

**BREACH of PRIVACY or CONFIDENTIALITY
PERSONNEL DISCIPLINE**

This plan provides guidance for the appropriate response to breaches in patient privacy and confidentiality at Northern Oswego County Health Services Inc. here after referred to as NOCHSI. This guidance is intended to ensure that staff and management understand the appropriate seriousness of any breach and the stated penalties and actions. NOCHSI has a very strong commitment to protecting the confidentiality of its patient's medical records and clinical information. To ensure compliance with the policy by all staff and to ensure consistency in the discipline and actions taken upon evidence of breach in patient confidentiality by staff, NOCHSI has adopted the disciplinary process set forth below.

POLICY:

NOCHSI and its staff are entrusted with information regarding our patients and we recognize that the medical record is highly confidential and must be treated with great respect and care by all staff. Any breach in patient confidentiality by a staff person is subject to formal disciplinary action as delineated in this policy.

A breach in patient confidentiality occurs when a member of the NOCHSI staff:

- a. Views or accesses private patient health information for any reason not related to the provision of care and treatment or another authorized purpose
- b. Discusses with or reveals to any individual(s), private patient health information for purposes not related to patient care and treatment or another authorized purpose
- c. Violates the provisions of NOCHSI's policy on the confidentiality of private health information as stated in the general overview policy as provided to the staff

For any breach in patient confidentiality the staff member shall be subject to disciplinary actions as set forth in the "Procedures" section below.

Every staff member should receive and read a copy of this document and "Overview of Policies and Practices in Privacy and Security".

PROCEDURE:

1. Review. The PRIVACY OFFICER is responsible for the content and administration of this policy. The policy shall be reviewed and evaluated one year from its effective date with specific focus on the Disciplinary Process section, and then every two years thereafter.
2. Level of Breach. Breaches in patient confidentiality have been divided into the following three levels, with the corresponding disciplinary actions for each level of breach.

A. Level 1 – Carelessness

This level of breach occurs when a member of NOCHSI unintentionally or carelessly accesses, reviews or reveals patient information to him/herself or others without a legitimate need to know the patient information.

Disciplinary Sanctions:

- 1) Depending upon the facts, counseling, oral warning, written warning, final written warning or suspension, documented in writing and maintained in the employee's personnel record, or termination.
- 2) Except in the case of termination, the employee shall be required to repeat the confidentiality in-service on his/her own time.
- 3) Level 1 disciplinary sanction shall be administered in a progressive manner.
- 4) Disciplinary sanctions shall be reported to the applicable professional licensing board as appropriate.

B. Level 2 – Curiosity or Concern (no personal gain)

This level of breach occurs when an employee intentionally accesses or discusses patient information for purposes other than the care of the patient or other authorized purposes, but for reasons unrelated to personal gain.

Disciplinary Sanctions:

- 1) First offense: depending upon the facts, oral or written warning documented and maintained in the employee's personnel record.
- 2) Second offense: depending upon the facts, a final written warning and suspension for 3-30 days without pay, documented and maintained in the employee's personnel record, or termination.
- 3) Third offense: Termination
- 4) Except in the case of termination, the employee shall be required to repeat the confidentiality in-service on his/her own time.
- 5) Disciplinary sanction shall be reported to the applicable professional licensing board as appropriate.

C. Level 3 – Personal Gain or Malice

This level of breach occurs when an employee accesses, reviews or discusses patient information for personal gain or with malicious intent.

Disciplinary Sanctions:

- 1) First offense: Termination
- 2) Report to applicable professional licensing board.

3. Disciplinary Process. The following process must be followed when an employee breaches, or is suspected of breaching, patient confidentiality.

A. Initial Reporting

- 1) An individual who observes or is aware of a breach reports it to his/her immediate supervisor, who in turn should report this incident to the Privacy Officer.
- 2) The Privacy Officer reports this to his/her reporting authority, who consults management as appropriate.
- 3) Failure to report a breach of which one has knowledge will result in appropriate disciplinary action.
- 4) Reporting of a breach in bad faith or for malicious reasons will result in appropriate disciplinary action.

B. Activity Upon Clear Evidence of Breach of Confidentiality

- 1) Document the breach and place a copy of the document in both a file of breaches and in the accused staff member's personnel file.
- 2) Request a written description of the incident from the accused staff member.
- 3) Give a copy of the breach document and the employee's description to the Privacy Officer for discussion and action.
- 4) The administrator and the Privacy Officer decide upon the severity of action against the staff member depending upon the nature of the breach and the record of the staff member.
- 5) The Privacy Officer/Department Supervisor reprimands or dismisses the staff member depending upon the severity of the breach.
- 6) The Privacy Officer ensures that the reprimanded staff member repeated the confidentiality in-service.

C. Reporting and Filing Requirements

- 1) Document the breach
- 2) Copies of the breach document go to: Privacy Officer, accused staff member, the file of breaches, and in the employee personnel file.

D. Imposition of Appropriate Discipline

- 1) The Privacy Officer and Administrator discuss the breach and possible actions.
- 2) The Privacy Officer decides the course of action against the accused staff member.
- 3) If a reprimand is in order the Privacy Officer meets with the staff member to discuss. The staff member will be required to repeat privacy training.
- 4) If dismissal is in order, the Privacy Officer and Administrator meet with the staff member to dismiss.
- 5) The Privacy Officer documents the action and places copies in the breach file and the employee's personnel file
- 6) The Privacy Officer ensures the employee repeats the privacy training.

For all levels of breach, after final resolution, the initial report and all written documentation relating to the breach shall be filed in a confidential file in the Privacy Officer's office. The disciplinary action and appropriate documentation shall also be placed in the employee's personnel file.

- 4. Upon investigation of a Level 3 breach, or higher, the following action should be taken
 - A. The Privacy Officer should ensure that the access of the accused employee to any paper or electronic medical records is immediately suspended.
 - B. The Privacy Officer should retrieve keys and/or badges from the accused employee that allow access to secure areas where patient records are kept.
 - C. The Privacy Officer should inform all appropriate supervisors about the suspension or removal of the access privileges of the accused employee.
 - D. The privacy Officer should include a written report of all actions in the confidential file in the Privacy Officer's office. The disciplinary action and appropriate documentation shall also be placed in the employee's personnel file.

After reading this policy, sign and date the lower portion of this page and return to your immediate supervisor. Detach the acknowledgement and retain the policy for your records.

I have received a copy of NOCHSI's *Policy and Procedure on Personnel Discipline for Breach of Privacy or Confidentiality AND Overview of Policies and Procedures on Privacy and Security.*

I agree to keep all NOCHSI's patient information, as outlined in the above documents, strictly confidential. I understand that a breach in patient confidentiality, as defined in the above documents, will result in disciplinary action, up to and including termination of employment.

X _____ Date _____
