



COUNTY OF EL DORADO, CALIFORNIA

BOARD OF SUPERVISORS POLICY

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| Subject: PROTECTED HEALTH INFORMATION (HIPAA): GENERAL | Policy Number: L-1 | Page Number: 1 of 7 |
| | Date Adopted: 08/29/17 | Effective Date: 08/29/17 |

I. PURPOSE

The purpose of this policy is to outline the manner in which the County of El Dorado meets the requirements of 45 Code of Federal Regulations (CFR), Part 164, known as the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These policies provide general guidelines and expectations for the necessary collection, use, and disclosure of protected health information about individuals in order to provide services and benefits to individuals, while maintaining reasonable safeguards to protect the privacy of their protected health information. These policies are applicable to all units, divisions, programs or departments within the County of El Dorado that administer health care component activities.

For the purpose of these policies, the terms “confidential information”, “health confidential information”, individual health confidential information”, “protected health confidential information”, “protected health information”, “PHI”, “electronic protected health information”, and “ePHI” are the same. The meanings and application of these terms include but are not limited to:

- A subset of health confidential information, including demographic confidential information collected from an individual, and created, received, maintained, or transmitted by a health care provider, health plan, health care clearinghouse, or business associate.
- Relates to the past, present, or future physical or mental health or condition of an individual
- The provision of health care to an individual,
- The past, present, or future payment for the provision of health care to an individual
- 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).

NOTE: Some categories of “confidential health information” such as behavioral health, alcohol/drug treatment and HIV/AIDS information are subject to additional legal protections.

County staff should follow California law or other federal law if it provides greater protection than HIPAA. If you are unsure which law to follow please contact the County Privacy Officer.



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II. POLICY

Specific policies and procedures are hereby incorporated by reference and in the El Dorado County HIPPA Privacy & Security Policy manual. Privacy and Security policies are divided into the following sections:

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

- II. Security
 1. Assigned Security Responsibility
 2. Policy Documentation
 3. User Access Management
 4. Authentication and Password Management
 5. Facility Access Controls
 6. Workstation Security
 7. Device and Media Controls
 8. Audit Controls
 9. Security Incident Reporting and Response
 10. Transmission Security
 11. Protection from Malicious Software
 12. Contingency Plan
 13. Business Associate
 14. Risk Analysis and Management
 15. Security Awareness and Training
 16. Sanctions

III. PROCEDURE

County of El Dorado will safeguard protected health information about individuals and may collect, maintain, use, transmit, share and/or disclose confidential information about individuals to the extent needed to administer the County programs, services and activities. Confidential information collected will be safeguarded in accordance with policy.



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County employees will safeguard all confidential information about individuals, inform individuals about the County of El Dorado's privacy practices and respect individual privacy rights, in accordance with policy.

This policy identifies four types of individuals in which the action of obtaining, collecting, maintaining or transmitting information pertains:

- Clients of County services
- Health care providers
- Individuals in County detention;
- County employees enrolled in health benefits.

The County of El Dorado 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 County of El Dorado clients.

2. Safeguarding confidential information about Clients

The County of El Dorado, its workforce members, and business associates shall respect and protect the privacy of records and protected health information about clients who request or receive services from the County. This includes, but is not limited to:

- Applicants or enrollees in a County operated health plan;
- Minors and adults receiving alcohol and drug, mental health, preventive health and public health services from the . County of El Dorado;
- Persons who apply for or are admitted to a county operated or county funded mental health center;

All protected health information concerning County of El Dorado clients must be safeguarded in accordance with any privacy and security policies procedures or directive as adopted by the Board of Supervisors or designee. In compliance to these policies all County programs shall adopt procedures to reasonably safeguard client protected health information.

The County of El Dorado shall not use or disclose protected health information unless:



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

3. Safeguarding confidential information about health plan enrollees

A health plan enrollee (“Enrollee”) is any Covered Person enrolled in one or more of the group health plans sponsored by the County of El Dorado, which results in the County of El Dorado having possession of or access to protected health information.

