



HIPAA Complaint Form

County of El Dorado

The information you provide here will remain confidential to the extent possible; however, we may need to use or disclose some or all of this information to investigate your claim. This form may be used by patients, members of the workforce, or others to report HIPAA concerns or violations.

Your name: _____

Address: _____

Email: _____ Phone: _____

Please describe what happened; please include names of anyone you believe was responsible for this violation or concern (attach additional pages if necessary):

Date when event occurred? _____

Signature: _____ Date: _____

Print name: _____

Return this form to:

El Dorado County Risk Management, 330 Fair Lane, Placerville, CA 95667
Phone: (530) 621-5565 Fax: (530) 642-9815 Email: RiskManagement@edcgov.us



**Patient Request for Access to Healthcare Records
County of El Dorado**

1. Consumer/Individual's name: _____

Date of birth: _____

2. I would like to request access to my protected health information (PHI):

I would like to arrange to view my PHI in person

I would like a copy

I will come and pick it up; call me when ready: _____ (phone)

I would like it mailed to the following address:

3. I would like to access/get a copy of the following:

my entire record (designated record set)

only the following information (specify type of information and date ranges):

4. Fee. I understand I may be charged a reasonable, cost-based fee, not to exceed 25¢/page (50¢/page for microfilm copies) and that I have a right to request an estimate of how much it will cost to get a copy of my health information (PHI).

I am requesting a copy for my application for certain benefits, and qualify for a free copy under the law. Please send the record I have requested on my behalf to the following agency/program (include address):

5. Timing. I understand that the County will work with me to find a date and time within five (5) business days for me to come in and inspect my record. I understand that I may bring someone with me to help me review the record, and that I may take notes, and have other rights. If I request that a copy be sent to me, I understand that the copy will be mailed within fifteen (15) calendar days of my request, unless I am notified that more time is needed and the reason why more time is needed.

6. Limits on access. I understand that I am not entitled to certain information that might be in my designated record set, for example, information that refers to another patient, and that I may be denied access in whole or in part if access could cause serious physical harm to me or to someone else. If I am requesting my minor child's records there may be other reasons in the law that would stop me from seeing all or part of those records.

7. Address to send the copy of my record.

electronically, to this email address: _____

mailed to the following physical address: _____

8. Additional information. I understand that the County of El Dorado's Notice of Privacy Practices outlines other reasons why I might not be entitled to all or part of the record. I understand that a reason for denying all or part of my request for access will be provided to me by the County and that I will be given the opportunity to have the denial reviewed by a licensed healthcare professional designated by the county who will act as a reviewing official and who will have the final word on the original decision to deny access.

Signature: _____ **Date:** _____

Print name: _____

If signed by a person other than the patient, please indicate relationship:

parent/legal guardian of minor

other: _____



**Authorization to Use, Disclose or Exchange Protected Health Information
County of El Dorado**

Completion of this document authorizes the use, disclosure or exchange of confidential health information about you.

1. Consumer/Individual's name: _____

Date of birth: _____

2. Name(s) of entities or individual's permitted to use, disclose, or exchange the information described in this authorization: _____

3. The following health information may be used, disclosed or exchanged (please initial ONLY the information you wish to be used, disclosed or exchanged):

____ physical health records

____ HIV test results

____ mental health records

____ substance use disorder records (please describe how much and what kind of information is to be disclosed; include date ranges and an explicit description of the substance use disorder information that may be disclosed): _____

4. The information described above may be disclosed to the following named Individual(s) or entity(ies): _____

5. The information described in this authorization may be disclosed for the following purpose(s) (please explicitly identify the purpose(s)/reason(s) you are authorizing this use, disclosure or exchange of information about you):

6. I may revoke my authorization by sending my request to revoke to:

County of El Dorado Privacy Officer
Risk Manager
michael.andersen@edcgov.us
(530) 621-6520

I understand that this authorization is subject to revocation at any time except to the extent that the provider or other lawful holder of my PHI has already acted in reliance on it. Acting in reliance includes the provision of treatment services in reliance on a valid authorization to disclose information to a third-party payer.

7. Unless revoked sooner, this authorization will automatically expire:

- 1 year after the date it is signed, OR
- Sooner (indicate date/event/condition): _____

8. Consumer/Individual's Rights and Warnings:

- I may refuse to sign this authorization. In some cases my refusal could affect my ability to obtain services under a specific program, but efforts will be made to offer services under other programs.
- I may inspect or obtain a copy of the health information about which I am authorizing disclosure.
- I have a right to receive a copy of this authorization and will be offered a copy.
- Some information disclosed pursuant to this authorization could be re-disclosed by the recipient; for example, if it is disclosed to a family member, such re-disclosure may not be protected by California or federal laws, for example, the Health Insurance Portability and Accountability Act (HIPAA).

Signature: _____ **Date:** _____

Print name: _____

If signed by a person other than the patient, please indicate relationship:

parent/legal guardian of minor

other: _____



Request to Amend Protected Health Information

1. Today's Date: _____

2. Consumer/Individual's name: _____

Date of birth: _____

3. The following protected health information (PHI) in my health record is incorrect and should be changed: _____

The information should be changed to read as follows: _____

Your email address: _____

Your phone number: _____

4. If we correct your information because it was incorrect, we will notify any other person or facility that has previously received information from us about you before it was corrected. Do you know of any others such persons who need the new information?

No

Yes -- please indicate their names and addresses here:

5. Note: We do not have to change your protected health information if:

- We did not create it, unless the person or facility that did create it is unavailable to act on your request to change it (for example, the doctor has died). Do you believe this exception applies to your request?

No ____ (initial)

Yes ____ (initial)

If "yes" please explain: _____

- The information is accurate and complete.
- There is no legal right to access the information you would like to change.
- The protected health information you would like to change is not part of your designated record set (medical records, billing records or records containing your protected health information that we use to make decisions about you).

Signature: _____ **Date:** _____

Print name: _____

If signed by a person other than the consumer, please indicate relationship:

parent/legal guardian of minor

other: _____



Request for an Accounting of Disclosures

1. Today's Date: _____

2. Consumer/Individual's name: _____

Date of birth: _____

3. I would like an accounting of how my protected health information was disclosed by the County of El Dorado (name of health care provider, facility, or department): _____

4. I understand that the County does not have a duty to tell me about disclosures:

- for purposes of treatment, payment, healthcare operations or as part of a limited data set;
- to me or disclosures authorized by me;
- for use in a hospital directory where I did not opt out;
- to persons involved in my care;
- for notification purposes (to notify a family member or my personal representative of my location, general condition or death);
- for national security or intelligence purposes;
- to correctional institutions or law enforcement officials;
- made prior to April 14, 2003 (HIPAA compliance date); and,
- incident to a permitted or required use or disclosure.

