



# Privacy Policies & Procedures

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## *HIPAA*

Pottawattamie County is committed to protecting personal health information in accordance with state and federal law including standards established by the Department of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These privacy policies address the proper use and disclosure of individuals protected health information at Pottawattamie County.

# TABLE OF CONTENTS

Overview – Handling Uses & Disclosures of PHI .....	3
Iowa Laws Requiring Greater Protections .....	10
Accessing PHI .....	17
Maintenance of Privacy Policies & Procedures .....	20
Accounting of Disclosures .....	22
Amending PHI .....	25
Requests for Privacy Protection for PHI .....	28
Authorizations Policy .....	30
Family, Friend Involvement/Personal Representatives & Deceased Individuals .....	36
Minimum Necessary .....	39
Health Oversight Uses & Disclosures.....	42
Disclosure for Judicial or Administrative Purposes.....	45
Law Enforcement Disclosures.....	47
Required by Law Disclosures.....	50
Research Uses & Disclosures.....	52
Specialized Government Functions Disclosures.....	53
Serious Threat to Health or Safety Disclosures.....	56
Verification of Identity.....	58
Breach Notification.....	60
Prohibition of Marketing & Sale of PHI.....	64
Complaints, Non-Retaliation & Waiver of Rights.....	66
Safeguards.....	68
Sanctions.....	70
Training.....	72

## PRIVACY POLICIES AND PROCEDURES

### OVERVIEW – HANDLING USES & DISCLOSURES OF PHI

#### I. POLICY

Pottawattamie County shall use and disclose PHI only as permitted under HIPAA. All Pottawattamie County employees who perform services for a designated health care component of Pottawattamie County or who perform services as a business associate for a covered entity should be familiar with HIPAA, the effect of HIPAA on their job functions, and must comply with this Policy at all times.

#### II. PURPOSE

The purpose of this Policy is to provide employees with guidance as to the uses and disclosures of PHI permitted by HIPAA.

#### III. REQUIREMENTS AND EXPLANATION

##### A. Use and Disclosure for Treatment, Payment or Health Care Operations

Pottawattamie County may use or disclose PHI for Treatment, Payment or Health Care Operations, **without an Authorization**, as follows:

- 1) Pottawattamie County may use or disclose PHI for its own Treatment, Payment or Health Care Operations;
- 2) Pottawattamie County may disclose PHI for Treatment activities of another Health Care Provider;
- 3) Pottawattamie County may disclose PHI to another Covered Entity or Health Care Provider for the payment activities of the entity that receives the information;
- 4) Pottawattamie County may disclose PHI to another Covered Entity for health care operations of the entity that receives the PHI if (a) Pottawattamie County and the other Covered Entity had or have a relationship with the subject of the PHI; (b) the PHI pertains to that relationship; and (c) the disclosure is for one of the following purposes:
  - a) Conducting quality assessment and improvement activities (including outcomes evaluation and development of clinical guidelines);
  - b) Population based activities relating to improving health or reducing health care costs;

- c) Protocol development;
  - d) Case management and care coordination;
  - e) Contacting of health care providers and individuals with information about treatment alternatives;
  - f) Related functions that do not include treatment;
  - g) Reviewing the competence or qualifications of health care professionals;
  - h) Evaluating practitioner and provider performance;
  - i) Evaluating health plan performance;
  - j) Conducting training programs in which students, trainees or practitioners in areas of health care learn under supervision to covered entity or improve their skills as health care providers;
  - k) Training of non-health care professionals;
  - l) Accreditation, certification, licensing or credentialing activities;
  - m) Health care fraud and abuse detection or compliance.
- 5) If Pottawattamie County participates in an organized health care arrangement, it may disclose PHI to another participant in the organized health care arrangement for any health care operations of the organized health care arrangement.

## **B. Use and Disclosure with Authorization**

Pottawattamie County must obtain an authorization from the individual who is the subject of PHI before using that PHI for any use or disclosure not otherwise provided for under the HIPAA Privacy Rule (Privacy Rule). Thus, Pottawattamie County must obtain an Authorization before using or disclosing PHI in any manner other than as described in this Policy.

