

Paul R. LePage, Governor

Mary C. Mayhew, Commissioner

Office of the Commissioner

HIV/AIDS - Confidentiality of Information

Policy #: DHHS-02-13

Issue Date: 7/17/13

Revised Date:

I. SUBJECT

HIV/AIDS - Confidentiality of Information

II. POLICY STATEMENT

Pursuant to Maine law (5 M.R.S.A. Section 19203-D), the Department of Health and Human Services (DHHS) maintains this policy to ensure that protected health information (PHI) in any format containing HIV/AIDS infection status or test results is kept confidential.

III. RATIONALE

We maintain this policy to comply with Maine law and to protect the confidentiality of our patient's and member's PHI.

IV. PROCEDURE STATEMENT

Department workforce members with access to medical records containing HIV/AIDS infection status information or test results shall comply with this written policy providing for confidentiality of all patient information.

- A. HIV/AIDSs infection status information or test results shall only be disclosed pursuant to specific written authorization of the individual patient to whom the HIV/AIDS information applies or consistent with this policy.
- B. If no specific written permission to release HIV infection status information is obtained by our office, and the items in Section D below do not apply, then only non-HIV-related PHI may be released pursuant to the patient or personal representative's authorization.
- C. Intentional or repeated failure to comply with this policy shall result in disciplinary procedures by our office for violation of this policy, as required by Maine law.
- D. A medical record containing results of an HIV test may not be disclosed, discoverable or compelled to be produced in any civil, criminal, administrative or other legal or administrative proceedings without the written permission of the person who is the subject of an HIV test, except in the following cases:
 1. Proceedings held pursuant to the communicable disease laws;

2. Proceedings held pursuant to the Adult Protective Services Act;
3. Proceedings held pursuant to the child protection laws;
4. Proceedings held pursuant to the mental health laws;
5. Pursuant to a court order upon a showing of good cause, provided that the court order limits the use and disclosure of records and provides sanctions for misuse of records or sets forth other methods for ensuring confidentiality.

The General Counsel or the Director of Healthcare Privacy should be contacted where appropriate, prior to release of HIV/AIDS information for the law-related reasons listed in this section, or for other non-authorized disclosure.

- E. Patients/members are to be advised by DHHS of the potential implications of authorizing the disclosure of HIV status information.
- F. Utilization review, audits, program evaluation - by law, utilization review committees or peer review organizations are permitted to review our PHI, which may include HIV/AIDS information. Such organizations must agree to keep such PHI confidential and may not disclose the identities of any person whose PHI was reviewed. Additionally, qualified personnel may conduct approved scientific research, management audits, financial audits or program evaluation with the use of our PHI after appropriate approval, however, they may not identify, directly or indirectly, any individual patient's infection status or test results in any report of such research, audit, evaluation or otherwise disclose the identities of persons tested in any manner.
- G. Sanctions - DHHS will investigate allegations of misuse or wrongful disclosure of HIV status information and apply disciplinary sanctions as required by federal and Maine privacy, security and breach notification law, up to and including termination of employment.

V. DEFINITIONS

HIV/AIDS is a combined acronym or abbreviation for Human Immunodeficiency Virus (HIV), the virus that causes Acquired Immune Deficiency Syndrome (AIDS).

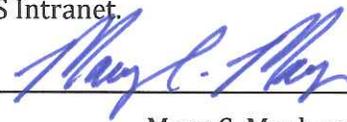
Protected Health Information is information about a patient, including demographic information, which may identify a patient, which relates to the patient's past, present or future physical or mental health condition, related health care services or payment for such services.

VI. DISTRIBUTION

All Staff via e-mail and posting on the DHHS Intranet.

7/17/13

Date



Mary C. Mayhew
Commissioner