5. I want an accounting of disclosures that covers the following time period: _____ (no longer than six years).

6. (Optional) I am interested in the following specific disclosures: _____

7. I want the accounting of disclosures provided to me as follows:

I will pick it up; please call me when it is ready: _____

Please mail it to me at this address: _____

Please email it to me: _____

8. I understand that the County must give me the accounting within 60 days or that I will be told that up to 30 more days may be needed to prepare it.

9. I understand that I am entitled to one free accounting of disclosures in any 12 month period; additional accountings will cost \$_____ each.

Signature: _____ **Date:** _____

Print name: _____

If signed by a person other than the consumer, please indicate relationship:

parent/legal guardian of minor

other: _____



**Request for Special Privacy Measures:
Restriction on Use or Disclosure of Protected Health Information**

1. Today's Date: _____

2. Consumer/Individual's name: _____

Date of birth: _____

3. I understand that County public healthcare providers may use or disclose my protected health information (PHI) for the purposes of treatment, payment or healthcare operations. The County may also disclose limited information to someone involved in my care or the payment for my care such as a family member or friend, under certain circumstances where I have given my verbal permission for the disclosure (this does not generally apply to mental health or substance use disorder records).

I hereby request a special restriction on the County's use or disclosure of my protected health information as follows: _____

4. I understand that the County does not have to agree to my request in most circumstances. However, the County would have to honor my request if I am requesting a restriction on a disclosure of information to a health plan for payment or for healthcare operations purposes and I have (or someone on my behalf other than the health plan has) paid for the item or service out of pocket in full. The County may still have to disclose this information to the health plan if required by law.

5. **Exceptions.** Even if the County agrees to this request to restrict uses or disclosures, it may share the information in the following circumstances:

- during a medical emergency if the information is needed to provide emergency treatment;
- for certain public health activities;

- for reporting abuse, neglect, certain injuries or other crimes;
- for health agency oversight activities or law enforcement investigations;
- for judicial or administrative proceedings;
- for identifying decedents to coroners, medical examiners and funeral directors or determining a cause of death;
- for organ procurement;
- for certain research activities;
- for workers' compensation programs;
- to avert a serious threat to health or safety;
- to the Secretary of Health and Human Services if requested;
- for specialized government functions; and,
- for uses or disclosures otherwise required by law.

8. Termination of the restriction. If a special restriction is agreed to it may be terminated by me in writing, or verbally if my verbal termination is documented, or if the County needs to terminate the agreement (in which case the termination will only affect PHI created by the County or received by the County after I have been notified).

Note: The County will not terminate a special restriction on the disclosure to a health plan for payment or health care operations purposes for items or services paid out of pocket in full unless you agree.

Signature: _____ **Date:** _____

Print name: _____

If signed by a person other than the consumer, please indicate relationship:

parent/legal guardian of minor

other: _____



Request for Alternative Means of Communication

1. Today's Date: _____

2. Consumer/Individual's name: _____

Date of birth: _____

3. I would like to request that confidential communications of protected health information (PHI) be provided to me as follows:

alternative means (describe): _____

at an alternative address (provide address you'd like us to use):

Signature: _____ Date: _____

Print name: _____

If signed by a person other than the patient, please indicate relationship:

parent/legal guardian of minor

other: _____



**Sample Language:
Letter to Consumer Advising of Breach
(County Agency or Facility Letterhead)**

(date)

By First Class Mail (USPS)

*(Consumer Name)
(Consumer Address)*

Re: Privacy/Security Breach

Dear *(Consumer Name)*:

This is to inform you of a privacy/security breach involving your protected health information. We want to inform you of the following:

Brief description of what happened: *(describe the breach)*

Date of the breach if known: *(provide the date of the event, or say "We are not certain, but we believe this happened sometime between (date) and (date).")*

Date of discovery of the breach: We first became aware of this incident on *(date)*.

A description of types of information involved: The information that was involved includes: *(list all elements of PHI that was part of the breach, such as patient's name (full? or just last name?), date of birth, home address, account number, disability code, etc.)*

Steps you should take to protect yourself from potential harm resulting from the breach: *(include things like "We recommend that you promptly notify your bank and credit card companies," etc.)*

Brief description of what we are doing to investigate the breach, mitigate losses and protect against further breaches: *(describe everything that the County is doing, e.g., investigating what happened and who was responsible, offering patients one year of free credit monitoring for fraudulent activity, changing locks on the doors, retraining the entire staff with follow-up training in six months and annually thereafter, installing security cameras and alarms at doors, etc.)*

Contact information if you have questions: *(include a toll-free number to call, an email address, website and/or postal address to send questions to, etc.).*

We are so sorry this happened, and are doing our best to mitigate any harm this may have caused to you, and to make sure it doesn't happen again.

We appreciate the trust you put in us as your healthcare providers and look forward to continuing to serve your healthcare needs in the future.

Sincerely,

*(signature and typed name and title,
e.g., of HIPAA Privacy Officer, Agency Director,
or other Administrator or management-level official)*





County of Eldorado

NOTICE OF PRIVACY PRACTICES

Eff. date: July 1, 2022

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

If you have any questions about this notice, please contact the El Dorado County HIPAA Privacy Officer at (530) 295-2593, Human Resources Department, 330 Fair Lane, Placerville, CA 95667. ¹

This notice describes the County's practices and that of:

- Any health care professional authorized to enter information into your County health record.
- All departments and units of the County that provide health care to you.
- All employees, staff and others who help us provide care to you.

¹ The wording in this notice is adapted from language used on various Notices used by other health care providers in northern California and posted on their websites, as well as on the model notice prepared for the American Hospital Association by the law firm of Hogan & Hartson, LLP, as modified to reflect California law by the California Hospital Association and by Davis Wright Tremaine, LLP, on behalf of the California Hospital Association. None of these organizations or firms are responsible for this version that has been specifically written to reflect County of El Dorado policies and procedures, and reflects the current federal regulations and requirements at 45 CFR 164.520 (HIPAA), 42 CFR Part 2, California state laws, and public benefits programs such as Medi-Cal.

- Any contractors who assist us in providing health care services to you or help us to run our programs and need to handle or use your protected health information in order to assist us.

All of these people, sites, programs, facilities and locations follow the terms of this notice. In addition, some of our programs will provide you with additional information about how they protect your privacy.

We can share medical information with each other for treatment, payment or health care operations purposes described in this notice; however, if you receive services from a County substance use disorder (SUD) treatment program, no information about your SUD treatment will be shared outside of that program without your written consent unless an exception applies, like a bona fide medical emergency in which your prior written informed consent cannot be obtained.

We understand that medical information about you and your health is personal. We are committed to protecting medical information about you. We create a record of the care and services you receive from the County. We need this record to provide you with quality care and to comply with certain legal requirements. This notice applies to all of the records of your care and payment for your care that are created by the county or sent to us by another outside health care provider, and included in the records that we maintain.

This notice will tell you about the ways in which we may use and disclose health care information about you. It also describes your rights and certain obligations we have regarding the use and disclosure of your health information.

