



POLICY TYPE:

Corporate

Divisional

EFFECTIVE DATE:

April 2014

INITIAL APPROVAL DATE:

April 2014

NEXT REVIEW DATE:

May 2017

POLICY NUMBER:

5502

REVISION APPROVAL DATE:

03/07, 03/08, 03/09, 01/10, 12/10, 3/11, 3/12, 9/13; 4/14, 11/14, 3/15,1/16

APPLIES TO PRODUCT TYPE:

Medi-Cal CMC

PAGE:

1 of 2

POLICY APPLIES TO:

All Divisions and Departments

CLASSIFICATION SERIES:

Compliance

SUBJECT:

HIPAA Sanction Policy

Policy: It is the policy of Community Health Group (CHG) that all officers, employees, and agents of CHG must adhere to all HIPAA policies and standards, that CHG will not tolerate violations of any Health Insurance Portability and Accountability Act of 1996 (HIPAA) policies and standards, and that such violations constitute grounds for disciplinary action up to and including termination, professional discipline, and criminal prosecution.

Purpose: CHG has adopted this Sanction Policy to comply with the HIPAA regulations for such a policy, as well as to fulfill our duty to protect the confidentiality and integrity of confidential medical information as required by law, professional ethics, and accreditation requirements.

PROCEDURE:

1. Any officer, employee, or agent of CHG who believes another officer, employee, or agent of CHG has breached CHG's security policy or the HIPAA policies and standards promulgated to carry out the objectives of the Security Policy or otherwise breached the integrity or confidentiality of member or other sensitive information should immediately report such breach to his or her superior or to CHG's Chief Regulatory & Legal Affairs and Compliance Officer.
2. When a breach/disclosure is reported, CHG's Compliance Officer will report to the affected department Chief, who may delegate the investigation responsibility to internal department staff to conduct the investigation. CHG will inform the complainant of the results of the investigation and any corrective action taken. CHG will not retaliate against or permit reprisals against a complainant. Allegations not made in good faith, however, may result in discharge or other discipline.
3. As noted in CHG's personnel manual, CHG has a progressive discipline policy under which sanctions become more severe for repeated infractions. This policy, however, does not mandate the use of a lesser sanction before CHG terminates an employee. In the discretion of management, CHG may terminate an employee for the first breach of CHG's security policy or individual policies and standards if the seriousness of the offense warrants such action. An employee could expect to lose his or her job for a willful or grossly negligent breach of confidentiality, willful or grossly negligent destruction of computer equipment or data, or knowing or grossly negligent violation of the HIPAA regulation, its implementing regulations, or any other federal or state law protecting the integrity and confidentiality of member information and may lose his or her job for a negligent breach of CHG's standards for protecting the integrity and confidentiality of member information. For less serious breaches, management may impose a lesser sanction, such as a verbal or written warning, verbal or written reprimand, loss of access, suspension without pay, demotion, or other sanction. In addition, CHG will seek to include such violations by contractors as a ground for termination of the contract and/or imposition of contract penalties.
4. Violation of CHG's security policy or individual policies and standards may constitute a criminal offense under HIPAA, other federal laws, such as the Federal Computer Fraud and Abuse Act of 1986, 18 U.S.C. 1030, or state laws. Any employee or contractor who violates such a criminal law may expect that CHG will provide information concerning the violation to appropriate law enforcement personnel and will cooperate with any law enforcement investigation or prosecution. Violation may result in criminal prosecution.



5. Further, violations of CHG's security policy or individual policies and standards may constitute violations of professional ethics and be grounds for professional discipline. Any individual subject to professional ethics guidelines and/or professional discipline should expect CHG to report such violations to appropriate licensure/accreditation agencies and to cooperate with any professional investigation or disciplinary proceedings.
6. This Sanction Policy is intended as a guide for the efficient and professional performance of employees' duties to protect the integrity and confidentiality of medical and other sensitive information. Nothing herein shall be construed to be a contract between the employer and the employee. Additionally, nothing in this Sanction Policy is to be construed by any employee as containing binding terms and conditions of employment. Nothing in this Sanction Policy should be construed as conferring any employment rights on employees or changing their status from at-will employees. CHG management retains the absolute right to terminate any employee, at any time, with or without good cause. Management retains the right to change the contents of this Sanction Policy as it deems necessary with or without notice.
7. In no event will an employee be subject to sanctions by CHG for making disclosures as a whistleblower or as a crime victim, as defined in the Policy on Disclosures by Whistleblowers and Workforce Crime Victims, provided that such disclosures are in accordance with the Policy on Disclosures by Whistleblowers and Workforce Crime Victims. In no event will an employee be subject to sanctions by CHG for filing a complaint with the Secretary of the Department of Health and Human Services ("Secretary") based on the belief that CHG failed to comply with HIPAA, or for testifying, assisting or participating in a proceeding or investigation by the Secretary against CHG related to HIPAA compliance. In no event will an employee be subject to sanctions by CHG for opposing any act or practice that the employee, in good faith, believes is unlawful under HIPAA, provided that the manner of opposition is reasonable and does not involve a disclosure of PHI in violation of HIPAA.
8. All officers, employees, and agents of CHG are expected to comply and cooperate with CHG's administration of this policy.

Access Privileges To: All _____
Regulatory: HIPAA Act of 1996, Federal Computer Fraud and Abuse Act of 1986, 18 U.S.C. 1030, HIPAA-HITECH Act

NCQA:

References: 45 C.F.R. 164.308(a)(1)(ii)(C).

Attachments: 5502.1 – Report of HIPAA Violation Form

Policy Status: Signed (Signature on File) Active Draft Policy In Development

Approved By: Signature: _____

Department Head: _____ Chief Compliance & Regulatory Affairs Officer

Date: _____

Signature: _____

Division Chief: _____ Chief Executive Officer

Date: _____