



**COUNTY OF EL DORADO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

<b>Subject:</b> <b>PRIVACY: SANCTIONS, PENALTIES, AND WHISTLEBLOWERS</b>	<b>Policy Number</b>	<b>Page Number:</b> <b>Page 1 of 3</b>
	<b>Date Adopted:</b>	<b>Revised Date:</b>

**BACKGROUND:**

The Health Insurance Portability and Accountability Act (“HIPAA”) of 1996 requires covered entities to have and apply appropriate sanctions against workforce members who fail to comply with the Privacy Rule and the privacy policies and procedures of the covered entity. Defined as a covered entity, El Dorado County is required by 45 CFR § 164.530(e)(1) to establish a sanction policy. Therefore, the purpose of this policy is to provide guidelines for workforce members, establish a sanction policy, and define the disciplinary actions that may result from a privacy violation.

**NOTE: HIPAA will not supercede any contrary State law that imposes more stringent privacy protections.**

**POLICY:**

1. Workforce Member’s Responsibilities
  - a. Workforce members from El Dorado County must guard against improper use or disclosure of protected health information (“PHI”). Workforce members are employees, volunteers, trainees, and other persons whose performance is under direct control whether or not they are paid by El Dorado County.
  - b. Workforce members who are unclear if a use or disclosure is permitted should first consult with an immediate supervisor or contact the Privacy Officer.
  - c. Workforce members are required to be aware of privacy and security responsibilities and to protect confidential information from improper use and/or disclosure.
  - d. All workforce members who may have access to protected health information must attend a Privacy and Security Awareness training.
  - e. All workforce members who may have access to protected health information will sign an acknowledgement to protect confidential information.
  
2. Sanctions and Mitigation
  - a. Any workforce member who fails to comply with the Privacy Rule and El Dorado County’s privacy policies and procedures will be subject to disciplinary actions up to and including termination



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according to the established personnel policies of El Dorado County. El Dorado County will document sanctions, if any, that are applied.

- b. Any workforce member who knowingly and willfully violates state or federal privacy laws may be subject to criminal investigation and prosecution and/or civil monetary penalties.
- c. El Dorado County must mitigate to the extent practical any harmful effect of any improper or unauthorized use or disclosure of PHI that is known.

**3. Refrain from Intimidating or Retaliatory Acts [45 CFR §164.530(e)]**

- a. El Dorado County and County employees may not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against:
  - i. An individual exercising any rights established under El Dorado County's policies or for filing a complaint with El Dorado County or the Office for Civil Rights.
  - ii. An individual or other person for testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing related to El Dorado County's policies and procedures.
  - iii. An individual opposing any unlawful act or practice provided the act or practice is unlawful, and the manner of the opposition is reasonable and does not involve a disclosure of protected health information in violation of El Dorado County's policies.

**4. Whistleblower [45 CFR §164.502 (j)]**

- a. If an El Dorado County employee or business associate believes that El Dorado County has engaged in conduct that is unlawful, violates professional or clinical standards, or the care, services, or conditions provided by the County potentially endangers one or more patients, workers, or the public, PHI may be disclosed if the disclosure is made in good faith and the disclosure is made to:
  - i. A health oversight agency or public health authority authorized by law to investigate or oversee the relevant conduct or conditions or,
  - ii. An appropriate health care accreditation organization.



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**Primary Department:** Privacy Compliance Office

**References:** 45 CFR §160-164