

West Virginia Executive Branch Privacy Policy: **Individual Rights**

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

Policy No: WVEB-P103 Issue Date: 01/30/09 Effective Date: 08/01/09 Rev. Date: Page 1 of 4

1.0 PRIVACY PRINCIPLE SUBJECT TO THIS POLICY

Individual Rights – When possible, and appropriate, a Department shall rely first on the personally identifiable information (PII) it collects directly from the individual. An individual should be afforded the ability to access and copy his or her PII that a Department acquires or maintains, request an amendment of the information an entity maintains and, if such amendment is not undertaken, request that the information be notated. Departments shall provide appropriate means of individual redress which include, at a minimum, institutional mechanisms to ensure that individuals have a simple and effective way to have their questions answered and concerns addressed.

2.0 POLICY STANDARDS

2.1 Each Department, when possible, relies first on the accuracy of the [personally identifiable information \(PII\)](#) including [protected health information \(PHI\)](#) it collects from the individual, when the Department believes the information is provided in good faith.

Unless prohibited by applicable law, PII (and PHI) may also be obtained from third party sources. When PII is obtained from a third party, the Department shall use reasonable measures to ensure that the third party is a reliable data source. The Department shall also use reasonable measures to limit use of third party data to those circumstances when the benefits of using such data outweigh the risks of inaccuracy.

2.2 Access and Copy:

2.2.1 Each Department is committed to providing individuals with a reasonable opportunity to examine their own PII. Where individuals have rights of access, they may also confirm the accuracy and completeness of their PII and request their PII amended, if appropriate.

2.2.2 Copies requested will be provided in a reasonable time and for a reasonable fee if permitted by law and Department policy, and if the information is readily producible in the format requested.

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- 2.2.3 An individual may be provided with summary information regarding PII if the individual has agreed in advance that this is acceptable or as may be permitted by law.
 - 2.2.4 Each Department, unless otherwise prohibited by law, shall provide individuals proper and reasonable access to their PII in the Department's respective office during usual business hours, unless the request is incorrect or incomplete.
 - 2.2.5 Departments shall establish a mechanism for reporting denial of an individual's request and provide the individual with the ability to challenge such denial unless a specific procedure and remedy exists under state or federal law.
 - 2.2.6 Where required by law or policy, and upon request, each Department will provide an individual with an accounting of disclosures to third parties for PII.
- 2.3 Amendment:
- 2.3.1 Where possible, Departments will provide individuals the ability to challenge PII relating to themselves and, if the challenge is successful, to have the data erased, rectified, completed or amended, as permitted by law.
 - 2.3.2 Individuals may request, in writing, that a correction or amendment be made if they believe there is an error or omission in their PII contained in [designated record sets](#).
 - 2.3.3 The individual's written request for correction or amendment to their PII must provide the reason and support for the requested correction or amendment. Otherwise the requested change need not be considered, and the individual will be notified of the same.
- The right to change data may require use of a court procedure, if for example, an individual challenges the contents of a recorded public record or a law enforcement file.
- 2.3.4 Upon request of a correction or annotation of PII, the Department or designated Department, to the extent possible, makes the correction or

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annotation on any designated record set containing that information in its custody or under its control.

2.3.5 If required by law or otherwise reasonably possible, if no correction is made in response to the written request, the Department shall annotate in the record that a correction or amendment was requested, but not made, and include a copy of the request and a reason why the correction was not made.

2.4 Individual Redress:

2.4.1 Each Department shall provide appropriate means of individual redress which includes, at a minimum, institutional mechanisms to ensure that individuals have a simple and effective way to have their privacy concerns reviewed and, when appropriate, addressed.

2.4.2 Each Department shall provide a means to investigate privacy complaints from individuals and ensures that individuals are aware of how to file a complaint with the Department concerning the content of their PII.

2.4.3 Each Department shall establish procedures to receive and respond to complaints or inquiries about their procedures relating to the handling of PII. The inquiry process should be easily accessible and simple to use.

To the extent that a concern or complaint is not adequately addressed, individuals may escalate the matter to the Chief Privacy Officer.

2.5 Time Frames:

Each Department shall timely respond to requests by an individual or their appointed [personal representative](#) to [access](#), view and copy PII in accordance with applicable state and federal laws. If a Department cannot meet the applicable deadline, it shall provide an individual with a written statement of the reasons for delay and the date by which the requested information will be provided. When necessary, Departments may seek a judicial order for extension of time. If the Department denies access to all or some of the PII requested, it must timely provide written reasons for such denial.

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2.6 Fees:

The Department may charge a reasonable fee for the cost of locating and copying PII, unless otherwise prohibited by law.

3.0 PROCEDURE

- 3.1 Each Department shall review and update existing procedures or create new procedures governing individual rights.
- 3.2 Each Department shall disseminate the information concerning individual rights to individuals via written materials or on the Department's website.

4.0 PRIVACY REQUIREMENTS

The following laws may impose additional requirements upon Executive Branch Departments with respect to the principle of individual rights. 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](#).