## **C. Uses and Disclosures that Require an Opportunity for the Individual to Agree or Object**

Pottawattamie County may use or disclose an Individual's PHI for the purposes in this paragraph without authorization, provided that the individual has been informed in advance of the use or disclosure and has an opportunity to agree or prohibit or restrict the disclosure. Such uses and disclosures are for either (a) a facility directory (typically a list of a facility's Individuals); or (b) to discuss an Individual's care with a family member or other person identified by the individual.

**D. Uses and Disclosures That Do Not Require an Opportunity for the Individual to Agree or Object**

Pottawattamie County may use an individual's PHI without authorization and without giving the individual an opportunity to agree or prohibit or restrict the disclosure in certain situations specified by the Privacy Rule. These situations are summarized below:

1) REQUIRED BY LAW 45 C.F.R. §164.512(a)

Pottawattamie County may use or disclose PHI to the extent that the use or disclosure is required by law. Pottawattamie County will notify an individual, to the extent required by law, of any such uses or disclosures.

2) PUBLIC HEALTH 45 C.F.R. §164.512(b)

Pottawattamie County may disclose PHI for public health activities and purposes that may include, collecting and receiving information by a public health authority, for the purpose of preventing or controlling disease, injury or disability.

3) ABUSE OR NEGLECT 45 C.F.R. §164.512(c)

Pottawattamie County may disclose PHI to the governmental entity or agency authorized to receive information about victims of abuse, neglect or domestic violence, if the County believes an individual has been a victim of abuse, neglect or domestic violence. The disclosure will be made consistent with the requirements of federal and state laws. Pottawattamie County will notify the individual of the disclosure unless, in the exercise of professional judgment, the County believes informing the individual would place them at risk of serious harm.

4) HEALTH OVERSIGHT 45 C.F.R. §164.512(d)

Pottawattamie County may disclose PHI to a health oversight agency for activities authorized by law, such as audits, investigations and inspections.

5) LEGAL PROCEEDINGS 45 C.F.R. §164.512(e)

Pottawattamie County may disclose PHI in the course of any judicial or administrative proceeding, in response to an order of a court or administrative tribunal (to the extent such disclosure is expressly authorized), in certain conditions in response to a subpoena, discovery request or other lawful process.

6) LAW ENFORCEMENT 45 C.F.R. §164.512(f)

Pottawattamie County may disclose PHI for law enforcement purposes, in the following situations:

- a) If required by law (ex. reporting wounds or pursuant to a subpoena);
- b) Limited information requests for identification and location purposes;
- c) Pertaining to victims of a crime;
- d) Suspicion that death has occurred as a result of criminal conduct;
- e) In the event that a crime occurs on Pottawattamie County premises; and
- f) Medical emergency if it is likely that a crime has occurred.

7) USES AND DISCLOSURES ABOUT DECEDENTS 45 C.F.R. §164.512(g)

a) *Coroners and Medical Examiners*

Pottawattamie County may disclose PHI to a coroner or medical examiner for identification purposes, determining cause of death or for the coroner or medical examiner to perform other duties authorized by law.

b) *Funeral Directors*

Pottawattamie County may disclose PHI to a funeral director, as authorized by law, in order to permit the funeral director to carry out their duties. Pottawattamie County may disclose PHI in reasonable anticipation of death.

8) CADAVERIC ORGAN, EYE OR TISSUE DONATION 45 C.F.R. §164.512(h)

Pottawattamie County may disclose PHI to organ procurement, banking or transplantation organizations for cadaveric organ, eye or tissue donation purposes.

9) RESEARCH 45 C.F.R. §164.512(i)

Pottawattamie County may disclose PHI to researchers when their research has been approved by an Institutional Review Board or a Privacy Board that has reviewed the research proposal and established protocols to ensure the privacy of the PHI.

10) AVERTING SERIOUS THREAT TO HEALTH OR SAFETY 45 C.F.R. §164.512(j)

Consistent with applicable federal and state laws, Pottawattamie County may disclose PHI, if in good faith, it believes that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person

or the public. Pottawattamie County may also disclose PHI if it is necessary for law enforcement authorities to identify or apprehend an individual.