We are required by law to:

- Make sure that health information that identifies you is kept private (with certain exceptions);
- Give you this notice of our legal duties and privacy practices with respect to medical information about you; and
- Follow the terms of the notice that is currently in effect.

The following categories describe different ways that we use and disclose health information. For each category of uses or disclosures we will explain what we mean and try to give some examples. Not every use or disclosure in a category will be listed. However, all of the ways we are permitted to use and disclose information will fall within one of the categories.

Disclosures at your request

We may disclose information when you ask us to. This disclosure at your request may require a written authorization by you.

Disclosures for treatment purposes

We may use health information about you to provide you with medical treatment or services. We may disclose health information about you to doctors, nurses, counselors, therapists, technicians, or other staff who are involved in taking care of you. For example, a doctor treating you for a high blood pressure may need to know if you have diabetes because diabetes may affect the medicines that are prescribed. In addition, your provider may have to notify the pharmacy of any allergies you might have so a medication that is ordered for you doesn't harm you.

Information about your health care may also be shared to coordinate the different things you need, such as lab work and X-rays. We also may disclose medical information about you to other health care providers outside the County program who may also be providing care to you. For example, if you are receiving mental health care, your provider may need to confirm your medication with a hospital where you are being treated so that you don't receive too much or the wrong kind of medicine. We may share information with your primary care physician to assist your physician in treating you.

As noted, SUD information may be shared by your treatment team within the County SUD program for treatment purposes but will not be made outside of the program unless and exception applies.

For Payment Purposes

We may use and disclose medical information about you so that the treatment and services you receive from the County may be billed to and payment may be

collected from you, an insurance company or a third party. For example, we may need to give information about care you received from the County to your health plan so it will pay us or reimburse you for your care. We may also tell your health plan about a treatment you are going to receive to obtain prior approval or to determine whether your plan will cover the treatment. We may also provide basic information about you and your health plan, insurance company or other source of payment to practitioners outside the hospital who are involved in your care, to assist them in obtaining payment for services they provide to you. However, we cannot disclose information to your health plan for payment purposes if you ask us not to, and you pay for the services yourself. If you receive services from a County SUD program, we will get your written consent prior to billing your insurance plan.

For Health Care Operations

We may use and disclose medical information about you for health care operations. These uses and disclosures are necessary to run our programs and make sure that all of our patients receive quality care. For example, we may use medical information to review our treatment and services and to evaluate the performance of our staff in caring for you. We may also combine health information about many different patients to decide what additional services the county should offer, what services are not needed, and whether certain new treatments are effective.

If you receive mental health counseling services, your provider may take notes during a counseling session that are used to help your provider write a progress note in your medical record. Those jotted down notes made by your provider during a counseling session are not made part of your record (“psychotherapy notes”) and are either shredded or destroyed, or if kept by your provider, are not part of your “designated record set” and will not be seen by other providers without your written authorization.

Sometimes patient information is used for training of our medical staff including doctors, nurses, technicians, medical students, and other personnel or it may be combined with or compared to other information from other programs to measure how well we are doing at providing quality care, and whether we can make improvements in the care and services we offer. We may remove information that identifies you from this set of medical information so others may

use it to study health care and health care delivery without learning who the specific patients are.

Fundraising and Marketing Activities

The County will not use information about you, or disclose such information to anyone else in order to contact you to raise money for the County programs or for marketing purposes. We will not sell your contact information to anyone.

Hospital Directory

If you are a patient at the psychiatric health facility (PHF) we will ask you who you would like us to contact to let them know you are there, and whether you would like us to take calls from them. If you say no, we will not tell anyone that you are a patient at the PHF except as otherwise required or permitted by law, for example, in an emergency or if you authorize us to in writing.

To Family, Friends or Others Directly Involved In Your Care or Payment For Your Care

We may give limited health information about you to a friend or family member who is involved in your medical care if you give us verbal permission to. We may also give information to someone who helps pay for your care if you tell us it is ok. For example, if you want us to tell a family member which pharmacy they should go to in order to pick up your medication, or how they can help you recover from an illness, we can do that. We won't give more information than they need to know in order to help you unless you give us written authorization to disclose more.

In addition, we may disclose medical information about you to an organization assisting in a disaster relief effort so that your family can be notified about your condition, status and location. If paramedics are called and you are unconscious or otherwise unable to communicate, we, or the hospital where you are taken, will attempt to contact someone we believe can make health care decisions for you (e.g., a family member or agent under a health care power of attorney).

For Research

Under certain circumstances, we may use and disclose medical information about you for research purposes. For example, a research project may involve comparing the health and recovery of all patients who received one medication to those who received another, for the same condition. All research projects, however, are subject to a special approval process. This process evaluates a proposed research project and its use of medical information, trying to balance the research needs with patients' need for privacy of their medical information. Before we use or disclose medical information for research, the project will have been approved through this research approval process. We may also disclose information about you to people preparing to conduct a research project, for example, to help them look for patients with specific medical needs, as long as the medical information they review does not leave our facility.

As Required By Law

We will disclose medical information about you when required to do so by federal, state or local law.

To Avert a Serious Threat to Health or Safety

We may use and disclose medical information about you when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat.

Organ and Tissue Donation

We may release medical information to organizations that handle organ procurement or organ, eye or tissue transplantation or to an organ donation bank if you are a donor, as necessary to facilitate organ or tissue donation and transplantation.

Military and Veterans

If you are a member of the armed forces, we may release medical information about you as required by military command authorities. We may also release medical information about foreign military personnel to the appropriate foreign military authority. None of these disclosures will be made without first making

sure they are required by law and the request for information meets the requirements of that law.

Workers' Compensation

We may release medical information about you for workers' compensation or similar programs. These programs provide benefits for work-related injuries or illness.

Public Health Activities

We may disclose medical information about you for public health activities. These activities generally include the following:

- To prevent or control disease, injury or disability;
- To report births and deaths;
- To report abuse or neglect of children, elders and dependent adults;
- To report reactions to medications or problems with products;
- To notify people of recalls of products they may be using;
- To notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition;
- To notify the appropriate government authority if we believe a patient has been the victim of abuse or violence;
- To report gunshot wounds and certain other injuries caused by assaultive or abusive conduct; and,
- To notify emergency response employees regarding possible exposure to HIV/AIDS, to the extent necessary to comply with state and federal laws.

Health Oversight Activities

We may disclose medical information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the health care system, government programs and compliance with civil rights laws.

Lawsuits and Disputes

If you are involved in a lawsuit or a dispute, we may disclose medical information about you in response to a court or administrative order. We may also disclose medical information about you in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request (which may include written notice to you) or to obtain an order protecting the information requested.

