member, a personal representative, or another person responsible for the care of the patient or of the patient's location, general condition, or death, if in the exercise of professional judgment, MSDH determines that the requirements do not interfere with the ability to respond to the emergency circumstances.
 - 4) If the patient is deceased, MSDH may disclose to a family member, relative, close friend, personal representative, or other persons identified by the patient who were involved in the patient's care or payment for health care prior to the patient's death, PHI of the patient that is relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the patient that is known to MSDH.
7. Disclosures reporting abuse, neglect, or domestic violence.
- a) MSDH may disclose PHI about a patient whom MSDH reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:
 - 1) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;
 - (a) If the patient agrees to the disclosure; or
 - (b) To the extent the disclosure is expressly authorized by statute or regulation and:
 - i.) MSDH, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the patient or other potential victims (contact the MSDH Privacy Officer to appropriately



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notify a licensed health-care provider to obtain consultation on making such decisions); or

ii.) If the patient is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the PHI for which disclosure is sought is *not* intended to be used against the patient and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the patient is able to agree to the disclosure.

8. Disclosures for law enforcement purposes (see also *Disclosing Information to Law Enforcement*, Section 3):

a) Pursuant to process and as otherwise required by law. MSDH may disclose PHI:

1) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except regarding the reporting of child abuse or neglect or regarding the reporting of abuse, neglect, or domestic violence to a government authority; or

2) In compliance with, and as limited by, the relevant requirements of:

(a) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

(b) A grand jury subpoena; or

(c) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;

(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and

(3) De-identified information could not reasonably be used.

b) Limited information for identification and location purposes. Except for disclosures permitted by Section 1.2(B)(8)(a), MSDH may disclose PHI in response to a law



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enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that MSDH discloses only the following information:

- 1) Name and address;
- 2) Date and place of birth;
- 3) Social security number;
- 4) ABO blood type and rh factor;
- 5) Type of injury;
- 6) Date and time of treatment;
- 7) Date and time of death, if applicable; and
- 8) A description of distinguishing physical characteristics (e.g., height, weight, gender, race, hair color, eye color, presence or absence of facial hair, scars, tattoos).

Except as permitted above, MSDH shall *not* disclose for the purposes of identification or location under this section any PHI related to the patient or patient's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

- c) Victims of a crime. Except for disclosures required by law, MSDH may disclose PHI in response to a law enforcement official's request for such information about a patient who is or is suspected to be a victim of a crime, other than disclosures that are subject to Section 1.2(B)(7) or (10), if:
 - 1) The patient or patient agrees to the disclosure; or
 - 2) MSDH is unable to obtain the patient or patient's agreement because of incapacity or other emergency circumstance provided that:
 - (a) The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is *not* intended to be used against the victim;
 - (b) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely



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affected by waiting until the patient or patient is able to agree to the disclosure;
and

- (c) The disclosure is in the best interest of the patient as determined by MSDH, in the exercise of professional judgment (contact the MSDH Privacy Officer to appropriately notify a licensed health-care provider to obtain consultation on making such decisions).
- (d) Decedents. MSDH may disclose to a law enforcement official PHI about a patient who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the patient if MSDH has a suspicion that such death may have resulted from criminal conduct.
- (e) Crime on Premises. MSDH may disclose to a law enforcement official PHI that MSDH believes in good faith constitutes evidence of criminal conduct that occurred on the premises of MSDH.

9. Disclosures for judicial and administrative proceedings, including:

- a) In response to an order of a court or administrative tribunal, provided that MSDH discloses only the PHI expressly authorized by such order; or
- b) In response to a subpoena, discovery request, or other lawful process, that is *not* accompanied by an order of a court or administrative tribunal, if either:
 - 1) MSDH receives satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to ensure that the patient who is the subject of the PHI requested has been given notice of the request.
 - (a) For purposes of this section, MSDH receives satisfactory assurances from a party seeking PHI if MSDH receives from such party a written statement and accompanying documentation demonstrating that:
 - (1) The party requesting such information has made a good faith attempt to provide written notice to the patient (or, if the patient's location is unknown, to mail a notice to the patient's last known address);
 - (2) The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the patient to raise an objection to the court or administrative tribunal; and



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- (3) The time for the patient to raise objections to the court or administrative tribunal has elapsed, and (i) no objections were filed or (ii) all objections filed by the patient have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.
- 2) MSDH receives satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to secure a valid qualified protective order.
- (a) For the purposes of this section, MSDH receives satisfactory assurances from a party seeking PHI if MSDH receives from such party a written statement and accompanying documentation demonstrating that:
- (1) The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or
- (2) The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal.
- (b) A qualified protective order means an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:
- (1) Prohibits the parties from using or disclosing the PHI for any purpose other than the litigation or proceeding for which such information was requested; and
- (2) Requires the return to MSDH or destruction of the PHI (including all copies made) at the end of the litigation or proceeding.
- (c) Notwithstanding Sections 1.2(B)(9)(b)(1) or (2), MSDH may disclose PHI in response to lawful process described in Section 1.2(B)(9)(b) without receiving satisfactory assurance if MSDH makes reasonable efforts to provide notice to the patient sufficient to meet the requirements of Section 1.2(B)(9)(b)(1), or to seek a qualified protective order sufficient to meet the requirements of Section 1.2(B)(9)(b)(2).

10. Disclosures for public health activities to:



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- a) A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority.
- b) A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect.
- c) A person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety or effectiveness of such FDA- regulated product or activity. Such purposes include:
 - 1) To collect or report adverse events (or similar activities with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations.
 - 2) To track FDA-regulated products.
 - 3) To enable product recalls, repairs, or replacement, or lookback (including locating and notifying individuals who have received products that have been recalled, withdrawn, or are the subject of lookback).
 - 4) To conduct post marketing surveillance.
- d) A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if MSDH is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation.
- e) A school, about a patient who is a student or prospective student of the school, if:
 - 1) The PHI that is disclosed is limited to proof of immunization;
 - 2) The school is required by state or other law to have such proof of immunization prior to admitting the patient; and
 - 3) MSDH obtains and documents the agreement to the disclosure from either:



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- (a) A parent, guardian, or other person acting in loco parentis of the patient, if the patient is an unemancipated minor (see Section 1.5).
- (b) The patient, if the patient is an adult or emancipated minor.