11) SPECIALIZED GOVERNMENT FUNCTIONS 45 C.F.R. §164.512(k)

a) *Military and Veterans Activities*

Pottawattamie County may disclose PHI of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities. Pottawattamie County may disclose PHI of an individual who is foreign military personnel to foreign military authority.

b) *National Security and Intelligence Activities*

Pottawattamie County may disclose PHI to authorized federal officials for conducting national security and intelligence activities, including for the provision of protective services to the President or others legally authorized.

c) *Correctional Institutions and Other Law Enforcement Custodial Situations*

Pottawattamie County may disclose to a correctional institution or law enforcement official PHI for the purposes of providing health care; for the purpose of health and safety of an individual, other inmates or correctional employees; for the purpose of law enforcement on the premises of the correctional institution or for the administration and maintenance of safety, security and other good order of the correctional institution.

d) *Government Entities Providing Public Benefits*

Pottawattamie County as a health plan may disclose PHI relating to eligibility for enrollment in the health plan to another agency administering a government program providing public benefits if the sharing of eligibility or enrollment information among such agencies or the maintenance of such information in a single combined data system accessible to all such agencies is required. In addition, Pottawattamie County as a health plan may disclose PHI relating to the program to another covered entity that is a government program providing public benefits if the programs serve the same or similar populations and the disclosure of PHI is necessary to coordinate functions of the programs or improve administration and management.

12) WORKERS' COMPENSATION- 45 C.F.R. §164.512(l)

PHI may be disclosed by Pottawattamie County as authorized to comply with workers' compensation laws and other similar legally established programs.

## **E. Disclosures That Require a Business Associate Contract**

Whenever Pottawattamie County engages a third party to perform or assist in the performance of County activities which may involve the use or disclosure of PHI to such third party, the County will need to enter into a “Business Associates Agreement” with such party. Pottawattamie County may Disclose PHI to a Business Associate, or allow the Business Associate to create or receive PHI on the County’s behalf, if the Business Associate enters into a contract with Pottawattamie County assuring that the Business Associate will appropriately safeguard the PHI.

## **F. Disclosures of Limited Data Sets and De-Identified Data**

Pottawattamie County may use or disclose PHI that meets the definition of a Limited Data Set only if the County enters into a Data Use Agreement with the recipient of the Limited Data Set, and if the recipient will use the Limited Data Set only for research, public health or Health Care Operations. Pottawattamie County may use PHI to create a Limited Data Set, and may disclose PHI to a Business Associate to create a Limited Data Set.

Pottawattamie County may disclose de-identified data without an authorization only after it has been properly de-identified.

Limited Data Sets will be released only to organizations that have signed a Data Use Agreement that satisfies the Privacy Rule requirements set forth in 45 C.F.R. 164.514 (e) (4) (2) and the identifying data has been removed as required in 45 C.F.R. 164.514(e).

If an employee becomes aware of a pattern of activity that constitutes a material breach or violation of a Data Use Agreement, the employee should notify the Security Officer and the Privacy Officer, who will take reasonable steps to cure the breach or end the violation. If these steps are unsuccessful, disclosure of PHI to the Limited Data Set recipient must be discontinued and the violation must be reported to the Secretary of the Department of Health and Human Services (or his/her designee).

## **G. The Minimum Necessary Standard**

The minimum necessary standard applies to all of Pottawattamie County’s uses and disclosures of PHI except:

- 1) Disclosures to or requests by a health care provider when the PHI will be used for treatment purposes;
- 2) Disclosures to the individual who is the subject of the PHI; or
- 3) Uses or disclosures made pursuant to an authorization requested by the individual.
- 4) Disclosures made to the Secretary under HIPAA;
- 5) Uses or disclosures that are required by law under 45 CFR 164.512(a); and
- 6) Uses and disclosures that are required for compliance with the Privacy Rule.



Employees shall follow procedures to ensure that only the minimum amount of PHI necessary to accomplish the specific purpose of a use or disclosure is actually used or disclosed. Employees shall request only the minimum amount of PHI necessary to accomplish the specific purpose of the request.

#### **H. Other Permitted Uses and Disclosures**

Pottawattamie County may also use or disclose PHI as follows:

- 1) Pottawattamie County may disclose PHI to the subject of the PHI;
- 2) Pottawattamie County may use or disclose PHI incident to a use or disclosure permitted or required by the Privacy Rule, provided that the County has complied with the minimum necessary requirements and enacted reasonable safeguards to prevent the intentional or unintentional use or disclosure of PHI that is not in compliance with the Privacy Rule.

#### **I. Mental Health Information and Other Situations for Which Iowa Law Provides Greater Protection for Data**

Pottawattamie County shall not disclose mental health information except as set out in this policy and in compliance with Iowa Code Chapter 228 regarding the disclosure of mental health information. Other areas requiring additional protection under Iowa law include information regarding chemical or substance abuse and information related to HIV/Acquired Immune Deficiency Syndrome.

