

West Virginia Executive Branch Privacy Policy: **Accountability**

Issued by: **Sonia Chambers**
West Virginia Health Care Authority

Policy No: WWEB-P101 Issue Date: 1.30.09 Effective Date: 8.1.09 Rev. Date: 4.1.12 Page 1 of 4

1.0 PRIVACY PRINCIPLE SUBJECT TO THIS POLICY

Accountability – Each Department shall assign roles and responsibilities to ensure application of Privacy principles to Personally Identifiable Information (PII).

Any terms not defined herein shall have the definitions afforded them within the [Privacy Policy Definitions](#) currently located at www.privacy.wv.gov.

2.0 POLICY STANDARDS

- 2.1 Each Department is responsible for maintaining the Privacy of Personally Identifiable Information (PII) that it creates, collects, uses, discloses, retains or destroys within its possession or custody to the extent required by law or policy. Each Cabinet Secretary or Department head shall designate a Privacy Officer who is accountable to the Cabinet Secretary or Department head, the Chief Privacy Officer, and the Privacy Management Team (PMT), to ensure the application of the Privacy policies to PII, develop or standardize processes and procedures and provide training.
- 2.2 Training: Each Department's Privacy Officer will work with the PMT and his or her Department to develop procedures that ensure each Department's Workforce, Vendors, and all other individuals performing functions on behalf of the Department receive appropriate training and education regarding Privacy laws, regulations, policies, standards, and procedures governing the Department's handling of PII.
- a) New members of the Workforce will receive training as part of orientation to their jobs within a reasonable time upon employment or engagement.
 - b) All members of the Workforce will receive additional training as policies, standards, or procedures are changed, to the extent that the changes affect their jobs.
 - c) All members of the Workforce will receive additional training on a biennial basis.
 - d) Ongoing attendance at training sessions will be documented to demonstrate that each member of the Workforce has received training in accordance with this standard.

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- e) The training program will also include ongoing periodic Privacy and Security awareness.
 - f) The PMT shall establish formal metrics for evaluating effectiveness, reliability, validity and develop a process for the evaluation.
 - g) By contract, Vendors shall be responsible for providing appropriate training to their Workforce.
- 2.3 Confidentiality Agreements: Each Department shall ensure that all members of its Workforce sign an appropriate Confidentiality Agreement upon hire and as otherwise required by law, policy or procedure, whichever is more restrictive. Each Department shall execute a contract with each of its Vendors that includes appropriate Confidentiality requirements.
- 2.4 Sanctions: Each Department shall apply appropriate sanctions against members of its Workforce, Vendors, and all other individuals performing functions on behalf of the Department, who fail to comply with the Privacy policies and procedures. If it is determined that a violation of a Privacy policy has occurred by a member of the Workforce, the Department's supervisory personnel may take disciplinary measures upon receipt of information and consultation with the Department Privacy Officer, including, but not limited to, verbal and written warnings, retraining where appropriate, suspension, demotion, dismissal, and any other Department-specific disciplinary procedures. To the extent applicable, Department disciplinary procedures shall be consistent with the Division of Personnel discipline guidelines. If it is determined that a violation of a Privacy policy has occurred by a Vendor, the Department may terminate the contract or other relationship.
- 2.5 Incident Reports: The State Privacy Office, Department Privacy Officers, other designated individual(s) and the Office of Technology Service Desk shall receive and respond to reports regarding the Privacy or Security of PII. All such reports shall be investigated. If a report is substantiated through the internal or external report review process, the Department shall respond with appropriate measures, including, if necessary, amending its procedures and practices and retraining. The PMT shall establish a formal reporting and investigation procedure that is consistent with the Office of Technology's response and procedures.