Law Enforcement

We may release physical health information if asked to do so by a law enforcement official:

- In response to a court order, subpoena, warrant, summons or similar process;
- To identify or locate a suspect, fugitive, material witness, or missing person;
- About the victim of a crime if, under certain limited circumstances, we are unable to obtain the person's agreement;
- About a death we believe may be the result of criminal conduct;
- About criminal conduct at a county health care program or facility or against staff; and,
- In emergency circumstances to report a crime; the location of the crime or victims; or the identity, description or location of the person who committed the crime.

Mental health information, HIV test results, and SUD treatment program records are subject to more protections and more stringent laws, so that kind of information will not be disclosed without your written authorization, a Court order, or some other step required by the laws governing those disciplines.

Coroners, Medical Examiners and Funeral Directors

We may release medical information in some situations to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or determine the cause of death.

National Security and Intelligence Activities

We may release medical information about you to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized

by law under some circumstances but that will not happen unless we are sure it is required by law.

Protective Services for the President and Others

We may disclose medical information about you to authorized federal officials so they may provide protection to the President, other authorized persons or foreign heads of state or conduct special investigations.

Correctional Settings (County Jail and Juvenile Hall)

If you are an inmate of the jail or ward at juvenile hall or in the custody of a law enforcement official, we may disclose medical information about you to the correctional health care providers or the law enforcement official if it would be necessary 1) for the facility to provide you with health care; 2) to protect your health and safety or the health and safety of others; or 3) for the safety and security of the jail or juvenile hall.

Special Categories of Information

As noted, some of your health information may have added privacy protections or restrictions that would limit or prevent some uses or disclosures described in this notice. This includes tests for HIV or treatment for mental health conditions or substance use disorder (alcohol or drug abuse). Some government insurance programs, such as Medi-Cal, may also limit the disclosure of information about you that is unrelated to uses to administer those programs.

Other Uses and Disclosures

Other uses and disclosures of medical information not covered by this notice or the laws that apply to us will be made only with your written permission. If you provide us permission to use or disclose medical information about you, you may revoke that permission, in writing, at any time. If you revoke your permission, this will stop any further use or disclosure of your medical information for the purposes covered by your written authorization, except if we have already acted in reliance on your permission (we are unable to take back any disclosures we have already made with your permission).

We are required by law to retain our records of the care that we provided to you.

Your Rights

You have the following rights regarding medical information we maintain about you.

Right to Inspect Your Own Record and Get a Copy

You have the right to inspect and obtain a copy of medical information that may be used to make decisions about your care. Usually, this includes medical and billing records. As noted earlier in this notice, “psychotherapy notes” jotted down during a counseling session and kept separate from the chart are not part of the “designated record set.”

To access your medical information we will ask that submit your request in writing to the program where you receive services, or to the HIPAA Privacy Official at (530) 295-2593, Human Resources Department, 330 Fair Lane, Placerville, CA 95667. If you request a copy of your record, we may charge a fee for the costs of copying, mailing, or other supplies associated with your request.

We may deny your request to inspect and obtain a copy in certain very limited circumstances. If you are denied access to medical information, you may request that the denial be reviewed. Another licensed health care professional chosen by the hospital will review your request and the denial. The person conducting the review will not be the person who denied your request. We will comply with the outcome of the review. If the denial is to inspect or access your mental health record you may ask that it be made available to another healthcare professional of your choosing to inspect it on your behalf. That professional is not allowed to show it to you or provide you with a copy.

Right to Amend/Correct the Record

If you feel that health information we have about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as the information is kept by or for the County.

To request an amendment, your request must be made in writing and submitted to the County Privacy Officer at (530) 295-2593, Human Resources Department, 330 Fair Lane, Placerville, CA 95667. You will be asked to provide a reason that supports your request.

We may deny your request for an amendment if your request is not in writing or does not include a reason to support the request. In addition, we may deny your request if you ask us to amend information that:

- Was not created by us, unless the person or entity that created the information is no longer available to make the amendment;
- Is not part of the health information kept by or for the County;
- Is not part of the information which you would be permitted to inspect and copy; or
- Is accurate and complete.

Right to Addend (Add To) The Record

Even if we deny your request for amendment, you have the right to submit a written addendum, not to exceed 250 words, with respect to any item or statement in your record you believe is incomplete or incorrect. If you clearly indicate in writing that you want the addendum to be made part of your medical record we will attach it to your records and include it whenever we make a disclosure of the item or statement you believe to be incomplete or incorrect. Your request to addend your record should be sent to the County HIPAA Privacy Officer at (530) 295-2593, Human Resources Department, 330 Fair Lane, Placerville, CA 95667.

Right to an Accounting of Disclosures

You have the right to request an “accounting of disclosures” which is a list of the disclosures we made of medical information about you to others. It does not include disclosures to you, or to others at your request, or for our own uses for treatment, payment and health care operations (as those activities are described

above); additionally, there are other exceptions in the law that might limit this right.

To request this list or accounting of disclosures, you must submit your request in writing to the County HIPAA Privacy Official at (530) 295-2593, Human Resources Department, 330 Fair Lane, Placerville, CA 95667. Your request must state a time period which may not be longer than six years ago. Your request should indicate in what form you want the list (for example, on paper or electronically).

The first list you request within a 12-month period will be free. For additional lists, we may charge you for the costs of providing the list. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

In addition, we will notify you, as required by law, following a breach to the privacy or security of your unsecured protected health information.

Right to Request Restrictions

You have the right to request a restriction or limitation on the medical information we use or disclose about you for treatment, payment or health care operations. You also have the right to request a limit on the medical information we disclose about you to someone who is involved in your care or the payment for your care, like a family member or friend. For example, you could ask that we not use or disclose information about a prior illness to a person who is currently caring for you while you are sick.

We are not required to agree to your request, except to the extent that you request us to restrict disclosure to a health plan or insurer for payment or health care operations purposes if you, or someone else on your behalf (other than the health plan or insurer), has paid for the item or service out of pocket in full. Even if you request this special restriction, we can disclose the information to a health plan or insurer for purposes of treating you.

If we agree to a special restriction, we will comply with your request unless the information is needed to provide you with emergency treatment.

To request restrictions, you must make your request in writing to the County HIPAA Privacy Officer at (530) 295-2593, Human Resources Department, 330 Fair

Lane, Placerville, CA 95667. In your request, you must tell us 1) what information you want to limit; 2) whether you want to limit our use, disclosure or both; and 3) to whom you want the limits to apply, for example, disclosures to your spouse.

Right to Request Confidential Communications

You have the right to request that we communicate with you about health matters in a certain way or at a certain location. For example, you can ask that we only contact you at work or by only by mail and not by telephone.

To request confidential communications, you must make your request in writing to the program where you are receiving care or to the County HIPAA Privacy Officer at (530) 295-2593, Human Resources Department, 330 Fair Lane, Placerville, CA 95667. We will not ask you the reason for your request. We will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

Right to a Paper or Electronic Copy of This Notice

You have the right to a paper or electronic copy of this notice. You may ask us to give you a copy of this notice at any time. Even if you have agreed to receive this notice electronically, you are still entitled to a paper copy of this notice.