# IOWA LAWS REQUIRING GREATER PROTECTIONS POLICY

## I. POLICY

HIPAA is meant to be comprehensive and uniform throughout the United States. However, HIPAA does not repeal (or “preempt”) any state laws that are not contrary to the provisions of HIPAA, which:

- A. Are related to the privacy of individually identifiable health information that are more stringent than HIPAA;
- B. Provide for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention;
- C. Require a health plan to report, or to provide access to, information for the purpose of management audits, financial audits, program monitoring and evaluation, or the licensure or certification of facilities or individuals; or
- D. Are approved based upon a determination of the Secretary of the Department of Health and Human Services (or his/her designee).

## REFERENCES/CROSS-REFERENCES

- 45 C.F.R. §160.203
- Iowa Code Chapter 228
- Iowa Code Chapter 125
- 42 U.S.C. 290dd-2
- 42 C.F.R. Part 2
- Iowa Code Chapter 141A

## II. REQUIREMENTS AND EXPLANATION

### A. Mental Health Information Iowa Chapter 228

#### 1) Definitions:

- a) Mental Health Information is defined as oral, written, or recorded information which indicates the identity of an individual receiving professional services and which relates to the diagnosis, course, or treatment of the individual’s mental or emotional condition.
- b) Professional services means diagnostic or treatment services for a mental or emotional condition provided by the mental health professional.

- 2) Pottawattamie County shall not disclose mental health information except as set out in this policy and in compliance with Iowa law regarding the disclosure of mental health information.
- 3) In addition to the HIPAA rules governing the disclosure of PHI, the following rules apply to disclosures of mental health information:

- a) Voluntary Authorization

An individual eighteen (18) years of age or older, or an individual's legal representative, may consent to the disclosure of mental health information relating to the individual by signing a voluntary authorization form.

- i. The authorization form shall:

- 1) Specify the nature of the mental health information to be disclosed;
- 2) State the persons or type of persons authorized to disclose the information;
- 3) State the purposes for which the information may be used both at the time of the disclosure and in the future;
- 4) Advise the individual of the individual's right to inspect the disclosed mental health information at any time;
- 5) State that the authorization is subject to revocation and state the conditions of revocation;
- 6) Specify the length of time for which the authorization is valid; and
- 7) Contain the date on which the authorization was signed.

- ii. A copy of the authorization shall be provided to the individual or to the legal representative of the individual authorizing the disclosure, and must be included in the individual's record of mental health information.

- iii. An individual or an individual's legal representative may revoke a prior authorization by providing a written revocation to the recipient named in the authorization and to the individual/entity previously authorized to disclose the mental health information. The revocation is effective upon receipt of the written revocation by the person previously authorized to disclose the mental health information. After the effective revocation date, mental health information shall not be disclosed pursuant to the revoked authorization. However, mental health information previously disclosed pursuant to the revoked authorization may be used for the purposes stated in the original written authorization.

b) Disclosures in the Event of Medical Emergency or for Medical or Mental Health Professional Services

- i. A recipient of mental health information shall not disclose the information received, except as specifically authorized for initial disclosure. However, mental health information may be transferred at any time to another facility, physician, or mental health professional in cases of a medical emergency or if the individual or the individual's legal representative requests the transfer in writing for the purposes of receipt of medical or mental health professional services, at which time the requirements of this policy regarding the disclosure of mental health information shall be followed.

c) Disclosures to Providers of Professional Services and Administrative Disclosures

- i. An individual shall be informed that mental health information relating to the individual may be disclosed to employees or agents of the, or for the same, mental health facility, or to other providers of professional services or their employees or agents if, and to the extent necessary, to facilitate the provision of administrative and professional services to the individual.
- ii. Mental health professionals or facilities may disclose administrative information necessary for the collection of fees, to a person or agency providing collection services, as well as additional information in civil litigation related to the collection when necessary to respond to a motion by the individual for greater specificity or to dispute a defense or counterclaim.
- iii. Mental health professionals or facilities may disclose mental health information if necessary for the purpose of conducting scientific and data research, management audits, or program evaluations of the mental health professional or facility, only to persons who have demonstrated and provided written assurance of their ability to ensure compliance with Iowa Code Chapter 228.
- iv. Mental health information may be disclosed to other providers of professional services or their employees or agents if and to the extent necessary to facilitate the provision of administrative and professional services to the individual.