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- 2.6 Incident Response: Each Department Privacy Officer will work with and assist the Cabinet Secretary or Department head, Director of Information Security, the Chief Technology Officer and the Chief Privacy Officer to develop an appropriate response to Privacy-related breaches or Incidents that threaten the Confidentiality, Integrity, and Availability of information assets, information systems, and the networks that deliver the information. Privacy and Security Incident response priorities and procedures should be defined consistently with the Office of Technology's policies.
- 2.7 Incident Notification: Departments that collect, use and disclose PII will notify individuals affected by a Privacy Incident (1) when required by law, policy or procedure, or (2) even if no legal obligation exists, if the Cabinet Secretary or Department head determines that notification shall occur. If a Privacy Incident occurs within a Department or as a result of a third party that is under contract with a Department, it must be reported to the Department's Privacy Officer, who will be primarily responsible for assessing the Privacy Incident, communicating with other appropriate officials, including the Chief Privacy Officer, as to the appropriate response and determining if notification is required. The final decision regarding notification shall be made in conformance with Incident response procedures.
- 2.8 Compliance: Each Department's Privacy Officer shall work in conjunction with information security personnel and other designated individual(s) to develop Compliance processes to monitor and ensure conformity with policies and procedures regarding safeguarding information and to offer a mechanism by which staff can address Privacy concerns.

3.0 PROCEDURE

Each Cabinet Secretary or Department head shall designate a Privacy Officer who participates on the PMT and who is accountable for integrating Executive Branch Privacy policies into Department procedure, practice, Workforce training, Incident response, resolution and Privacy audit.

- 3.1.1 The individual with primary Privacy responsibility for the Department will be designated as the Privacy Officer. If the Department has multiple bureaus agencies or divisions, the Cabinet Secretary or Department head will set up an infrastructure of Privacy Coordinators or entity-level Privacy

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Officers, where required by law, who report to the Department Privacy Officer.

- 3.1.2 The Privacy Officer is accountable for the Department's conformity with the Privacy principles, policies and Department procedures. Other individuals within the Department or agency may be responsible for the day-to-day collection and processing of PII.

4.0 PRIVACY REQUIREMENTS

Federal and State Laws may impose additional requirements upon Executive Branch Departments with respect to the principle of accountability. To the extent these laws may apply to a given Executive Branch Department, legal counsel should be consulted to determine what may apply and in what manner. These laws should be reviewed in conjunction with other applicable state and federal laws, rules, these policies, as well as Department-specific business practices, contracts, or grants. Laws may be found in our [Privacy Requirements](http://www.privacy.wv.gov) located at www.privacy.wv.gov.



Memorandum

TO: Cabinet Secretaries

FROM: James L. Pitrolo, Jr., Chairman, HCA 

DATE: March 19, 2012

RE: 2012 Execution of Confidentiality Agreements

CC: Privacy Management Team

Enclosed please find a new procedure, *Execution of Confidentiality Agreements*, effective April 1, 2012, and the associated West Virginia Executive Branch Confidentiality Agreement. This agreement shall be signed by all members of your workforce. We anticipate deploying this agreement utilizing the Office of Technology's Learning Management System, such that the agreement is executed electronically and "follows" employees as they transfer within the Executive Branch. We will facilitate your Privacy Officer's leadership and participation in this new initiative. Additionally please find enclosed the revised policy, *Accountability*, also effective April 1, 2012. Relevant updates to the Privacy Policy Definitions, as well as the policy and procedure, can be found on our Privacy website at www.privacy.wv.gov

This policy and procedure apply to all Departments (including the Governor's Office, Agencies, Boards and Commissions) within the Executive Branch of the West Virginia State Government, excluding other constitutional officers, the West Virginia Board of Education, County Boards of Education, and the Public Service Commission.

As always, the West Virginia Health Care Authority is appreciative of your support of the privacy program and the Department Privacy Officers for their efforts to ensure that staff are trained to safeguard private information such as social security numbers, driver's license numbers and health information.

If you have any questions, please do not hesitate to contact Sallie Milam, Chief Privacy Officer at 558-7000.