You may obtain a copy of this notice at our website:

https://www.edcgov.us/Government/PoliciesDisclaimers/pages/hipaa_policy.aspx

To obtain a copy of this notice ask at the location where you receive health care services or contact the County HIPAA Privacy Officer at (530) 295-2593, Human Resources Department, 330 Fair Lane, Placerville, CA 95667.

We reserve the right to change this notice and apply any revised or changed privacy practices effective for health information we already have about you as well as any information we receive in the future.

We will post a copy of the current notice in the County health care facilities where we provide health care services. The notice will contain the effective date on the first page, in the top right-hand corner.

In addition, each time you are treated at one of our facilities, we will offer you a copy of the current notice in effect. If you receive services via telehealth, we will offer you a copy when we first begin services and regularly thereafter; we will send it to you as you prefer, either in the regular paper mail or electronically.

Complaints

If you believe your privacy rights have been violated, you may file a complaint with the County or with the Secretary of the U.S. Department of Health and Human Services.

To file a complaint with the County, contact the **County HIPAA Privacy Official at (530) 295-2593, Human Resources Department, 330 Fair Lane, Placerville, CA 95667.**

All complaints must be submitted in writing.

You will not be penalized for filing a complaint.



Acknowledgment of Receipt of Notice of Privacy Practices (NPP)

Today's Date: _____

Consumer/Individual's name: _____

Date of birth: _____

Acknowledgment of Receipt of Notice of Privacy Practices

By signing this form, you acknowledge receipt of the "Notice of Privacy Practices" of County of El Dorado. Our Notice tells you how we may use and disclose your protected health information and your rights concerning your health information. We encourage you to read it.

We may update our Notice from time to time, and our most current Notice will be posted on our website at: www.edgov.net or you can call us at the following phone number and request a new copy: (530) 621-6520. We will also post our current Notice in a prominent location at our service sites for you to read.

- I acknowledge receipt of the "Notice of Privacy Practices of El Dorado County."
- I have been offered a copy of the "Notice of Privacy Practices of El Dorado County" but prefer not to receive a copy at this time.

Signature: _____ Date: _____

Print name: _____

If signed by a person other than the patient, please indicate relationship:

- parent/legal guardian of minor
- other: _____



**Request to Addend/Add Information to
Protected Health Information**

*(NOTE: use Request to Amend Record form if record
is incorrect and needs correcting)*

Today's Date: _____

Consumer/Individual's name: _____

Date of birth: _____

I understand that I have a right under California law to add an addendum up to 250 words in length to my record and hereby request that opportunity.

I would like to addend the following section of my record (specify what part of the record you would like to add information to):

I would like the following information added to my record (add pages if necessary):

Signature: _____ **Date:** _____

Print name: _____

If signed by a person other than the consumer, please indicate relationship:

parent/legal guardian of minor

other: _____



Substance Use Disorder Records

42 CFR §2.22 Notice to Patients of Federal Confidentiality Requirements

Federal law and regulations protect the confidentiality of substance use disorder (SUD) patient records. The protections can be summarized as follows:

1. Under limited circumstances, an SUD treatment provider may acknowledge an individual's presence in a program, or may disclose information that identifies a patient as having, or having had, an SUD. Such limited circumstances include disclosures made:

- Pursuant to a patient's consent;
- To medical personnel to the extent necessary to:
 - meet a bona fide medical emergency in which the patient's prior written consent cannot be obtained; or
 - meet a bona fide medical emergency in which an SUD treatment provider is closed and unable to provide services or obtain the prior written consent of the patient during a temporary state of emergency declared by a state or federal authority as the result of a natural or major disaster, until such time that the SUD treatment provider resumes operations;
- To medical personnel of the Food and Drug Administration (FDA) who state a reason to believe that the health of any individual may be threatened by an error in the manufacture, labeling, or sale of a product under FDA jurisdiction;
- For research purposes;
- For audit and evaluation purposes;
- To report a patient's commission of a crime on the premises of the SUD treatment provider or against personnel of the SUD treatment provider;
- To report suspected child abuse and neglect;
- Pursuant to a lawful court order.

2. Violation of the federal law and regulations by an SUD treatment provider is a crime and suspected violations may be reported to appropriate authorities as follows:

- The report of any violation of the regulations may be directed to the United States Attorney for the judicial district in which the violation occurs.
 - Contact information for the United States Attorney offices in California appear at the end of this notice.
- The report of any violation of the regulations by an opioid treatment program may be directed to the United States Attorney for the judicial district in which the violation occurs as well as to the Substance Abuse and Mental Health Services Administration (SAMHSA) office responsible for opioid treatment program oversight.
 - Contact information for the SAMHSA office responsible for opioid treatment program oversight appears at the end of this notice.

3. Information related to a patient's commission of a crime on the premises of an SUD treatment provider or against personnel of an SUD treatment provider is not protected by SUD confidentiality laws.

4. Reports of suspected child abuse and neglect made under state law to appropriate state or local authorities are not protected by SUD confidentiality laws.

5. The federal law and regulations that protect the confidentiality of SUD patient records, on which this notice relies, can be accessed at 42 USC 290dd-2 and 42 CFR Part 2.

Contact Information

United States Attorney, Central District of California

<https://www.justice.gov/usao-cdca>

Phone: (213) 894-2400

Fax: (213) 894-0141

US Attorney's Office
Central District of California
312 North Spring Street
Suite 1200
Los Angeles, CA 90012

United States Attorney, Eastern District of California

<https://www.justice.gov/usao-edca>

Bakersfield Office:

Phone: (661) 489-6150
Fax: (661) 489-6151
US Attorney's Office
4550 California Avenue, Suite 640
Bakersfield, CA 93309

Fresno Office:

Phone: (559) 497-4000
Fax: (559) 497-4099
US Attorney's Office
Robert E. Coyle United States Courthouse
2500 Tulare Street, Suite 4401
Fresno, CA 93721

Sacramento Office:

Phone: (916) 554-2700
Fax: (916) 554-2900
US Attorney's Office
Robert T. Matsui United States Courthouse
501 I Street, Suite 10-100
Sacramento, CA 95814

United States Attorney, Northern District of California

<https://www.justice.gov/usao-ndca>

Oakland Office:

Phone: (510) 637-3680
Fax: (510) 637-3724
US Attorney's Office
Federal Courthouse
1301 Clay Street
Oakland, CA 94612

San Francisco Office:

Phone: (415) 436-7200
Fax: (415) 436-7234
US Attorney's Office
Federal Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

San Jose Office:

Phone: (408) 535-5061
Fax: (408) 535-5081
US Attorney's Office
Heritage Bank Building
150 Almaden Blvd. Suite 900
San Jose, CA 95113

United States Attorney, Southern District of California

<https://www.justice.gov/usao-sdca>

Main Office:

Phone: (619) 557-5610
Toll Free: (800) 544-1106
Fax: (619) 546-0720
US Attorney's Office
Federal Office Building
880 Front Street, Room 6293
San Diego, CA 92101-8893

Branch Office:

Phone: (760) 355-2214
Fax: (760) 335-3975

US Attorney's Office
Imperial County Office
516 Industry Way, Suite C
Imperial, CA 92251-7501

Substance Abuse and Mental Health Services Administration (SAMHSA): Office responsible for opioid treatment program oversight

<https://www.samhsa.gov/medication-assisted-treatment/opioid-treatment-programs/compliance-officers>

Phone: (240) 276-2700

Email: dpt@samhsa.hhs.gov

SAMHSA Center for Substance Abuse Treatment

ATTN: Division of Pharmacologic Therapies

5600 Fishers Lane

Rockville, MD 20857



Substance Use Disorder Records

42 CFR §2.32 Redislosure Warning
(to accompany SUD records)

42 CFR part 2 prohibits unauthorized disclosure of these records.



BAA Checklist and HIPAA Business Associate Regulations

Name of BA or Subcontractor: _____

Name of El Dorado Department or Program: _____

Reviewer: _____

Date: _____

Business Associate Agreements entered into by County of El Dorado, a covered entity ("CE"), and any of its departments or programs, must describe the permitted and required uses and disclosures of protected health information "PHI" (which for the purposes of this checklist includes Medi-Cal personally identifiable information ("PII")) that the Business Associate (BA) will use, access, maintain, create and/or disclose in performing its obligations under the contract with the County, and contain assurances that the BA will:

- 1. not use or further disclose PHI except as permitted or required by the agreement or required by law and specify the purposes for which the BA may use and disclose PHI and generally the reasons and types of persons to whom the BA may make further disclosures
- 2. use appropriate safeguards to prevent use or disclosure other than as provided in contract
- 3. comply with Security Rule (administrative, physical and technical safeguards, and policies and procedures and documentation requirements with respect to ePHI)
- 4. to the extent BA is carrying out a HIPAA obligation of CE, must comply with HIPAA
- 5. report to CE any use or disclosure not permitted by agreement, including security incidents and breaches of unsecured PHI as required by 164.410
- 6. ensure that any subcontractors of BA agree to same restrictions and conditions and implement reasonable and appropriate safeguards
- 7. make PHI available to CE or individual as required by HIPAA access regulations

- 8. make PHI available for amendment and incorporate amendments as required by HIPAA
- 9. make available information required to provide an accounting of disclosures
- 10. make available information to Secretary of DHHS, including BA's internal practices, books and records relating to use and disclosure of PHI to determine CE's compliance with HIPAA
- 11. authorize termination of contract by CE if BA violates material term
- 12. return or destroy PHI at end of contract and retain no copies if feasible; if not feasible to return or destroy, protections in place must apply until it is returned or destroyed and use or disclosure must be limited to reasons that made return or destruction not feasible
- 13. breach notification provisions must be incorporated into the BA agreement (notification of breach, who/what/when/etc., notification of CE without unreasonable delay and in no case later than 60 days after discovered (42 USC 17932(b)(c)(d)); also notify CE if BA is being audited, reviewed or investigated by OCR.
- 14. ok to permit BA to use and disclose if necessary for proper management and administration or to carry out legal responsibilities of BA so long as it is required by law or reasonable assurances from person to whom it is disclosed that it won't be further disclosed etc.
- 15. ok to permit BA to perform data aggregation on behalf of more CEs than one.
- 16. important to have additional terms re: parties' rights and remedies if there is a breach (who will pay for mitigation (e.g., ID theft protection), who will pay for investigation to discover extent of breach, who will pay to notify patients (first class postage and administrative costs), who will prepare media notification if necessary, who will pay fines and penalties imposed by OCR or DOJ, who will pay to correct problem and implement new security or administrative processes, who will pay legal fees associated with breach, who will pay for reputational harm to CE?
- 17. CE has a right to terminate contract or demand that BA correct problems
- 18. does BA have adequate insurance to cover claims that might arise in civil lawsuits relating to privacy-related causes of action if security is breached or there is an improper disclosure?

- 19. indemnification if CE is sued for something BA did wrong

45 CFR 164.502(e)

(1) *Standard: Disclosures to business associates.* (i) A covered entity may disclose protected health information to a business associate and may allow a business associate to create, receive, maintain, or transmit protected health information on its behalf, if the covered entity obtains satisfactory assurance that the business associate will appropriately safeguard the information. A covered entity is not required to obtain such satisfactory assurances from a business associate that is a subcontractor.

(ii) A business associate may disclose protected health information to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit protected health information on its behalf, if the business associate obtains satisfactory assurances, in accordance with §164.504(e)(1)(i), that the subcontractor will appropriately safeguard the information.

(2) *Implementation specification: Documentation.* The satisfactory assurances required by paragraph (e)(1) of this section must be documented through a written contract or other written agreement or arrangement with the business associate that meets the applicable requirements of §164.504(e).

45 CFR 164.504(e)

(1) *Standard: Business associate contracts.* (i) The contract or other arrangement required by §164.502(e)(2) must meet the requirements of paragraph (e)(2), (e)(3), or (e)(5) of this section, as applicable.

(ii) A covered entity is not in compliance with the standards in §164.502(e) and this paragraph, if the covered entity knew of a pattern of activity or practice of the business associate that constituted a material breach or violation of the business associate's obligation under the contract or other arrangement, unless the covered entity took reasonable steps to cure the breach or end the violation, as applicable, and, if such steps were unsuccessful, terminated the contract or arrangement, if feasible.

(iii) A business associate is not in compliance with the standards in §164.502(e) and this paragraph, if the business associate knew of a pattern of activity or practice of a subcontractor that constituted a material breach or violation of the subcontractor's obligation under the contract or other arrangement, unless the business associate took reasonable steps to cure the breach or end the violation, as applicable, and, if such steps were unsuccessful, terminated the contract or arrangement, if feasible.

(2) *Implementation specifications: Business associate contracts.* A contract between the covered entity and a business associate must:

(i) Establish the permitted and required uses and disclosures of protected health information by the business associate. The contract may not authorize the business associate to use or further disclose the information in a manner that would violate the requirements of this subpart, if done by the covered entity, except that:

(A) The contract may permit the business associate to use and disclose protected health information for the proper management and administration of the business associate, as provided in paragraph (e)(4) of this section; and

(B) The contract may permit the business associate to provide data aggregation services relating to the health care operations of the covered entity.