d) Compulsory Disclosures

- i. Iowa Code §228.6 includes a number of situations in which mental health professionals or facilities may disclose mental health information in order to meet certain requirements under Iowa laws, or to meet the compulsory reporting or disclosure requirements of other state or federal laws relating to the protection of human health and safety.

e) Disclosures for Claims Administration and Peer Review

- i. Mental health information may be disclosed by a mental health professional, data collector, mental health facility to a third party payor or to a peer review organization if:
  - 1) The individual or legal representative has given prior written consent; and
  - 2) The third party payor or the peer review organization has filed a written statement with the Iowa Commissioner of Insurance in which the filer agrees to certain conditions. Note that self-insured employers that have not filed such statement shall not be granted routine or ongoing access to mental health information unless the employees or agents have signed a statement indicating that they are aware that the information shall not be used or disclosed except as provided under Iowa law and that they are aware of the penalty for unauthorized disclosure.
- ii. Third party payors and peer review organizations shall not use or disclose mental health information to any person, except as necessary to administer claims submitted or to be submitted for payment to the third party payor, to conduct a utilization and quality control review of mental health care services, to conduct an audit of claims paid, or as otherwise authorized by law.

f) Disclosures to Family Members

- i. A mental health professional or facility may disclose mental health information to the spouse, parent, adult child, or adult sibling of an individual who has a chronic mental illness if all of the following conditions are met:
  - 1) The disclosure is necessary to assist in the provision of care or monitoring of the individual's treatment;
  - 2) The spouse, parent, adult child, or adult sibling is directly involved in providing care to or monitoring the treatment of the individual; and

- 3) The involvement of the spouse, parent, adult child, or adult sibling is verified by the individual's attending physician, attending mental health professional, or a person other than the spouse, parent, adult child, or adult sibling who is responsible for providing treatment to the individual.
- ii. A request for mental health information by a person authorized to receive such information under this section shall be in writing, except in an emergency as determined by the mental health professional verifying the involvement of the spouse, parent, adult child, or adult sibling.
  - iii. Unless the individual has been adjudged incompetent, the person verifying the involvement of the spouse, parent, adult child, or adult sibling shall notify the individual of the disclosure.
  - iv. The mental health information that can be disclosed under this section is limited to the following:
    - 1) A summary of the individual's diagnosis and prognosis;
    - 2) A listing of the medication which the individual has received and is receiving and the individual's record of compliance in taking medication prescribed in the previous six (6) months; and
    - 3) A description of the individual's treatment plan.
- g) Disclosures of Psychological Test Material
- i. Unless otherwise permitted under Iowa Code Chapter 228, a person in possession of psychological test material shall not disclose the test material to any other person, including in any administrative, judicial or legislative proceeding. However, in accordance with HIPAA, the individual who is the subject of the test material has a right to access the material. Also, if the individual so requests in writing and completes a written authorization, all records associated with a psychological test of the individual shall be disclosed to a psychologist licensed under Iowa Code §154B who is designated by the Individual.
- h) Record of Disclosures
- Upon the disclosure of mental health information, the person disclosing the mental health information shall enter a notation on and maintain the notation with the individual's record of mental health information, stating the date of the disclosure and the name of the recipient of the mental health information.
- i) Statements to Recipients
- Further, the person disclosing mental health information shall give the recipient of the information a statement which informs the recipient that

disclosures may only be made pursuant to the written authorization of an individual or an individual's legal representative, or as otherwise provided under state and federal law, that the unauthorized disclosure of mental health information is unlawful, and that civil damages and criminal penalties may be applicable to the unauthorized disclosure of mental health information.