11. Disclosures to health oversight agencies for health oversight activities authorized by law.

- a) Including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:
 - 1) The health care system.
 - 2) Government benefit programs for which health information is relevant to patient eligibility (e.g., Medicaid). If a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, the joint activity or investigation is considered a health oversight activity.
 - 3) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards.
 - 4) Entities subject to civil rights laws for which health information is necessary for determining compliance.
- b) A health oversight activity does *not* include an investigation or other activity in which the patient is the subject of the investigation or activity and such investigation or other activity does *not* arise out of and is *not* directly related to:
 - 1) The receipt of health care.
 - 2) A claim for public benefits related to health.
 - 3) Qualification for, or receipt of, public benefits or services when a patient's health is integral to the claim for public benefits or services.

12. Disclosures to provide decedent information to:

- a) Coroners and medical examiners for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law.



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- b) Funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent.
13. Disclosures to entities involved in procuring, banking, or transplanting cadaveric organs, eyes, or tissues for the purpose of facilitating organ, eye, or tissue donation and/or transplantation.
 14. Disclosures for research purposes that have been approved by a MSDH approved Institutional Review Board, or that meet another applicable authorization exception under 45 C.F.R. § 164.512(i).
 15. Disclosures to avert a serious threat to health or safety, if:
 - a) Consistent with applicable law and standards of ethical conduct and MSDH in good faith believes (the belief is based upon MSDH's actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority) the disclosure:
 - 1) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and
 - 2) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat or is necessary for law enforcement authorities to identify or apprehend an individual:
 - (a) Because of a statement by an individual admitting participation in a violent crime that MSDH reasonably believes may have caused serious physical harm to the victim:
 - (1) The disclosure may not be made if the information is learned by MSDH in the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure, or counseling or therapy, or through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy;
 - (2) The disclosure shall contain only the statement and name, address, date, place of birth, social security number, ABO blood type, rh factor, type of injury, date and time of treatment, date and time of death, if applicable, and a description of distinguishing physical characteristics (e.g., height, weight, gender, race, hair color, eye color, presence/absence of facial hair,



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scars, tattoos).

- (b) It appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

16. Disclosures for specialized government functions, including:

- a) Disclosure of PHI of patients who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, if the appropriate military authority has published by notice in the Federal Register the appropriate military command authorities and the purposes for which the PHI may be used or disclosed.
- b) Disclosure of the PHI of patients who are foreign military personnel to their appropriate foreign military authority for the same purposes for which uses and disclosures are permitted for Armed Forces personnel under the notice published in the Federal Register pursuant to Section paragraph (a) above.
- c) Disclosure of PHI to authorized federal officials for the conduct of lawful intelligence, counterintelligence, and other national security activities authorized by the National Security Act (50 U.S.C. §§ 401, *et seq.*) and implementing authority (e.g., Executive Order 12333).
- d) Disclosure of PHI to authorized federal officials for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056 or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or for the conduct of investigations authorized by 18 U.S.C. 871 and 879.
- e) Disclosure to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual PHI about such inmate or individual, if the correctional institution or such law enforcement official represents that such PHI is necessary for:
 - 1) The provision of health care to such individuals.
 - 2) The health and safety of such individuals or other inmates.
 - 3) The health and safety of the officers or employees of or others at the correctional institution.
 - 4) The health and safety of such individuals and officers or other persons responsible



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for the transporting of inmates or their transfer from one institution, facility, or setting to another.

- 5) Law enforcement on the premises of the correctional institution.
 - 6) The administration and maintenance of the safety, security, and good order of the correctional institution.
 - f) Disclosure of PHI relating to eligibility for or enrollment in the health plan to another agency administering a government program providing public benefits if the sharing of eligibility or enrollment information among such government agencies or the maintenance of such information in a single or combined data system accessible to all such government agencies is required or expressly authorized by statute or regulation.
 - g) Disclosure of PHI relating to the MSDH program to another covered entity that is a government agency administering a government program providing public benefits if the programs serve the same or similar populations and the disclosure of PHI is necessary to coordinate the covered functions of such programs or to improve administration and management relating to the covered functions of such programs.
17. Disclosures necessary to comply with worker's compensation laws or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.
18. Disclosures required by HHS to investigate or determine MSDH's compliance with HIPAA.
- C. Requests for disclosures come to MSDH through various channels. Some requests are generated directly to the County Health Departments, while other requests are made to a particular Office. As a request is made, all MSDH staff shall determine if the request is coming through the appropriate channel. If not, please re-direct to the appropriate Office or unit:
1. Requests which come from government agencies shall begin in the State Health Officer Office, the MSDH Legal Office, or with the MSDH Privacy Officer.
 2. Subpoenas shall immediately be directed to the MSDH Legal Office.
 3. Requests for public information shall be directed to the Office of Communications.
 4. Other requests for permissible disclosures of information shall be made or routed through Epic using either the MSDH *Authorization for the Use & Disclosure of Protected Health*



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Information (Form 99) for releases to third parties (e.g. attorneys, etc.) made by the patient or personal representative, or the *Request for Patient Access to Protected Health Information* Form 1110 for releases to the patient or personal representative. (see Section 1.4, *Procedures for Dealing with Personal Representatives*).

- D. Disclosures made to health care providers for treatment purposes are permissible, except for disclosures of certain data which require a written authorization before disclosure (i.e., alcohol and substance use, mental health (including psychotherapy notes), and sexually transmitted diseases). In this situation, the provider, and not MSDH, is responsible for requesting only the “minimum necessary”.
- E. MSDH staff may provide information to the individual whose record is maintained by MSDH provided the individual properly completes a *Request for Patient Access to Protected Health Information* form. If such access is granted, prior to disclosure MSDH staff shall check to see whether the patient has other restrictions on their information, including a Request for Confidential Communications or a Request for Special Privacy Protections, and will only disclose the information pursuant to such restrictions.