(ii) Provide that the business associate will:

(A) Not use or further disclose the information other than as permitted or required by the contract or as required by law;

(B) Use appropriate safeguards and comply, where applicable, with subpart C of this part with respect to electronic protected health information, to prevent use or disclosure of the information other than as provided for by its contract;

(C) Report to the covered entity any use or disclosure of the information not provided for by its contract of which it becomes aware, including breaches of unsecured protected health information as required by §164.410;

(D) In accordance with §164.502(e)(1)(ii), ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions and conditions that apply to the business associate with respect to such information;

(E) Make available protected health information in accordance with §164.524;

(F) Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with §164.526;

(G) Make available the information required to provide an accounting of disclosures in accordance with §164.528;

(H) To the extent the business associate is to carry out a covered entity's obligation under this subpart, comply with the requirements of this subpart that apply to the covered entity in the performance of such obligation.

(I) Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the business associate

on behalf of, the covered entity available to the Secretary for purposes of determining the covered entity's compliance with this subpart; and

(J) At termination of the contract, if feasible, return or destroy all protected health information received from, or created or received by the business associate on behalf of, the covered entity that the business associate still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of the contract to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

(iii) Authorize termination of the contract by the covered entity, if the covered entity determines that the business associate has violated a material term of the contract.

(3) Implementation specifications: Other arrangements.

(i) If a covered entity and its business associate are both governmental entities:

(A) The covered entity may comply with this paragraph and §164.314(a)(1), if applicable, by entering into a memorandum of understanding with the business associate that contains terms that accomplish the objectives of paragraph (e)(2) of this section and §164.314(a)(2), if applicable.

(B) The covered entity may comply with this paragraph and §164.314(a)(1), if applicable, if other law (including regulations adopted by the covered entity or its business associate) contains requirements applicable to the business associate that accomplish the objectives of paragraph (e)(2) of this section and §164.314(a)(2), if applicable.

(ii) If a business associate is required by law to perform a function or activity on behalf of a covered entity or to provide a service described in the definition of business associate in §160.103 of this subchapter to a covered entity, such covered entity may disclose protected health information to the business associate to the extent necessary to comply with the legal mandate without meeting the requirements of this paragraph and §164.314(a)(1), if applicable, provided that the covered entity attempts in good faith to obtain satisfactory assurances as required by paragraph (e)(2) of this section and §164.314(a)(1), if applicable, and, if such attempt fails, documents the attempt and the reasons that such assurances cannot be obtained.

(iii) The covered entity may omit from its other arrangements the termination authorization required by paragraph (e)(2)(iii) of this section, if such authorization is inconsistent with the statutory obligations of the covered entity or its business associate.

(iv) A covered entity may comply with this paragraph and §164.314(a)(1) if the covered entity discloses only a limited data set to a business associate for the business associate to carry out a

health care operations function and the covered entity has a data use agreement with the business associate that complies with §§164.514(e)(4) and 164.314(a)(1), if applicable.

(4) *Implementation specifications: Other requirements for contracts and other arrangements.* (i) The contract or other arrangement between the covered entity and the business associate may permit the business associate to use the protected health information received by the business associate in its capacity as a business associate to the covered entity, if necessary:

(A) For the proper management and administration of the business associate; or

(B) To carry out the legal responsibilities of the business associate.

(ii) The contract or other arrangement between the covered entity and the business associate may permit the business associate to disclose the protected health information received by the business associate in its capacity as a business associate for the purposes described in paragraph (e)(4)(i) of this section, if:

(A) The disclosure is required by law; or

(B)(1) The business associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person; and

(2) The person notifies the business associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(5) *Implementation specifications: Business associate contracts with subcontractors.* The requirements of §164.504(e)(2) through (e)(4) apply to the contract or other arrangement required by §164.502(e)(1)(ii) between a business associate and a business associate that is a subcontractor in the same manner as such requirements apply to contracts or other arrangements between a covered entity and business associate.

45 CFR 164.308(b)

(b)(1) *Business associate contracts and other arrangements.* A covered entity may permit a business associate to create, receive, maintain, or transmit electronic protected health information on the covered entity's behalf only if the covered entity obtains satisfactory assurances, in accordance with §164.314(a), that the business associate will appropriately safeguard the information. A covered entity is not required to obtain such satisfactory assurances from a business associate that is a subcontractor.

(2) A business associate may permit a business associate that is a subcontractor to create, receive, maintain, or transmit electronic protected health information on its behalf only if the

business associate obtains satisfactory assurances, in accordance with §164.314(a), that the subcontractor will appropriately safeguard the information.

(3) *Implementation specifications: Written contract or other arrangement (Required).* Document the satisfactory assurances required by paragraph (b)(1) or (b)(2) of this section through a written contract or other arrangement with the business associate that meets the applicable requirements of §164.314(a).

45 CFR 164.314 - Organizational requirements.

(a)(1) *Standard: Business associate contracts or other arrangements.* The contract or other arrangement required by §164.308(b)(3) must meet the requirements of paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section, as applicable.

(2) *Implementation specifications (Required)*—

(i) *Business associate contracts.* The contract must provide that the business associate will—

(A) Comply with the applicable requirements of this subpart;

(B) In accordance with §164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit electronic protected health information on behalf of the business associate agree to comply with the applicable requirements of this subpart by entering into a contract or other arrangement that complies with this section; and

(C) Report to the covered entity any security incident of which it becomes aware, including breaches of unsecured protected health information as required by §164.410.

(ii) *Other arrangements.* The covered entity is in compliance with paragraph (a)(1) of this section if it has another arrangement in place that meets the requirements of §164.504(e)(3).

(iii) *Business associate contracts with subcontractors.* The requirements of paragraphs (a)(2)(i) and (a)(2)(ii) of this section apply to the contract or other arrangement between a business associate and a subcontractor required by §164.308(b)(4) in the same manner as such requirements apply to contracts or other arrangements between a covered entity and business associate.

(b)(1) *Standard: Requirements for group health plans.* Except when the only electronic protected health information disclosed to a plan sponsor is disclosed pursuant to §164.504(f)(1)(ii) or (iii), or as authorized under §164.508, a group health plan must ensure that its plan documents provide that the plan sponsor will reasonably and appropriately safeguard electronic protected health information created, received, maintained, or transmitted to or by the plan sponsor on behalf of the group health plan.

(2) *Implementation specifications (Required)*. The plan documents of the group health plan must be amended to incorporate provisions to require the plan sponsor to—

(i) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the group health plan;

(ii) Ensure that the adequate separation required by §164.504(f)(2)(iii) is supported by reasonable and appropriate security measures;

(iii) Ensure that any agent to whom it provides this information agrees to implement reasonable and appropriate security measures to protect the information; and

(iv) Report to the group health plan any security incident of which it becomes aware.

45 CFR 164.410 (Security “incident” defined at 45 CFR 164.304)- Notification by a business associate.

(a) *Standard—(1) General rule*. A business associate shall, following the discovery of a breach of unsecured protected health information, notify the covered entity of such breach.