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Procedure: Execution of Confidentiality Agreements

Issued by: James L. Pitrolo, Jr., Chairman

West Virginia Health Care Authority

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1.0 PROCEDURE

The West Virginia Executive Branch maintains Confidential Information, including but not limited to Protected Health Information (PHI), financial information, social security numbers, passwords and other Personally Identifiable Information (PII). Federal laws, including, but not limited to, the Health Insurance Portability and Accountability Act and the Privacy Act of 1974 (HIPAA), and State law require that certain Confidential and Private information be safeguarded. West Virginia State Government must ensure its Compliance with those laws and desires to protect individuals' privacy.

All members of the Workforce shall sign the West Virginia Executive Branch Confidentiality Agreement, as amended, and addenda, if any, (collectively the "Confidentiality Agreement").

Any terms not defined herein shall have the definitions afforded them within the [Privacy Policy Definitions](http://www.privacy.wv.gov) currently located at www.privacy.wv.gov.

2.0 SCOPE

This procedure applies to all Departments within the West Virginia Executive Branch.

3.0 REQUIREMENTS

- 3.1 Each Department shall ensure that, upon hire, each member of its Workforce receives this Execution of Confidentiality Agreements Procedure (this "Procedure") and signs the Confidentiality Agreement. Where a Department determines that annual execution may be required to reduce risk, the Department may require the same after hire. Notwithstanding the foregoing, and in accordance with section 3.11 of this Procedure, a Confidentiality Agreement executed by a member of the Workforce shall remain in effect until a new Confidentiality Agreement is executed by that member.

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- 3.2 Each Department shall ensure that any contract signed with a Vendor includes the [Notice of State of West Virginia; Confidentiality Policies and Information Security Accountability Requirements](http://www.technology.wv.gov), currently located at: www.technology.wv.gov. Each Department retains the discretion to require any Vendor's employees to execute the Confidentiality Agreement.
- 3.3 Each Department shall provide Access to all applicable Confidentiality procedures and policies to each member of its Workforce.
- 3.4 Each member of the Workforce shall follow all applicable law, rule, policy and procedure (collectively referred to herein as "Policy"). This Procedure shall not be construed to curtail a Workforce member's rights under federal or West Virginia law.
- 3.5 Confidential Information shall only be collected, used, disclosed or retained in the official capacity of employment and in Compliance with applicable Policy. At no time shall Confidential Information be used or disclosed for a personal or non-work-related reason.
- 3.6 All members of the Workforce shall protect Confidential Information from unauthorized collection, Use, Access, transfer, sale, Disclosure, alteration, retention or destruction whether accidental or intentional and shall take necessary precautions to secure such Confidential Information to the extent possible.
- 3.7 No member of the Workforce shall have ownership rights to or interest in any Confidential Information owned by or in the custody or control of the State.
- 3.8 Each Department, or another entity on its behalf, shall have the right to monitor and audit the collection, Use, Disclosure and retention of its Confidential Information to ensure Compliance with this Procedure.
- 3.9 All members of the Workforce who become aware of a violation of Policy must document and report any violations to their supervisor and

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their Department Privacy Officer immediately upon acquiring knowledge of said violation. Incidents shall also be reported pursuant to the [Response to Unauthorized Disclosures](#) procedure, currently located at www.privacy.wv.gov.

3.10 Any unauthorized collection, Use, Disclosure, destruction or retention of Confidential Information, failure to secure said information, failure to follow Policy or failure to execute the applicable Confidentiality Agreement may result in disciplinary action up to and including dismissal or termination of the contractual relationship

3.11 The Confidentiality Agreement shall survive termination of employment or other Workforce arrangement, including transfer across Departments or termination of the contractual relationship.

4.0 REFERENCE

Section 7 of the *Privacy Act of 1974*; Public Law 93-579; 5 U.S.C. § 552a (note); *Health Insurance Portability and Accountability Act of 1996*; Public Law 104-191; codified at 42 U.S.C. § 1320d (note); *Health Information Technology for Economic and Clinical Health Act of 2009*, Public Law 111-5, ARRA Division A, Title XIII, § 13001; W. Va. Code §§ 5A-8-21 and 22; Executive Order No. 6-06 (Aug. 16, 2006);. See [WV Executive Branch Privacy Requirements](#) located at www.privacy.wv.gov for additional references.