1.3 Procedures for Responding to Requests for Disclosures

- A. The office involved and the MSDH Privacy Officer shall identify the purpose for which the disclosure is requested (see also *Procedures for Permissible Disclosures of Information*, Section 1.2). Such identification shall be as specific as possible (e.g., a business associate may request some information for a MSDH proposed program that may only continue for a couple of years).
- B. The office involved and the MSDH Privacy Officer shall identify the information required to fulfill the request. The detail of information provided by the office shall be as specific as possible (e.g., the need for a detailed list of patients within a certain disease category during specific dates of service).
- C. For each item identified in the previous step, the office involved and the MSDH Privacy Officer shall consider the effect of removing it from the disclosure (i.e., whether the purpose of the disclosure would or would not be satisfied if the item were removed). If the purpose of the disclosure may be satisfied without the information, MSDH shall *not* disclose the information.
- D. The office involved and the MSDH Privacy Officer shall consider whether or not MSDH shall obtain an authorization from the patient to whom the requested information pertains and review the conditions that apply under *Authorizations*, Section 2, if applicable.
- E. Contact the MSDH Privacy Officer for assistance in responding to requests for disclosures that do not involve a permissible use or disclosure of PHI (see *Procedures for Permissible*



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Disclosures of Information, Section 1.2).

1.4 Procedures for Dealing with Personal Representatives

A. MSDH staff shall recognize when a personal representative relationship exists such as:

1. If the person has the authority to act on behalf of the patient in making health care decisions (consult the MSDH Privacy Officer if there is a question in making a determination; if the MSDH Privacy Officer has any questions, he/she shall consult the MSDH Legal Office).
2. The executor or administrator of a deceased person's estate is a personal representative of the decedent.
3. A parent, guardian, or other person acting *in loco parentis* of an unemancipated minor is a personal representative unless:
 - a) The minor refuses to authorize the parent.
 - b) The minor may lawfully obtain treatment without parental consent and the minor, a court, or someone else who can lawfully consent to the treatment does so.
 - c) The parent assents to a confidentiality agreement between the minor and the health care provider. See also *Procedures for Disclosing Information about Minors to their Parents/Guardians*, Section 1.5, for further guidance.

B. MSDH staff shall validate the personal representative relationship. If the nature of the relationship can be clearly inferred from the circumstances (e.g., when a parent brings a child in for treatment) you may view such as a personal representative of the patient. Otherwise, obtain written verification of the relationship between the two (such as a power of attorney or custody agreement).

C. MSDH staff shall restrict disclosures to personal representatives to those that are appropriate to the nature of the relationship between the personal representative and the patient (e.g., a power of attorney may specify limitations on the representative's authority to act on the patient's behalf).

1.5 Procedures for Disclosing PHI about Minors to Their Parents/Guardians

A. MSDH staff shall determine if the parent or guardian is a personal representative. (See the MSDH Privacy Officer or *Procedures for Dealing with Personal Representatives*, Section 1.4,



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to make that determination.) If so, treat the parent or guardian as any other personal representative, except for information contained in the records regarding services which a minor can receive without the consent of a parent or guardian. In Mississippi, those services are:

1. Treatment for sexually transmitted diseases (STD) for an unemancipated minor under age 21;
2. Treatment for mental or emotional problems resulting from alcohol or drug use for unemancipated minors over age 15;
3. Abortion services for an unemancipated minor female under age 18 and under a court order;
4. Family planning services for minors under age 21 who are parents or married;
5. Pregnancy or childbirth services for unemancipated minor females regardless of age.



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Section 2.0 Authorizations

- A. In the event an authorization is required for a disclosure, MSDH staff shall review the authorization for accuracy and completeness prior to any such disclosure.
- B. As a general rule, MSDH may not disclose PHI without a valid authorization unless it is permitted under Section 1.2(B). MSDH shall obtain a valid authorization for:
1. Any disclosure of psychotherapy notes, except:
 - a) To carry out the following treatment, payment, or health care operations:
 - 1) Use by the originator of the psychotherapy notes for treatment.
 - 2) Use or disclosure by MSDH for its own training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling.
 - 3) Use or disclosure by MSDH to defend itself in a legal action or other proceeding brought by the patient or patient.
 - b) Use or disclosure that is required by 45 C.F.R. §164.502(a)(2)(ii) or permitted by 45 C.F.R. §164.512(a); §164.512(d) with respect to the oversight of the originator of the psychotherapy notes; §164.512(g)(1); or §164.512(j)(1)(i).
 2. Any use or disclosure of PHI for marketing, except if the communication is in the form of:
 - a) A face-to-face communication made by MSDH to an individual; or
 - b) A promotional gift of nominal value provided by MSDH.
 3. Any disclosure of PHI which is a sale of PHI.
 4. Pursuant to applicable federal/state law, any disclosure of PHI regarding alcohol and substance use, mental health (including psychotherapy notes), and sexually transmitted diseases, *unless* the disclosure is required by law.
- C. A valid authorization shall contain the following information before MSDH staff can make such disclosure:
1. Name and other specific identification of the patient who is the subject of the request (i.e.



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SSN or Health Plan ID).