## **B. Chemical or Substance Abuse, Iowa Code Chapter 125**

- 1) Records of the identity, diagnosis, prognosis, or treatment of a person which are maintained in connection with the provision of substance abuse treatment services are confidential under Iowa law. Further, under federal law, 42 U.S.C. 290dd-2 and 42 C.F.R. Part 2, there are additional restrictions on disclosures of drug abuse information obtained by a federally assisted drug abuse program, that must be followed by third party payors with regard to records disclosed to them by federally assisted alcohol or drug abuse programs, entities having direct administrative control over such programs, and persons who receive patient records directly from such programs who are notified of the restrictions on re-disclosure of the records. These federal laws should be reviewed carefully to determine if and how they apply in each circumstance involving patient records regarding drug or alcohol abuse treatment.
- 2) A physician or any person acting under the direction or supervision of a physician, or a facility (as defined under Iowa Code §125.2) shall not report or disclose to any law enforcement officer or agency, the name of an individual who has applied for voluntary treatment or rehabilitation services for substance abuse, or the fact that the treatment was requested or undertaken, nor shall such information be admissible as evidence in any court, grand jury or administrative proceeding unless authorized by the individual seeking treatment.
- 3) Further, if a minor personally makes application seeking such treatment, the fact that the minor sought treatment or rehabilitation or is receiving treatment or rehabilitation services shall not be reported or disclosed to the parents or legal guardian of such minor without the minor's consent.
- 4) *Notice to accompany disclosure.*

Each disclosure made with written consent must be accompanied by the following written statement: "This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient."

**C. HIV/Acquired Immune Deficiency Syndrome, Iowa Code Chapter 141A**

- 1) Information related to HIV or AIDS tests, including reports and records obtained, submitted or maintained pursuant to Iowa Code Chapter 141A is strictly confidential medical information and shall not be disclosed except as provided under Iowa Code Chapter 141A.
- 2) Iowa Code Chapter 141A includes numerous provisions addressing when, and under what circumstances, HIV/AIDS information can be disclosed. Confidential information disclosed pursuant to Iowa Code Chapter 141A should include a notice to the recipient that the recipient must continue to maintain the confidentiality of the information and that the recipient must not further disclose the information without a specific authorization of the individual or as otherwise permitted by law. A general authorization for the release of HIV/AIDS information is NOT sufficient, thus any authorization form must include an opportunity for the individual to specifically authorize the release of such information.



# ACCESSING PHI POLICY

## I. POLICY

Pottawattamie County shall maintain written policies and procedures to ensure that individuals who wish to access their PHI will be able to do so pursuant to the standards set forth in 45 C.F.R. §164.524.

**REFERENCE-** 45 C.F.R. §164.524

## II. PROCEDURE

### A. General Rule

Under the Privacy Rule, individuals may request access to their PHI located in county records and the county, for the most part, is obligated to accommodate the request, including records maintained electronically. This access may be in various forms, including allowing the individual to inspect and/or obtain a copy of the PHI held by Pottawattamie County, including electronic copies if possible. In certain situations, individuals are not entitled to have access to their PHI. If the request for access is denied, an individual may be entitled to a review of that denial.

### B. Processing Requests

All requests for PHI access shall be forwarded to the Privacy Officer for approval. Requests shall be forwarded to the Privacy Officer within forty-eight (48) hours of receipt, or within twenty-four (24) hours following a weekend or holiday.

### C. Response Time for Request for Access

#### 1) *Respond Within Thirty (30) Days*

Upon receipt of the request to access PHI, Pottawattamie County will, within thirty (30) days:

- a) inform the individual of the acceptance of the request to provide access and provide the access requested; or
- b) provide the individual with a written denial.

#### 2) *One Thirty-Day Extension*

In certain circumstances, Pottawattamie County may extend the time required to respond to the request by an additional thirty (30) days as long as:

- a) Pottawattamie County, within thirty (30) days, provides the individual with a written statement of the reasons for the delay and the date by which Pottawattamie County will complete its action on the request; and

- b) Pottawattamie County may only have one (1) such delay per request. This delay should be the exception and not the rule, however, and the reason for delay in responding to the request for access must be documented and retained by Pottawattamie County.

#### **D. Approving Request for Access**

- 1) All access approvals shall be completed by the Privacy Officer unless specified otherwise by department, office or program policy.
- 2) Access will be provided in the form or format requested if available and in compliance with 45 C.F. R 164.524 (c) (2).

#### **E. Denying Request for Access**

- 1) Pottawattamie County may deny the individual's request for access in certain situations, some of which will trigger the right to have the denial reviewed, in accordance with the standards set forth in 45 C.F.R. § 164.524 (a).
- 2) Response to the Individual in the Event of a Decision to Deny Access

- a) *Written Notice of Denial*

If an access request is denied, the County will provide a timely written denial to the individual. The denial shall be written in plain language and shall include:

- (i) the basis for the denial;
- (ii) if applicable, the statement of the individual's right to have the denial reviewed, including a description of how the individual can exercise these rights; and
- (iii) a description of how the individual may file a complaint to the Secretary of the Department of Health and Human Services, including the name or title and telephone number of the contact person.

