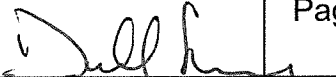




El Dorado County
Health and Human Services Agency
Policy and Procedure

PRIVACY AND CONFIDENTIALITY OF CLIENT INFORMATION	Policy Number	A-HH-012
	Date Adopted	4/25/18
	Date Revised	7/20/20
Approved By	Don Semon, Director 	Page Number
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PURPOSE

This policy outlines the manner in which workforce members of the El Dorado County Health and Human Services Agency (HHS) will meet the requirements of Code of Federal Regulations (CFR) 45, Part 164, known as the Health Insurance Portability and Accountability Act of 1996 (HIPAA), any general privacy and security policy/ procedures adopted by the County Board of Supervisors and applicable state and federal regulation governing general privacy protections. The content of this policy provides the general requirements and expectations for the necessary collection, use, and disclosure of protected health information (PHI) and personally identifiable information (PII) about individuals in order to provide services and benefits to individuals, while maintaining reasonable safeguards to protect the privacy of sensitive information. This policy is applicable to all divisions, units, programs and covered HIPAA operations within HHS.

Additional privacy requirements and restrictions related to the confidentiality of substance use disorders, mentally and developmentally afflicted persons, recipients of assistance as defined by the Centers of Medicare and Medicaid Services (CMS) and individuals identified as having communicable disease are addressed through appendices and specific procedure to this policy. The conditions of privacy protection for the client categories identified above are addressed in the California Confidentiality of Medical Information Act, Lanterman-Petris-Short (LPS) Act, 42 CFR Part 2 Confidentiality of Substance Use Disorder Patient Records, applicable California Welfare and Institution Code (WIC) and as reflected in supplemental agreements executed with the California Department of Social Services, California Department of Health Care Services or California Department of Public Health.



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Workforce members of HHSA should defer to California law or other federal law when privacy protections or information sharing restrictions are greater than required by HIPAA. In these circumstances the designated privacy official within HHSA should be contacted anytime clarification is needed.

POLICY

For the purpose of this policy, the terms “personal information” (PI), “personally identifiable information,” (PII), “confidential information”, “health confidential information”, “individual health confidential information”, “protected health confidential information”, “protected health information”, (PHI), and “electronic protected health information”, (ePHI) are the same. The meanings and application of these terms include but are not limited to:

- A subset of confidential information, including information collected, created, received, maintained, or transmitted by HHSA that identifies or describes an individual by use of but not limited to name, social security number, physical description, home address, home telephone number, education, financial matters, medical and or employment history.;
- Relates to the past, present, or future physical or mental health condition of an individual;
- The provision of physical or mental health care to an individual;
- The provision of public assistance services;
- The past, present, or future payment for the provision of health care to an individual;



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- Identifies the individual or the confidential information creates a reasonable basis to believe it can be used to identify the person;
- Confidential information transmitted by electronic media, maintained in electronic, media and transmitted or maintained in any other form or medium.

The above does not include employment records or education records. Privacy principles for education records are governed by the Family Educational and Right to Privacy Act (FERPA).

Privacy procedures are divided into the following sections:

1. Client Privacy Rights and Notification
2. Use and Disclosure of Protected Information
3. Minimum Necessary Standard
4. Breach Reporting, Investigation and Notification
5. Administrative, Technical and Physical Safeguards
6. De-identification of Protected Health Information and Limited Data set Use
7. Business Associates
8. Enforcement, Sanctions and Penalties

General Requirements

All workforce members of HHSA will safeguard PHI and PII about individuals and may collect, maintain, use, transmit, share and/or disclose confidential information about individuals to the extent needed to administer HHSA programs, services and activities.



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All workforce members of HHSA will inform individuals about the County of El Dorado's HHSA privacy practices and respect individual privacy rights, in accordance with this policy.

The County of El Dorado and/or HHSA shall provide training to all workforce members in programs meeting the definition of "covered entity" or "health care component" as noted herein and shall require every workforce member to sign a County of El Dorado "HIPAA Privacy & Security Policy & Procedures Acknowledgement Form" outlining their role and responsibilities to protecting the privacy of HHSA clientele.

The County of El Dorado Health and Human Services Agency has adopted reasonable policies and procedures for administration of its programs, services and activities. If any state or federal law or regulation, or order of a court having appropriate jurisdiction, imposes a stricter requirement upon any HHSA policy regarding confidential information or safeguarding of protected information, HHSA workforce members shall act in accordance with that stricter standard.

In the event that more than one policy applies but compliance with all such policies cannot reasonably be achieved HHSA workforce members will seek guidance according to established HHSA policy and procedures.

Workforce members of HHSA will defer to the County of El Dorado HIPAA Security Rule Policy and Procedures for the protection, safeguarding and integrity of individually-identified health information collected or maintained in electronic format.



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Safeguarding Confidential Information

Workforce members and business associates of HHSA shall respect and protect the privacy of records, PHI and PII of clients who request or receive services from the County. This includes, but is not limited to:

- Applicants or enrollees in an HHSA program or service;
- Minors and adults receiving alcohol and drug, mental health, preventive health, public health and public assistance services from HHSA;
- Persons who apply for or are admitted to a county operated or county funded mental health center.