2. A list and description of the information to be disclosed that identifies the information in a specific and meaningful fashion. Do not disclose information beyond the bounds of this description.
3. MSDH named as being authorized to disclose the information.
4. The name/address of the person or entity specifically authorized to receive the information.
5. A description of each purpose of the requested disclosure. The statement “at the request of the patient” is a sufficient description of the purpose when a patient initiates the authorization and does *not*, or elects not to, provide a statement of the purpose.
6. An expiration date or an expiration event that relates to the patient or the purpose of the disclosure. The statement “end of the research study,” “none,” or similar language is sufficient if the authorization is for disclosure of PHI for research, including for the creation and maintenance of a research database or research repository.
7. Signature of the patient and date. If the authorization is signed by a personal representative of the individual, documentation to support such representative's authority to act for the patient may also be required (see *Procedures for Dealing with Personal Representatives*, Section 1.4).
8. Statements adequate to place the patient on notice of all of the following:
 - a) The patient’s right to revoke the authorization in writing, and either:
 - 1) A statement that this revocation of the authorization will *not* be effective for PHI that MSDH has used or shared before the patient revoked their authorization and a description of how the patient may revoke the authorization; or
 - 2) If the information above in paragraph (1) is included in MSDH’s Notice of Privacy Practices, a reference to MSDH’s Notice.
 - b) MSDH’s inability to condition the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits on the provision of an authorization, except that:
 - 1) MSDH may condition enrollment or eligibility for benefits on provision of an authorization requested by MSDH prior to an individual's enrollment if the authorization sought is for MSDH's eligibility or enrollment determinations



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relating to the individual and the authorization is *not* for a use or disclosure of psychotherapy notes under 45 C.F.R. §164.508(a)(2).

- 2) MSDH may condition the provision of health care that is solely for the purpose of creating PHI for disclosure to a third party on provision of an authorization for the disclosure of the PHI to such third party.
 - c) The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected by the HIPAA Privacy Rule.
9. If the disclosure is for marketing purposes, a statement that the disclosure shall result in remuneration to MSDH (if there is such remuneration).
- D. Compound Authorizations. An authorization for PHI may not be combined with any other document to create a compound authorization, except:
1. An authorization may be combined with any other authorization (except for psychotherapy notes or research) as long as MSDH has not conditioned the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits on the provision of one of the authorizations.
 2. An authorization for a research study may be combined with any other authorization for the same or another research study (even if MSDH has conditioned the provision of treatment, payment, enrollment, or eligibility for benefits on the provision of one of the authorizations).
 3. An authorization of psychotherapy notes may only be combined with another authorization for a use or disclosure of psychotherapy notes.
- E. The MSDH *Authorization for the Use & Disclosure of PHI* form is located on the intranet. If MSDH staff have problems or concerns with the elements of an authorization, they shall contact their immediate supervisor or the MSDH Privacy Officer before the disclosure of information.



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Section 3.0 Disclosing Information to Law Enforcement

- A. See Sections 1.2(A) and 1.2(B)(7), (8), (10), and (15).
- B. MSDH staff shall contact the MSDH Privacy Officer if a request is presented by a law enforcement official.
- C. MSDH staff shall *not* disclose any information about a patient committing a violent crime if the information was obtained by MSDH because the individual was seeking or undergoing treatment, counseling, or therapy to reduce his or her tendency to commit the crime.
- D. If the patient admits to participating in a violent crime or if a law enforcement official asks for help in identifying or locating a suspect, fugitive, material witness, or missing person, MSDH staff shall only disclose the following information to the law enforcement authorities (except as required by a court order):
 - 1. Name and address.
 - 2. Date and place of birth.
 - 3. Social security number.
 - 4. ABO blood type and rh factor.
 - 5. Type of injury.
 - 6. Date and time of treatment.
 - 7. Date and time of death, if applicable.
 - 8. A description of distinguishing physical characteristics (e.g., height, weight, gender, race, hair color, eye color, presence/absence of facial hair, scars, tattoos).
- E. MSDH staff shall *not* disclose DNA or DNA analysis information, dental records, or typing, samples or analysis of body fluids or tissue to law enforcement authorities unless required by a court order.
- F. MSDH staff shall disclose information about the victim of a crime to law enforcement authorities only:
 - 1. If the victim agrees; or



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2. If MSDH cannot get the victim's agreement because of incapacity or other emergency and the law enforcement official states that the information is needed for an immediate law enforcement activity, is needed to determine if a violation of law has been committed by someone other than the victim, is *not* to be used against the victim, and the disclosure is in the best interests of the victim (as decided in the professional judgment of MSDH). (Contact the MSDH Privacy Officer to appropriately notify a licensed health-care provider to obtain consultation on making such decisions). The law enforcement official shall state such in writing and in an approved MSDH format.

G. In the event the crime occurred on MSDH premises, disclose all necessary and relevant information.

H. MSDH may disclose PHI in a response to a law enforcement official's request for such information about a patient who is suspected to be a victim of a crime (except for reports of child abuse or neglect made in accordance with Section 1.2(B)(10)(b) and Miss. Code Ann. §43-21-353) only if the victim agrees, the disclosure is required by law, or the disclosure is allowed by law and (i) is necessary to prevent serious harm or (ii) MSDH cannot get the victim's agreement because of incapacity, and the law enforcement official states that the information is needed for an immediate law enforcement activity and is *not* intended to be used against the victim.

I. Pursuant to the Mississippi Vulnerable Persons Act, Miss. Code Ann. §§43-47-1 *et. seq.*, MSDH staff who have knowledge of abuse, neglect, or exploitation within a care facility of a vulnerable person shall immediately report in writing such information to the Mississippi Department of Human Services and the Attorney General's Office. Information to be disclosed under such report shall contain:

1. Name, age, race, sex, physical description, and location of each vulnerable person in the allegation.
2. Names, addresses, and telephone numbers of the vulnerable person's family members.
3. Name, address, and telephone number of each alleged perpetrator.
4. Name, address and telephone number of the caregiver of the vulnerable person.
5. Description of the neglect, exploitation, physical, or psychological injuries sustained.
6. Action taken by MSDH staff member, if any, such as notification of the criminal justice agency.



