SALT LAKE COUNTY
COUNTYWIDE POLICY
ON
**HIPAA COMPLIANCE AND PRIVACY REQUIREMENTS**

**Reference --**

Health Insurance Portability and Accountability Act of 1996 (HIPAA); 45 United States Code § 1320d et seq.; Part C Administrative Simplification.

45 Code of Federal Regulations, Parts 160, 162, and 164 ("Privacy Rule")

Utah's Government Records Access and Management Act (GRAMA), Utah Code Annotated § 63G-2-102 et seq. ("GRAMA")

Salt Lake County Code of Ordinances; Title 2; Chapters 2.81 Security of Personal Identifiers and 2.82 "Records Management".

Countywide Policies 1400-1 through 1400-5 Information Technology Security; 1510 HIPAA Security Requirements and 1515 HIPAA Breach Notification Requirements.

**Purpose –**

The purpose of this policy is to provide requirements applicable to specified County- covered health care components for protecting the privacy of protected health information (PHI). This policy shall apply to those components designated by the Mayor.

**1.0 Responsibilities -**

1.1 Salt Lake County is a "hybrid entity" and has both covered health care components and non-covered health care components within its activities. The County, as a hybrid entity, is responsible for designating which of its activities are covered health care components and for ensuring that those components comply with HIPAA regulations. Offices, programs or portions thereof that are not covered health care components may be "business associates" of a covered entity, necessitating separate agreements between the County and an outside covered entity to cover those functions.

1.2 Business associates of the County are directly liable for compliance with certain HIPAA Privacy and Security rules requirements as defined 45 CFR Parts 160 and 164.

**2.0 Definitions**

2.1 The following definitions are provided as clarification:

2.1.1 Agency: Shall be defined as any HIPAA covered office, department, division, bureau section, program or any subsections thereof of the County.

2.1.2 CFR: Code of Federal Regulations.

2.1.3 HIPAA: The Health Insurance Portability and Accountability Act of 1996.

2.2 The following terms used in this policy can be found in 45 CFR 160.103 and 45 CFR 164.103.

Business Associate
Covered Entity
Disclosure
Electronic Media
Health Plan
Health Care Provider
Hybrid Entity
Individually Identifiable Health Information
Protected Health Information (PHI)

**3.0 Countywide Coordination of HIPAA Requirements**

3.1 Salt Lake County, as a hybrid entity, hereby adopts these policies and designates a County HIPAA Compliance Officer. In addition to this countywide policy, agencies with covered health care components shall develop procedures and designate Agency Privacy Officers to comply with HIPAA requirements. Procedures must address use and disclosure issues, training, complaint processes, and any other required components regarding the security and privacy of PHI. The County HIPAA Compliance Officer and Agency Privacy Officers shall serve as the "privacy official and contact/compliance person".

**4.0 Designation of HIPAA Privacy Officers**

4.1 The Director of Records Management & Archives division is designated as the County HIPAA Compliance Officer for the County to provide coordination and facilitation of compliance efforts. The County HIPAA Compliance Officer provides administration and support for all HIPAA related compliance issues including policy development and maintenance; provides administration and support for the HIPAA Compliance Committee and acts as a resource and consultant regarding HIPAA for Agencies.

4.2 Each Agency shall designate an Agency Privacy Officer to serve as the primary point of contact for all privacy related issues for that office, Agency or program. The Agency Privacy Officer shall be responsible for the development and implementation of POP in accordance with state and federal laws.

**5.0 HIPAA Compliance Committee**

5.1 The County hereby establishes a HIPAA Compliance Committee responsible for providing guidance to ensure adherence to HIPAA requirements. The purpose of the Committee is to review regulation changes and amendments, develop training, develop policy and conduct periodic reviews and compliance audits.

5.1.2 The Committee membership shall consist of the County HIPAA Compliance Officer, Agency Privacy Officers, and Program Privacy Officers. The District Attorney's Office shall provide legal counsel to the Committee. The Assistant Records Manager and additional staff shall act as administrative support for the committee. The Committee shall meet periodically at the discretion of the County HIPAA Compliance Officer or at the direction of the County Mayor's office.

## 6.0 Privacy Operating Procedures (POP)

6.1 Agencies must develop Privacy Operating Procedures that are appropriate for their divisions and offices in order to protect the privacy of PHI that is created, received, or maintained during its regular course of business. POP shall comply with federal and state laws and should reflect individual exemptions set forth in the privacy rule. All POP shall be consistent with the HIPAA Privacy Rule.

6.2 The County and agencies shall modify their privacy policies/POP as necessary and appropriate to comply with changes in the state and federal law and ongoing business practices. Changes to policies may be made at any time, provided such changes are documented and implemented appropriately.

## 7.0 Training

Training shall be conducted by those agencies that must comply with HIPAA privacy requirements. Agencies must determine which employees require training and the appropriate members of its workforce who are likely to have access to PHI. At a minimum, training shall be provided to new hire employees and whenever significant changes are made to privacy policies.

## 8.0 Use and Disclosure of Protected Health Information (PHI)

8.1 Agencies that maintain PHI shall disclose client health information only upon authorization by the client (or personal representative), unless state or federal law allows for specific exceptions.