All protected health information concerning HHSA clients must be safeguarded in accordance with any privacy and security policies procedures or directives as adopted by the El Dorado County Board of Supervisors or designee.

The workforce of HHSA shall not use or disclose protected health information unless:

- The client has explicitly authorized use or disclosure of protected information in accordance to County and HHSA policy and procedure, or
- The use or disclosure is specifically permitted under County of El Dorado Policy, federal and state law.



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Notice of Privacy Practices

The “Notice of Privacy Practices” for HHSA will be made available to any client applying for or receiving services. The “Notice of Privacy Practices” shall contain all information required under federal regulations specific to protected health information defined by HIPAA, all applicable state and federal information pertaining to PII, confidentiality of substance use disorders, mentally and developmentally afflicted persons and recipients of assistance as defined by the Centers of Medicare and Medicaid Services (CMS)

Where a service is rendered by an HHSA health care provider the “Notice of Privacy Practices, Acknowledgement of Receipt” shall be acquired from each client at the first service delivery or as soon as practicable.

Client Privacy Rights

Recipients of HHSA services or their “Personal Representative” have the right to inspect and obtain a copy of his or her PHI in a designated record set. Workforce members of HHSA will honor a written request for inspection or copy as noted in the “Notice of Privacy Practices”. Certain exceptions to an individual’s right of access are allowed by law. The specific process for accessing the designated record set and exceptions to access are addressed in the procedure section of this policy.

Use and Disclosures of Protected Health Information

Workforce members of HHSA shall not use or disclose any PHI, PII or other confidential information concerning a client related to, HIPAA covered health care components, behavioral and substance use disorder or public assistance service recipients without a signed authorization for release of information from the individual, or the individual’s



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personal representative, *unless* authorized by this policy, or as otherwise allowed in the procedure section of this policy.

Minimum Necessary Standard

Workforce members of HHSA will use or disclose only the minimum amount of confidential information necessary to provide services and benefits to clients, and only to the extent provided in County of El Dorado Privacy policies and procedures.

When using or disclosing an individual's PHI, PII or other confidential information or when requesting an individual's confidential information from a provider or health plan, HHSA Workforce members must make reasonable efforts to limit the amount of protected health information to the minimum necessary needed to accomplish the intended purpose of the use, disclosure, or request. The specific application of the "Minimum Necessary Standard" is outlined in the procedure section of this policy.

EXCEPTIONS: This standard does not apply to:

- Disclosures to or requests by a health care provider for treatment;
- Uses or disclosures made to the individual;
- Uses or disclosures authorized by the individual;
- Disclosures made to the Secretary of the United States Department of Health and Human Services in accordance with federal HIPAA regulations at 45 CFR 160, Subpart C;
- Uses or disclosures that are required by law;



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- Uses or disclosures required for compliance with federal HIPAA regulations at 45 CFR, Parts 160 and 164.

Administrative, Technical and Physical Safeguards

Workforce members of HHSA must take reasonable steps to safeguard protected health information from any intentional or unintentional use or disclosure, as outlined in County of El Dorado Privacy Policy and County of El Dorado HIPAA Security Rule Policy and Procedures.

Use and Disclosures for Research Purposes and Waivers

Workforce members of HHSA may use or disclose an individual's PHI and confidential information for research purposes or when the County is acting as a Public Health Authority with and without an individual's authorization. Specific allowable uses and disclosures of PHI for these purposes are addressed in County of El Dorado Privacy Policy Section "Uses and Disclosures for Research Purposes and Waivers".

De-Identification of Protected Health Information and Use of Limited Data Sets

Workforce members of HHSA will follow standards under which client PHI, PII may be used and disclosed if information that can identify a person has been removed (de-identified) or restricted to a limited data set. Unless otherwise restricted or prohibited by additional federal or state law, protected information may be used and shared as appropriate for business purposes without further restriction, if the PHI has been de-identified by the County or interested party. The means of de-identifying confidential information are outlined in the procedure section of this policy.



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Business Associate Relationships

Workforce members of HHSa may disclose protected health information, PII and other service related information to business associates with whom there is a written contract or memorandum of understanding as outlined in County of El Dorado HIPAA Privacy Policy "Business Associates". Business Associates and their subcontractors have responsibilities under HIPAA to protect and safeguard client PHI.

Enforcement, Sanctions and Penalties for Violations of Individual Privacy

All workforce members, including contract employees, volunteers, interns and members of HHSa must guard against improper uses or disclosures of County of El Dorado client information. County of El Dorado must apply appropriate sanctions against members of its workforce as outlined in County of El Dorado Privacy Policy, "Enforcement, Sanctions, and Penalties".

REFERENCE

El Dorado County Policy L-1, "Protected Health Information (HIPAA)"
California State Department of Social Services Manual of Policies and Procedures,
Regulation Chapter 19, Section 19.001 – 19.008
Welfare and Institutions Code Section 10850
Penal Code Section 11167.5.

ATTACHMENTS

Privacy Breach Reporting, Investigation and Notification
Federal and State Breach Notification Laws for California
Privacy Incident Determination and Assessment Checklist