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7. Any other information available to the MSDH staff member which may establish the cause of abuse, neglect, or exploitation that occurred or is occurring.
 8. MSDH staff member's name, address, and telephone number.
- J. MSDH staff who have knowledge of child neglect or abuse shall immediately make an oral report (e.g., telephone) of such to the Mississippi Department of Human Services, followed as soon as possible by written documentation to DHS which shall include:
1. Child's name, address, and age.
 2. Parents or caregiver's names and addresses.
 3. Nature and extent of the child's injuries, including any evidence of previous injuries.
 4. Any other information that might be helpful in establishing the cause of the injury and the identity of the perpetrator.
- K. If the crime reported is one of abuse, neglect, or domestic violence (except for reports of child abuse or neglect made in accordance with Section 1.2(B)(10)(b) and Miss. Code Ann. §43-21-353), MSDH *shall* inform the victim that it has reported his/her information to law enforcement, *unless* (i) MSDH in the exercise of professional judgment, believes informing the victim would place the victim at risk of serious harm or (ii) MSDH would be informing a personal representative, and MSDH reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and MSDH in the exercise of professional judgment believes that informing such person would not be in the best interests of the victim (contact the MSDH Privacy Officer to appropriately notify a licensed health-care provider to obtain consultation on making such decisions). When MSDH staff report such types of information to authorities, the staff member making the disclosure shall contact the MSDH Privacy Officer with the details of the disclosure and the documentation which prompted such disclosure.



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Section 4.0 Disclosing Information to Public Authorities

- A. See, Section 1.2(A) and 1.2(B) (7)-(12), (15)-(16), and (18).
- B. Requests for disclosure by public authorities shall be directed to the Office of the State Health Officer, Legal, or the MSDH Privacy Officer. Public authorities include:
1. Public Health Department,
 2. County and City governments,
 3. State governments that collect information and data relating to MSDH programs which require the disclosure of PHI, and
 4. Federal government entities which collect information and data relating to MSDH programs which require the disclosure of PHI.
- C. Once approved/permitted, MSDH staff may disclose the appropriate information to the public authority. The MSDH Privacy Officer shall obtain verification from the public authority of its authority to obtain MSDH patient information and shall contact the appropriate MSDH office for action and cooperation with the public authority.
- D. See *Disclosing Information to Law Enforcement*, Section 3, for procedures regarding disclosing information about victims of abuse under HIPAA, the Mississippi Vulnerable Persons Act, and Miss. Code Ann. §43-21-353.
- E. MSDH staff may disclose information to avert a serious threat to health or safety only to those able to prevent or reduce the threat and only as necessary. Contact the MSDH Privacy Officer before making such a disclosure for independent appraisal of the severity of the apparent threat.



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Section 5.0 Disclosing Information for a Judicial/Administrative Proceeding

- A. See also Section 1.2(A) and 1.2(B)(9).
- B. MSDH staff members presented with a grand jury subpoena, subpoena duces tecum accompanied by an appropriate authorization executed by the patient (or their personal representative) (see *Procedures for Dealing with Personal Representatives*, Section 1.4), an order of a court or administrative tribunal, or other lawful process shall contact the MSDH Privacy Officer and MSDH Legal Office immediately. Forward the document directly to the MSDH Legal Office.
- C. MSDH staff members presented with an attorney's subpoena or discovery request shall contact the MSDH Legal Office immediately. Do not disclose information until prompted to do so by the MSDH Legal Office. The MSDH Legal Office shall ensure that the attorney issuing the subpoena has:
1. Obtained an authorization signed by the patient (MSDH may only disclose information allowed by the authorization, not the subpoena); or
 2. Obtained a court order restricting the use of the information to the proceeding and requiring all parties to return or destroy the information when the proceeding is over (this is known as a Qualified Protective Order). Additionally, the Qualified Protective Order shall specify the conditions under which the information is to be used and how it is to be disposed of when the proceedings are concluded; and
 3. Informed the judicial officer of applicable law, including 42 C.F.R. §§431.300 *et. seq.*, 22 C.F.R. Parts 141-143, and 45 C.F.R. Parts 160-164.
- D. If the requesting attorney has satisfied the above prerequisites, the MSDH Legal Office shall take the necessary steps to respond to the subpoena or discovery request.
- E. If an attorney submits a request for patient information which does *not* fall within the above categories, forward such requests to the MSDH Privacy Officer.



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Section 6.0 Disclosing Information to HHS for Compliance Review

- A. See also Section 1.2(A) and 1.2(B)(18).
- B. MSDH shall cooperate fully with HHS and OCR when conducting compliance reviews.
- C. The State Health Officer or designee shall obtain the government representative’s credentials prior to permitting them access to any facilities or information. Once access to such records has been approved by the State Health Officer or designee, MSDH staff shall answer all questions put to them by HHS, OCR, or those individuals specifically gathering data on their behalf for the purpose of the compliance review.



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Section 7.0 Disclosing Information to Legislators or Elected Officials

- A. See also Section 1.2.
- B. MSDH staff shall determine if the request is regarding a patient.
- C. If the request is for information about an individual who was *not/is not* a patient, MSDH staff shall respond to the requestor with the programmatic information requested.
- D. If the individual is a patient, MSDH staff shall determine if the request requires the disclosure of PHI to the legislator.
- E. If the request does *not* require disclosure of PHI to the legislator, MSDH staff shall prepare a letter to the legislator with the requested information and indicate that MSDH shall contact the patient who is the subject of the request.
- F. If the request does require disclosure of PHI to the legislator, determine if an authorization signed by the patient (or their personal representative) (see *Procedures for Dealing with Personal Representatives*, Section 1.4) was included with the request to permit the release of information to the legislator.
- G. If a signed authorization was included, MSDH staff may respond directly in writing to the legislator with the subject information as permitted in the authorization. MSDH staff shall also send a copy of the response to the patient who is the subject of the request.
- H. If a signed authorization was not included with the request, MSDH staff shall respond to the legislator in writing and indicate that under HIPAA regulations MSDH cannot provide the information requested. MSDH shall contact the patient who is the subject of the request and prepare a response in writing letting the patient know the legislator has made a request on his/her behalf. MSDH shall include in the response the outcome of the research or investigation regarding the request.