8.2 Each Agency must make reasonable efforts to protect health information maintained by that Agency. Therefore, no County Agency shall disclose, or be required to disclose, in individually identifiable format, information about any such individual without that individual's explicit authorization, unless for specifically enumerated purposes such as emergency treatment, public health, law enforcement, audit/oversight purposes, or unless state or federal law allows specific disclosures.

8.3 Certain disclosures are not required. Agencies are not required to allow clients access to patient health records, or Designated Record Sets, if a licensed health care professional determines that access to such information would not be in the best interest of the client or another individual, and such determination is documented. Agencies are not required to amend, at a client's request, any information in a record that the Agency knows to be true and accurate.

8.4 Business associates of county agencies may not use or disclose protected health information except as permitted or required by 45 CFR 164.502.

8.5 All authorization forms, processes and procedures shall comply with the requirements as defined by 45 CFR 164.508. Additional provisions and exceptions are located in this section of the regulation.

8.5.1 All Agencies shall utilize a standard authorization form that contains the core elements necessary to be considered a valid authorization.

8.5.2 An authorization for disclosure of PHI shall not be combined with any other written legal permission from the client unless provided for in regulation.

8.5.3 The provision of treatment**,** payment, and enrollment in a health plan or eligibility for benefits shall not be conditioned on whether or not a client signs an authorization form.

**9.0 Complaint Process**

Each Agency shall establish a POP to receive and document complaints regarding the Agency's privacy practices related to the protection of PHI. Contact information must be made available and agencies shall make every effort to make it easy to file a complaint.

**10.0 Documentation Requirements**

10.1 All records subject to HIPAA must be retained for the minimum period required by HIPAA or such longer periods as may be established in accordance with the Salt Lake County retention and disposition requirements as approved by the Government Records Access Management Policy Administration (GRAMPA). All records access governed under HIPAA must comply with applicable guidelines; all other administrative records for the Agency must comply with access provisions as outlined in the Government Records Access and Management Act (GRAMA).

10.2 Documentation must be maintained that supports the Agency's assessment of its records for determination of its Designated Record Sets. Documentation may be maintained electronically or on paper.

10.3 Salt Lake County shall make available standard forms templates containing standard data elements required by the HIPAA Privacy Rule subject to modification by the agencies to meet their specific needs. Changes to forms shall be made when significant policy changes have been made and is appropriate to comply with changes in the state and federal law and ongoing business practices.

**11.0 Requests for Protected Health Information (PHI)**

11.1 Generally agencies must respond to a request under HIPAA for PHI within thirty (30) days after receipt of the request except as defined in 45 CFR 164.524. Grounds for denial are defined as those that are reviewable and those that are not.

11.1.1 Reviewable grounds for denial include disclosures that would cause endangerment of the individual or another person; situations where the PHI refers to another and disclosure could cause substantial harm; and requests made by a personal representatuive where disclosure could cause substantial harm.

11.1.2 Unreviewable grounds for denial include situations involving psychotherapy notes, information compiled for use in legal proceedings, and certain information held by clinical labs; certain requests made by inmates of correctional institutions; information created or obtained during research that includes treatment; denials permitted by the HIPAA Privacy Act; and information obtained from non-health care providers pursuant to confidentiality.

11.2 If the agencies deny the request, in whole or in part, the Agency must provide the individual with a written denial in plain language.

11.3 An individual has the right to request to have PHI amended under certain circumstances under section 45 CFR 164.526. Requests to amend shall be in writing and provide a reason to support a requested amendment.

**12.0 Fees**

12.1 Agencies may charge a reasonable, cost-based fee for producing copies of PHI as defined by 45 CFR 164.524. The fee may only include the cost of: labor for copying PHI in either paper or electronic form; supplies for creating the paper copy or electronic media; postage when the copy was requested to be mailed; and preparing an explanation.

12.2 County agencies may adopt procedures for fee waivers.

**13.0 Accounting of Disclosures of Protected Health Information (PHI)**

An individual has a right to receive an accounting of disclosures of protected health information made by a covered entity in the six years prior to the date on which the accounting is requested, excluding data used for treatment, payment and operations. Agencies must respond to a request for an accounting within sixty (60) days after receipt of such a request. Responses to such requests shall be made in compliance with 45 CFR 164.528.

**14.0 Disclosure for Judicial and Administrative Proceedings**

Agencies may under certain circumstances be permitted to disclose PHI in the course of any judicial or administrative proceeding. When receiving a subpoena, discovery request, or any other formal request in a pending judicial or administrative proceeding, agencies shall consult with their counsel about responding to such requests pursuant 45 CFR 164.512 that provides for numerous other disclosures.

**15.0 Right to Request Protection of Protected Health Information (PHI)**

Under certain circumstances a covered entity must permit an individual to request additional restrictions on use and disclosure of PHI as defined in 45 CFR 164.522.

**16.0 Electronic Transactions and Code Sets Compliance**

Agencies that perform covered transactions under HIPAA must comply with the standards for electronic transactions and code sets. These requirements provide for the use of standard formats for electronic data interchange (EDI) of information between trading partners and simplify its administration. Compliance with these standards provide benefits in reduction of processing time, reducing risk of lost documents, eliminating inefficiencies, and improving overall data quality.

APPROVED and PASSED this 30 day of July, 2013.

SALT LAKE COUNTY COUNCIL

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Steve DeBry, Chair

ATTEST:

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Sherrie Swensen, County Clerk

APPROVED AS TO FORM:

_____
District Attorney's Office Date