(2) *Breaches treated as discovered*. For purposes of paragraph (a)(1) of this section, a breach shall be treated as discovered by a business associate as of the first day on which such breach is known to the business associate or, by exercising reasonable diligence, would have been known to the business associate. A business associate shall be deemed to have knowledge of a breach if the breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the breach, who is an employee, officer, or other agent of the business associate (determined in accordance with the Federal common law of agency).

(b) *Implementation specifications: Timeliness of notification*. Except as provided in §164.412, a business associate shall provide the notification required by paragraph (a) of this section without unreasonable delay and in no case later than 60 calendar days after discovery of a breach.

(c) *Implementation specifications: Content of notification*. (1) The notification required by paragraph (a) of this section shall include, to the extent possible, the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the business associate to have been, accessed, acquired, used, or disclosed during the breach.

(2) A business associate shall provide the covered entity with any other available information that the covered entity is required to include in notification to the individual under §164.404(c)

at the time of the notification required by paragraph (a) of this section or promptly thereafter as information becomes available.

42 USC 17932(b)(c)(d)

(b)NOTIFICATION OF COVERED ENTITY BY BUSINESS ASSOCIATE

A business associate of a covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information shall, following the discovery of a breach of such information, notify the covered entity of such breach. Such notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the business associate to have been, accessed, acquired, or disclosed during such breach.

(c)BREACHES TREATED AS DISCOVERED

For purposes of this section, a breach shall be treated as discovered by a covered entity or by a business associate as of the first day on which such breach is known to such entity or associate, respectively, (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of such entity or associate, respectively) or should reasonably have been known to such entity or associate (or person) to have occurred.

(d)TIMELINESS OF NOTIFICATION

(1)IN GENERAL

Subject to subsection (g), all notifications required under this section shall be made without unreasonable delay and in no case later than 60 calendar days after the discovery of a breach by the covered entity involved (or business associate involved in the case of a notification required under subsection (b)).

(2)BURDEN OF PROOF

The covered entity involved (or business associate involved in the case of a notification required under subsection (b)), shall have the burden of demonstrating that all notifications were made as required under this part, including evidence demonstrating the necessity of any delay.

(e)METHODS OF NOTICE

(1)INDIVIDUAL NOTICE Notice required under this section to be provided to an individual, with respect to a breach, shall be provided promptly and in the following form:

(A) Written notification by first-class mail to the individual (or the next of kin of the individual if the individual is deceased) at the last known address of the individual or the next of kin,

respectively, or, if specified as a preference by the individual, by electronic mail. The notification may be provided in one or more mailings as information is available.

(B) In the case in which there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes direct written (or, if specified by the individual under subparagraph (A), electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are 10 or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting for a period determined by the Secretary on the home page of the Web site of the covered entity involved or notice in major print or broadcast media, including major media in geographic areas where the individuals affected by the breach likely reside. Such a notice in media or web posting will include a toll-free phone number where an individual can learn whether or not the individual's unsecured protected health information is possibly included in the breach.

(C) In any case deemed by the covered entity involved to require urgency because of possible imminent misuse of unsecured protected health information, the covered entity, in addition to notice provided under subparagraph (A), may provide information to individuals by telephone or other means, as appropriate.

(2) MEDIA NOTICE Notice shall be provided to prominent media outlets serving a State or jurisdiction, following the discovery of a breach described in subsection (a), if the unsecured protected health information of more than 500 residents of such State or jurisdiction is, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(3) NOTICE TO SECRETARY Notice shall be provided to the Secretary by covered entities of unsecured protected health information that has been acquired or disclosed in a breach. If the breach was with respect to 500 or more individuals than [1] such notice must be provided immediately. If the breach was with respect to less than 500 individuals, the covered entity may maintain a log of any such breach occurring and annually submit such a log to the Secretary documenting such breaches occurring during the year involved.

(4) POSTING ON HHS PUBLIC WEBSITE. The Secretary shall make available to the public on the Internet website of the Department of Health and Human Services a list that identifies each covered entity involved in a breach described in subsection (a) in which the unsecured protected health information of more than 500 individuals is acquired or disclosed.

(f) CONTENT OF NOTIFICATION Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:

(1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.

(2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).

(3) The steps individuals should take to protect themselves from potential harm resulting from the breach.

(4) A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.

(5) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

(g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES

If a law enforcement official determines that a notification, notice, or posting required under this section would impede a criminal investigation or cause damage to national security, such notification, notice, or posting shall be delayed in the same manner as provided under section 164.528(a)(2) of title 45, Code of Federal Regulations, in the case of a disclosure covered under such section.

(h) UNSECURED PROTECTED HEALTH INFORMATION

(1) DEFINITION

(A) In general

Subject to subparagraph (B), for purposes of this section, the term “unsecured protected health information” means protected health information that is not secured through the use of a technology or methodology specified by the Secretary in the guidance issued under paragraph (2).

(B) Exception in case timely guidance not issued

In the case that the Secretary does not issue guidance under paragraph (2) by the date specified in such paragraph, for purposes of this section, the term “unsecured protected health information” shall mean protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(2) GUIDANCE

For purposes of paragraph (1) and section 17937(f)(3) of this title, not later than the date that is 60 days after February 17, 2009, the Secretary shall, after consultation with stakeholders, issue (and annually update) guidance specifying the technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized

individuals, including the use of standards developed under section 300jj-12(b)(2)(B)(vi) [2] of this title, as added by section 13101 of this Act.

(i) REPORT TO CONGRESS ON BREACHES

(1) IN GENERAL

Not later than 12 months after February 17, 2009, and annually thereafter, the Secretary shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the information described in paragraph (2) regarding breaches for which notice was provided to the Secretary under subsection (e)(3).

(2) INFORMATION The information described in this paragraph regarding breaches specified in paragraph (1) shall include—

(A) the number and nature of such breaches; and

(B) actions taken in response to such breaches.

(j) REGULATIONS; EFFECTIVE DATE

To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after February 17, 2009. The provisions of this section shall apply to breaches that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

Qualified Service Organization – 42 CFR Part 2 Requirements

§2.11 Definitions

Qualified service organization means an individual or entity who:

(1) Provides services to a part 2 program, such as data processing, bill collecting, dosage preparation, laboratory analyses, or legal, accounting, population health management, medical staffing, or other professional services, or services to prevent or treat child abuse or neglect, including training on nutrition and child care and individual and group therapy, and

(2) Has entered into a written agreement with a part 2 program under which that individual or entity:

(i) Acknowledges that in receiving, storing, processing, or otherwise dealing with any patient records from the part 2 program, it is fully bound by the regulations in this part; and

(ii) If necessary, will resist in judicial proceedings any efforts to obtain access to patient identifying information related to substance use disorder diagnosis, treatment, or referral for treatment except as permitted by the regulations in this part.

§2.12 Applicability

(4) *Qualified service organizations.* The restrictions on disclosure in the regulations in this part do not apply to communications between a part 2 program and a qualified service organization of information needed by the qualified service organization to provide services to the program.