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Section 8.0 Disclosing Information to Providers or their Contractors

- A. See also Section 1.2(A) and 1.2(B)(2).
- B. Written and telephone requests for information from providers or their contractors shall be presented to the appropriate MSDH office to handle the request.
- C. Disclosure to providers for the purpose of treatment, payment, or health-care operations is permissible.
- D. In order to disclose information to providers or their contractors, the MSDH staff member handling the contact shall verify the identity of the caller (if by telephone) by obtaining satisfactory evidence that the caller is who he/she purports to be by:
 1. Obtaining the Provider Number of the caller.
 2. Having the provider give details about the specific issue in question.
 3. Having the caller provide at least two of the following pieces of information regarding the patient:
 - a) Social Security Number.
 - b) Health Plan ID Number.
 - c) Date of Birth.
 - d) Address of the patient.
 - e) Telephone Number of the patient.
 4. If uncomfortable about the callers' identity, call the number on file with MSDH for that provider.
- E. Once the identity of the caller is verified, MSDH staff shall access the appropriate file location (Epic) to verify the information given by the caller regarding the patient.
- F. If the caller is a contractor of a provider, MSDH staff shall verify the contractor's rights to obtain PHI by:
 1. Having the provider provide an original letter outlining:



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- a) The relationship between the provider and contractor;
 - b) The period of time the contractor shall act on their behalf;
 - c) The right under applicable law for the information to be provided; and
 - d) Contact name and number of the provider.
2. Send a copy of the letter to the MSDH Privacy Officer for verification.
- G. If the contractor’s rights are verified, MSDH staff shall assist the caller with the issue and provide adequate information to permit the contractor to conduct their business.
- H. If the MSDH staff member cannot verify the identity of the caller as a provider or as a provider’s contractor, or does not receive enough information to determine the identity of the patient, no information shall be provided and the requirements for MSDH to disclose information to the provider or the provider’s contractor shall be explained to the caller.



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Section 9.0 Forms

For access to the following forms, refer to the Mississippi State Department of Health’s internal website.

- *Request for Patient Access to Protected Health Information* – Form 1110
- *Authorization for the Use & Disclosure of Protected Health Information* – Form 99



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Section 10.0 Attachments

Attachment 1: Mississippi Population - 3 Digit Zip Code Tabulation Areas

Attachment 2: Mississippi Cities by 3 Digit Zip Code Tabulation Areas

Attachment 1: Mississippi Population - 3 Digit Zip Code Tabulation Areas

The intent of the HIPAA Privacy Rule is to maintain the confidentiality of information regarding MSDH patients. The de-identification of information is specifically directed to limit the identification of an individual from demographic data. Consequently, demographic data cannot be disseminated to the public for any subdivision smaller than the three (3) digit zip code, which is commonly referred to as the geographical unit, geounit, or geocode.

If the geographic unit contains more than 20,000 people, MSDH may provide the first 3 digits of the zip code. If the geographic unit contains fewer than 20,000 people, the code shall be excluded. Mississippi has twelve (12) geographical units in the state, all of which have more than 20,000 people.

US Census Data 2010

Geographical Unit	Population
386	406,641
387	118,509
388	261,085
389	95,701
390	275,011
391	290,133
392	233,060
393	179,550
394	371,436
395	383,267
396	132,820
397	170,060
The geographical unit data is taken for the US Census.	



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Attachment 2: Mississippi Cities by 3 Digit Zip Code Tabulation Areas

386 ZIP	CITY	387 ZIP	CITY	388 ZIP	CITY
38601	ABBEYVILLE	38901	GREENVILLE	38801	TUPELO
38602	ARKABUTLA	38702	GREENVILLE	38802	TUPELO
38603	ASHLAND	38703	GREENVILLE	38803	TUPELO
38606	BATESVILLE	38704	GREENVILLE	38804	TUPELO
38609	BELÉN	38720	ALLIGATOR	38820	ALGOMA
38610	BLUE MOUNTAIN	38721	ANGUILLA	38821	AMORY
38611	BYHALIA	38722	ARCOLA	38824	BALDWYN
38614	CLARKSDALE	38723	AVON	38825	BECKER
38617	COAHOMA	38725	BENOIT	38826	BELDEN
38618	COLDWATER	38726	BEULAH	38827	BELMONT
38619	COMO	38730	BOYLE	38828	BLUE SPRINGS
38620	COURTLAND	38731	CHATHAM	38829	BOONEVILLE
38621	CRENSHAW	38732	CLEVELAND	38833	BURNSVILLE
38622	CROWDER	38733	CLEVELAND	38834	CORINTH
38623	KARLING	38736	DODDSVILLE	38835	CORINTH
38625	DUMAS	38737	DREW	38838	DENNIS
38626	DUNDEE	38738	PARCHMAN	38839	DERMA
38627	ETTA	38739	DUBLIN	38841	ECRU
38628	FALCON	38740	DUNCAN	38843	FULTON
38629	FALKNER	38744	GLEN ALLAN	38844	GATTMAN
38630	FARRELL	38745	GRACE	38846	GLEN
38631	FRIARS POINT	38746	GUNNISON	38847	GOLDEN
38632	HERNANDO	38748	HOLLANDALE	38848	GREENWOOD SPRINGS
38633	HICKORY FLAT	38749	HOLLY RIDGE	38849	GUNTOWN
38634	HOLLY SPRINGS	38751	INDIANOLA	38850	HOULKA
38635	HOLLY SPRINGS	38753	INVERNESS	38851	HOUSTON
38637	HORN LAKE	38754	ISOLA	38852	IUKA
38638	INDEPENDENCE	38756	LELAND	38854	MC CONDY
38639	JONESTOWN	38758	MATTSON	38855	MANTACHIE
38641	LAKE CORMORANT	38759	MERIGOLD	38856	MARIETTA
38642	LAMAR	38760	METCALFE	38857	MOOREVILLE
38643	LAMBERT	38761	MOORHEAD	38858	NETTLETON
38644	LULA	38762	MOUND BAYOU	38859	NEW SITE
38645	LYON	38763	NITTA YUMA	38860	OKOLONA
38646	MARKS	38764	PACE	38862	PLANTERSVILLE
38647	MICHIGAN CITY	38765	PANTHER BURN	38863	PONTOTOC
38649	MOUNT PLEASANT	38767	RENA LARA	38864	RANDOLPH
38650	MYRTLE	38768	ROME	38865	RIENZI
38651	NESBIT	38769	ROSDALE	38866	SALTILLO
38652	NEW ALBANY	38771	RULEVILLE	38868	SHANNON
38654	OLIVE BRANCH	38772	SCOTT	38869	SHERMAN
38655	OXFORD	38773	SHAW	38870	SMITHVILLE
38658	POPE	38774	SHELBY	38871	THAXTON
38659	POTTS CAMP	38774	STONEVILLE	38873	TISHOMINGO
38661	RED BANKS	38778	SUNFLOWER	38874	TOCCOPOLA
38663	RIPLEY	38780	WAYSIDE	38875	TREBLOC
38664	ROBINSONVILLE	38781	WINSTONVILLE	38876	TREMONT
38665	SARAH	38782	WINTERVILLE	38877	VAN VLEET
38666	SARDIS			38878	VARDAMAN
38668	SENATOBIA			38879	VERONA
38669	SHERARD			38880	WHEELER
38670	SLEDGE				
38671	SOUTHAVEN				
38672	SOUTHAVEN				
38673	TAYLOR				



