



BOH Guide: #37 BOH Confidentiality Policy

Board of Health and Local Health Department Standard Operating Procedures (SOP)

This **Checklist** highlights many of the steps needed to adopt a BOH Confidentiality Policy under M. G.L. c. 4, §7 (26)(o). The checklist is designed to be used in tandem with the **BOH SOP and Appendices**. BOXES CAN BE CHECKED WITH the CURSOR.

☐ **BOH Authority to Restrict and Protect Certain Projected Information - M. G.L. c. 4, §7 (26)(o).**

1. Every BOH should adopt and have members and staff sign a Confidentiality Agreement to keep certain protected information private and unavailable to public records requests.
2. Protected information includes trade secrets, identifiable medical information, active and ongoing investigations,
3. BOH Policies are subject to change at any time based on local circumstances.
4. Private medical information should never be discussed in a public meeting or noted in the minutes of a meeting.

☐ **Requirements for adopting a Local BOH Policy**

☐ **BOH Meeting:**

- ☐ **Posting:** Open Meeting Law (OML) must be followed. BOH majority may not deliberate outside of posted meetings. No exceptions. Even emergency meetings must be posted asap and then followed up by a regularly posted meeting.
- ☐ **Written:** Local policies should be in writing and approved at a BOH Meeting.
- ☐ **Minutes:** Minutes of the meetings must be kept and then approved. Approval of minutes may be given at the same meeting if the minutes are complete and accurate and reference the approval of the Local Regulation.
- ☐ **Policy Changes:** BOH can change a policy at any BOH meeting.

☐ **Attestation and Notice:**

- ☐ **Town/City Clerk:** It is not required that BOH Policies be filed or posted, though it is a good idea.
- ☐ **Posting:** A summary of the Local Regulations must be posted in a local newspaper once, and ideally should be posted on the BOH website if available.

(Resources:

[mdph-confidentiality-policy.doc \(live.com\)](#)

[Legal-Handbook-3rd-Edition-2021.pdf \(mahb.org\)](#)

[Record Keeping Responsibilities and Requirements: \(mahb.org\)](#)

Model Confidentiality Policy below

Board of Health Confidentiality Policy
Town of

- I. **PURPOSE** The purpose of this Confidentiality Policy is to provide for the safeguarding of protected and private information.
- II. **AUTHORITY** This Confidentiality Policy is intended to ensure that Board of Health members and staff comply with all relevant state and federal laws and regulations concerning the protection of confidential information. These include, but are not limited to, [the Massachusetts Fair Information Practices Act](#) (FIPA); [the Health Insurance Portability and Accountability Act](#) (HIPAA) and the privacy and security regulations implementing HIPAA, as they apply to the Department as a hybrid agency;¹ and [Massachusetts Executive Order # 412](#).
- III. **PERMANENTLY PROTECTED INFORMATION**
- a. identifiable medical files or information as long as the person is alive
 - b. trade secrets as long as still valid
 - c. anonymous complainants until they disclose themselves
 - d. any other documents that would constitute an unwarranted invasion of an individual's personal privacy. G.L. c. 4, § 7(26)(c)
- IV. **TEMPORARY PROTECTED INFORMATION:**
- a. active and ongoing investigations
 - b. active and ongoing legal proceedings
 - c. personnel files and information including home addresses and contact information.
- V. **LIMITING DISCLOSURE** Protected information shall be kept in protected files and not discussed with any members of the public until the information is no longer confidential as would occur at the end of an investigation or legal proceeding when the data and files become public information. At no time shall personal medical information or other permanently protected information be disclosed.

Adopted this _____ day of _____, 202_. _____

Agreed to and Signed by:

_____ NAME,	_____ TITLE,	_____ DATE
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Agreed to and Signed by:

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