When County of El Dorado obtains protected health information about Enrollees, County of El Dorado may use and disclose such protected health information consistent with federal and state law and regulation.

4. Conflict with other requirements regarding privacy and safeguarding

County of El Dorado 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 County of El Dorado policy regarding the privacy or safeguarding of protected health information, County of El Dorado 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 the County of El Dorado workforce member will seek guidance according to established County of El Dorado policy and procedures.

5. County of El Dorado Notice of Privacy Practices

The “County of El Dorado Notice of Privacy Practices,” will be made available to any client applying for or receiving HIPAA covered services or enrolled in a County health plan.

The County of El Dorado Notice of Privacy Practices shall contain all information required under federal regulations regarding the notice of privacy practices for protected health information under HIPAA.

Where a service is rendered by a County 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.

Exception for inmates: An inmate does not have a right to notice under this section, and the requirements of this section do not apply to a correctional institution that is a covered entity.



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6. Client Privacy Rights

The County of El Dorado policies and procedures, as well as other federal and state laws and regulations, outline the HIPAA covered client's right to access their own PHI, with some exception. These policies also describe specific actions that a client can take to request restrictions or amendments to their protected health information, and the method for filing complaints. These specific actions are outlined in County of El Dorado HIPAA Privacy Policy "Client Privacy Rights."

7. Use and Disclosures of Protected Health Information

County of El Dorado shall not use or disclose any PHI concerning a client related to, HIPAA covered health care components, services or benefits without a signed authorization for release of that PHI from the individual, or the individual's personal representative, *unless* authorized by this policy, or as otherwise allowed or required by state or federal law, as outlined in County of El Dorado Privacy Rule Policy "Uses and Disclosures of Client Protected Health Information."

8. Minimum Necessary Standard

County of El Dorado will use or disclose only the minimum amount of PHI necessary to provide services and benefits to HIPAA covered clients, and only to the extent provided in County of El Dorado policies and procedures.

When using or disclosing an individual's PHI, or when requesting an individual's PHI from a provider or health plan, County of El Dorado employees 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, as outlined in County of El Dorado Policy Section, "Minimum Necessary Standard."

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 that are required for compliance with federal HIPAA regulations at 45 CFR, Parts 160 and 164.

9. Administrative, Technical and Physical Safeguards

County of El Dorado staff 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 Section “Administrative, Technical, and Physical Safeguards” and County of El Dorado Security Policy.

10. Use and Disclosures for Research Purposes and Waivers

The County of El Dorado may use or disclose an individual’s PHI 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”.

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

The County of El Dorado will follow standards under which client PHI 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 Standards for de-identification are outlined in County of El Dorado HIPAA Privacy Policy Section “De-identification of Protected Health Information and Use of Limited Data Sets”.

12. Business Associate Relationships

County of El Dorado may disclose protected health 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 confidential information.

13. Enforcement, Sanctions and Penalties for Violations of Individual Privacy

All workforce members, including employees, contract employees, volunteers, interns and members of the County of El Dorado workforce 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”.



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IV. REFERENCES

45 CFR Parts 160 and 164

Form(s):

General Computer and Network Resource Usage Policies and Guide
 Computer and Network Policies Agreement
 HIPAA Business Associate Decision Tool
 Notice of Privacy Practices Acknowledgement of Receipt
 Privacy Complaint Form
 Training Acknowledgement Form
 Site Assessment

V. RESPONSIBLE DEPARTMENT

Information Technologies, Human Resources/Risk Management, Health and Human Services Agency

VI. DATES ISSUED AND REVISED; SUNSET DATES:

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| Issue Date: | 08/29/2017 | Sunset Review Date: | 6/30/2022 <u>12/31/2022</u> |
| Revision Date: | n/a | Sunset Review Date: | n/a |