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38674	TIPLERSVILLE
38675	TULA
38676	TUNICA
38677	UNIVERSITY
38679	VICTORIA
38680	WALLS
38683	WALNUT
38685	WATERFORD
38686	WALLS



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Attachment 3: Mississippi Cities by 3 Digit Zip Code Tabulation Areas

389 ZIP	CITY	390 ZIP	CITY	391 ZIP	CITY
38901	GRENADA	39038	BELZONI	39107	MCADAMS
38902	GRENADA	39039	BENTON	39108	MCCOOL
38912	AVALON	39040	BENTONIA	39109	MADDEN
38913	BANNER	39041	BOLTON	39110	MADISON
38914	BIG CREEK	39042	BRANDON	39111	MAGEE
38915	BRUCE	39043	BRANDON	39112	SANATORIUM
38916	CALHOUN CITY	39044	BRAXTON	39113	MAYERSVILLE
38917	CARROLLTON	39345	CAMDEN	39114	MENDENHALL
38920	CASCILLA	39046	CANTON	39115	MIDNIGHT
38921	CHARLESTON	39047	BRANDON	39116	MIZE
38922	COFFEEVILLE	39051	CARTHAGE	39117	MORTON
38923	COILA	39054	CARY	39119	MOUNT OLIVE
38924	CRUGER	39056	CLINTON	39120	NATCHEZ
38925	DUCK HILL	39057	CONEHATTA	39121	NATCHEZ
38926	ELLIOTT	39058	CLINTON	39122	NATCHEZ
38927	ENID	39059	CRYSTAL SPRINGS	39130	MADISON
38928	GLENDORA	39060	CLINTON	39140	NEWHEBRON
38929	GORE SPRINGS	39061	CLINTON	39144	PATTISON
38930	GREENWOOD	39062	D LO	39145	PELAHATCHIE
38935	GREENWOOD	39063	DURANT	39146	PICKENS
38940	HOLCOMB	39066	EDWARDS	39148	PINEY WOODS
38941	ITTA BENA	39067	ETHEL	39149	PINOLA
38943	MCCARLEY	39369	FAYETTE	39150	PORT GIBSON
38944	MINTER CITY	39071	FLORA	39151	PUCKETT
38945	MONEY	39072	POCAHONTAS	39152	PULASKI
38946	MORGAN CITY	39073	FLORENCE	39153	RALEIGH
38947	NORTH CARROLLTON	39074	FOREST	39154	RAYMOND
38948	OAKLAND	39077	GALLMAN	39156	REDWOOD
38949	PARIS	39078	GEORGETOWN	39157	RIDGELAND
38950	PHILIPP	39079	GOODMAN	39158	RIDGELAND
38951	PITTSBORO	39080	HARPERVILLE	39159	ROLLING
38952	SCHLATER	39081	HARRISTON	39160	SALLIS
38953	SCOBAY	39082	HARRISVILLE	39161	SANDHILL
38954	SIDON	39083	HAZLEHURST	39162	SATARTIA
38955	SLATE SPRING	39086	HERMANVILLE	39163	SHARON
38957	SUMNER	39087	HILLSBORO	39165	SIBLEY
38958	SWAN LAKE	39088	HOLLY BLUFF	39166	SILVER CITY
35959	SWIFTOWN	39090	KOSCIUSKO	39167	STAR
38960	TIE PLANT	39092	LAKE	39168	TAYLORSVILLE
38961	TILLATOBA	39094	LENA	39169	TCHULA
38962	TIPPO	39095	LEXINGTON	39170	TERRY
38963	TUTWILER	39096	LORMAN	39171	THOMASTOWN
38964	VANCE	39097	LOUISE	39173	TINSLEY
38965	WATER VALLEY	39098	LUDLOW	39174	TOUGALOO
38966	WEBB			39175	UTICA VAIDEN
38967	WINONA			39176	VALLEY PARK
				39177	VAUGHAN
				39179	VICKSBURG
				39180	VICKSBURG
				39181	VICKSBURG
				39182	VICKSBURG
				39183	WALNUT GROVE
				39189	WASHINGTON
				39190	WESSON
				39191	WEST
				39192	WHITFIELD
				39193	YAZOO CITY
				39194	YAZOO CITY