- b) *Procedure and Grounds for Review*

If access is denied and the individual has grounds for review, the individual has the right to have a denial reviewed by a licensed health care professional who is designated by Pottawattamie County to act as a reviewing official and who did not participate in the original decision to deny access as described in 45 CFR § 164.524 (d) (4).

#### **F. Fees**

Pottawattamie County may assess a fee to the individual for the costs associated with granting access to the requested PHI. Fees shall be reasonable and based on cost pursuant to the criteria set forth in 45 CFR § 164.524 (c) (4).

## **G. Documentation and Record Retention Requirements**

### 1) *Forms*

Pottawattamie County shall retain a copy of the signed request to access PHI form for a period of six (6) years.

### 2) *Responses to Requests*

If a request for access to PHI is granted, Pottawattamie County will maintain a copy of the material sent to the individual and/or any third party in response to the request for access. If a request for access is denied, Pottawattamie County will maintain a copy of the written notice of denial, the individual's statement of disagreement and Pottawattamie County's rebuttal, if applicable. All documentation required under this section must be retained for a period of at least six (6) years.

# **MAINTENANCE OF PRIVACY POLICIES & PROCEDURES**

## **I. POLICY**

Pottawattamie County is committed to ensuring the privacy and security of individuals' PHI and appropriately documenting the various policies, procedures and other administrative requirements of HIPAA.

**REFERENCES-** 45 C.F. R. §164.530(i) and (j)

## **II. PROCEDURE**

### **A. Administrative Requirements under the Privacy Rule**

The Privacy Rule requires Pottawattamie County to develop and implement policies and procedures related to PHI that are designed to comply with the standards under the Privacy Rule, as from time to time amended. Pottawattamie County must maintain documentation, in written or electronic form, of policies, procedures, communications and other administrative documents as required by the Privacy Rule, for a period of at least six (6) years from the date of creation or the date when last in effect, whichever is later.

### **B. Changes to Policies, Procedures or Other Administrative Documents**

If a policy, procedure or other administrative document is changed as a result in a change in practice or a change in law, the changes shall be documented and implemented as soon as is reasonably practicable. Pottawattamie County will promptly incorporate into its policies, procedures and other administrative documents any and all changes in the Privacy Rule and other federal, state and/or local laws that relate to the use and/or disclosure of PHI.

### **C. Specifics of Requirements Related to Documentation**

Pottawattamie County will maintain the following documentation. in an organized manner:

- 1) Requests for use or disclosure of PHI, including individual requests for access, amendment and accounting, whether made by the individual who is the subject of the PHI or third parties;
- 2) Originals or signed copies of agreements with Business Associates referring to the use or disclosure of PHI;

- 3) Pottawattamie County's policies, procedures, and protocols required by the Privacy Rule, including policies related to the use and disclosure of PHI; and
- 4) Forms related to the use or disclosure of PHI, including but not limited to the following forms:
  - a) Authorization to use or disclose PHI;
  - b) Request to access PHI;
  - c) Request to amend PHI;
  - d) Request for an Accounting of PHI Disclosures;
  - e) Complaint Form; and
  - f) Notice of Privacy Practices and any changes made thereto.

**D. Security of Documentation**

Documentation shall be maintained in a secure manner, with access appropriately limited to those employees authorized to access the documentation.

# ACCOUNTING OF DISCLOSURES

## I. POLICY

Pottawattamie County shall maintain written policies and procedures to ensure that there is a process for individuals to request an accounting of the uses and disclosures of their PHI that have been made by Pottawattamie County.

### REFERENCES/CROSS-REFERENCES

- 45 C.F.R §164.528
- Section 13405(c) of HITECH

## II. PROCEDURE

### A. Right to an Accounting

An individual has the right to receive an accounting of disclosures of PHI made by Pottawattamie County regarding that individual for the six (6) years prior to the date on which the accounting was requested, except for disclosures:

- 1) To carry out treatment, payment and health care operations (except, if and when required by HITECH);
- 2) To individuals of PHI about them;
- 3) Incident to a use or disclosure otherwise permitted;
- 4) Pursuant to an authorization;
- 5) For national security;
- 6) To correctional institutions or law enforcement officials;
- 7) As part of a limited data set; or
- 8) If it occurred prior to the compliance date for Pottawattamie County.