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39201	JACKSON	39301	MERIDIAN	39401	HATTIESBURG
39202	JACKSON	39302	MERIDIAN	39402	HATTIESBURG
39203	JACKSON	39303	MERIDIAN	39403	HATTIESBURG
39204	JACKSON	39304	MERIDIAN	39404	HATTIESBURG
39205	JACKSON	39305	MERIDIAN	39406	HATTIESBURG
39206	JACKSON	39307	MERIDIAN	39407	HATTIESBURG
39207	JACKSON	39309	MERIDIAN	39421	BASSFIELD
39208	JACKSON	39320	BAILEY	39422	BAY SPRINGS
39209	JACKSON	39322	BUCKATUNNA	39423	BEAUMONT
39210	JACKSON	39323	CHUNKY	39425	BROOKLYN
39211	JACKSON	39324	CLARA	39426	CARRIERE
39212	JACKSON	39325	COLLINSVILLE	39427	CARSON
39213	JACKSON	39326	DALEVILLE	39428	COLLINS
39214	JACKSON	39327	DECATUR	39429	COLUMBIA
39215	JACKSON	39328	DE KALB	39436	EASTABUCHIE
39216	JACKSON	39330	ENTERPRISE	39437	ELLISVILLE
39217	JACKSON	39332	HICKORY	39439	HEIDELBERG
39218	JACKSON	39335	LAUDERDALE	39440	LAUREL
39225	JACKSON	39336	LAWRENCE	39441	LAUREL
39232	JACKSON	39337	LITTLE ROCK	39442	LAUREL
39235	JACKSON	39338	LOUIN	39443	LAUREL
39236	JACKSON	39339	LOUISVILLE	39451	LEAKESVILLE
39250	JACKSON	39341	MACON	39452	LUCEDALE
39269	JACKSON	39342	MARION	39455	LUMBERTON
39271	JACKSON	39345	NEWTON	39456	MC LAIN
39272	JACKSON	39346	NOXAPATER	39457	MC NEILL
39282	JACKSON	39347	PACHUTA	39459	MOSELLE
39283	JACKSON	39348	PAULDING	39460	MOSS
39284	JACKSON	39350	PHILADELPHIA	39461	NEELY
39286	JACKSON	39352	PORTERVILLE	39462	NEW AUGUSTA
39288	JACKSON	39354	PRESTON	39463	NICHOLSON
39289	JACKSON	39355	QUITMAN	39464	OVETT
39296	JACKSON	39356	ROSE HILL	39465	PETAL
39298	JACKSON	39358	SCOOBA	39466	PICAYUNE
		39359	SEBASTOPOL	39470	POPLARVILLE
		39360	SHUBUTA	39474	PRENTISS
		39361	SHUQUALAK	39475	PURVIS
		39362	STATE LINE	39476	RICHTON
		39363	STONEWALL	39477	SANDERSVILLE
		39364	TOOMSUBA	39478	SANDY HOOK
		39365	UNION	39479	SEMINARY
		39366	VOSSBURG	39480	SOSO
		39367	WAYNESBORO	39481	STRINGER
				39482	SUMRALL
				39483	FOXWORTH



Mississippi State Department of Health Privacy Policy Manual Appendix A 906		Topic: Attachments
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Attachment 3: Mississippi Cities by 3 Digit Zip Code Tabulation Areas

395 ZIP	CITY	396 ZIP	CITY	397 ZIP	CITY
39501	GULFPORT	39601	BROOKHAVEN	39701	COLUMBUS
39502	GULFPORT	39602	BROOKHAVEN	39702	COLUMBUS
39503	GULFPORT	39603	BROOKHAVEN	39703	COLUMBUS
39505	GULFPORT	39629	BOGUE CHITTO	39704	COLUMBUS
39506	GULFPORT	39630	BUDE	39705	COLUMBUS
39507	GULFPORT	39631	CENTREVILLE	39710	COLUMBUS
39520	BAY SAINT LOUIS BAY	39632	CHATAWA	39730	ABERDEEN
39521	SAINT LOUIS STENNIS	39633	CROSBY	39735	ACKERMAN
39522	SPACE CENTER	39635	FERNWOOD	39736	ARTESIA
39525	DIAMONDHEAD	39638	GLOSTER JAYNESS	39737	BELLEFONTAINE
39529	STENNIS SPACE CENTER	39641	KOKOMO	39739	BROOKSVILLE
39530	BILOXI	39643	LIBERTY	39740	CALEDONIA
39531	BILOXI	39645	MCCALL CREEK	39741	CEDARBLUFF
39532	BILOXI	39647	MCCOMB	39743	CRAWFORD
39533	BILOXI	39648	MCCOMB	39744	EUPORA
39534	BILOXI	39649	MAGNOLIA	39745	FRENCH CAMP
39535	BILOXI	39652	MEADVILLE	39746	HAMILTON
39552	ESCATAWPA	39653	MONTICELLO	39747	KILMICHAEL
39553	GAUTIER	39654	OAKVALE	39750	MABEN
39555	HURLEY	39656	OSYKA	39751	MANTEE
39556	KILN	39657	ROXIE	39752	MATHISTON
39558	LAKESHORE	39661	RUTH	39753	MAYHEW
39560	LONG BEACH	39662	SILVER CREEK	39754	MONTPELIER
39561	MCHENRY	39663	SMITHDALE	39755	PHEBA
39562	MOSS POINT	39664	SONTAG	39756	PRAIRIE
39563	MOSS POINT	39665	SUMMIT	39759	STARKVILLE
39564	OCEAN SPRINGS	39666	TYLERTOWN	39760	STARKVILLE
39565	OCEAN SPRINGS	39667	UNION CHURCH	39762	MISSISSIPPI STATE
39566	OCEAN SPRINGS	39668	WOODVILLE	39766	STEENS
39567	PASCAGOULA	39669	WOODVILLE	39767	STEWART
39568	PASCAGOULA			39769	STURGIS
39569	PASCAGOULA			39771	WALTHALL
39571	PASS CHRISTIAN			39772	WEIR
39572	PEARLINGTON			39773	WEST POINT
39573	PERKINSTON			39776	WOODLAND
39574	SAUCIER				
39576	WAVELAND				
39577	WIGGINS				
39581	PASCAGOULA				
39595	PASCAGOULA				