Pottawattamie County shall temporarily suspend an individual's right to receive an accounting of disclosures to a health oversight agency or law enforcement official, at the request of a health oversight agency or law enforcement official, if Pottawattamie County is provided a written statement that such accounting would be reasonably likely to impede the agency's action. In addition, the agency must also state a time for which the suspension is required. If the statement is given orally, Pottawattamie County shall document the statement including the agency's or official's identity and the suspension cannot be longer than thirty (30) days.

## **B. Content of an Accounting**

Pottawattamie County shall provide the individual with a written accounting that includes the disclosures of PHI that occurred during the past six (6) years (or shorter period if requested by the individual) prior to the date of the request for accounting, including disclosures to or by business associates of Pottawattamie County. The accounting shall include the following for each disclosure:

- 1) Date of the disclosure;
- 2) Name of the entity or person who received the PHI and, if known, the address of such entity or person;
- 3) Brief description of the PHI disclosed; and
- 4) Brief statement of the purpose of the disclosure that reasonably informs the individual the reason for the disclosure or, in lieu of such statement, a copy of a written request for the disclosure.

If, during the period covered by the accounting, Pottawattamie County has made multiple disclosures of PHI to the same person or entity for a single purpose, the accounting may, with respect to such multiple disclosures, provide the information listed above for the first disclosure. In addition, Pottawattamie County shall provide the frequency, periodicity or number of disclosures made during the accounting period and the date of the last such disclosure during the accounting period.

## **C. Provision of the Accounting**

Accounting requests shall be processed by the Security Officer and the Privacy Officer. Pottawattamie County shall act on the individual's request for an accounting, no later than sixty (60) days after the request is made, as follows:

- 1) Provide the individual with an accounting; or
- 2) If Pottawattamie County is unable to provide the accounting within the sixty (60) days, the time to provide the accounting can be extended by no more than thirty (30) days if the individual is provided with a written statement with the reason for the delay and the date by which Pottawattamie County shall provide the accounting. Pottawattamie County may only have one (1) extension per request for accounting.

The first accounting to an individual for any twelve (12) month period shall be provided without charge. Pottawattamie County may impose a reasonable, cost-based, fee for subsequent requests for an accounting by the same individual within the same (12) month period, provided that the individual is informed in advance of the fee and the individual is provided an opportunity to withdraw or modify the request.

#### **D. Electronic Health Records**

If and to the extent Pottawattamie County uses or maintains an Electronic Health Record, as that term is defined in § 13400 of HITECH, with respect to PHI, Pottawattamie County shall respond to requests from individuals for an accounting of disclosures as described in § 13405(c) of HITECH if, and when required by §13405(c).

#### **E. Form of Request**

Pottawattamie County requires individuals to direct requests for an accounting of PHI to the Privacy Officer. The employee receiving the request for an accounting of PHI shall request that the individual complete a “Request for an Accounting of PHI Disclosures” form. The form shall then be forwarded to the Privacy Officer for processing.

#### **F. Documentation**

Pottawattamie County shall document and retain the documentation that includes the written accounting provided to the individual and the titles of the person or offices responsible for receiving and processing requests for an accounting. The Privacy Officer shall maintain a log of all accounting requests made to Pottawattamie County.



## **AMENDING PHI**

### **I. POLICY**

Pottawattamie County will maintain written policies and procedures to provide guidance when faced with a request by an individual to amend his or her PHI.

**REFERENCE-** 45 C.F. R. §164.526

### **II. PROCEDURE**

#### **A. General Rule**

An individual has the right to request that Pottawattamie County amend PHI that is contained in their county designated record set , for as long as the PHI is maintained by Pottawattamie County. Pottawattamie County has the right under certain circumstances to deny a request for amendment.

#### **B. Form of Request**

Employees shall require individuals to direct requests for amendment of their PHI to the Privacy Officer. The individual shall be required to complete the “Request to Amend PHI” form. The Privacy Officer will make the determination as to granting or denying the request.

#### **C. Accepting an Individual’s Request for Amendment**

If Pottawattamie County has no grounds to deny the individual’s request for amendment, the County must complete the following:

- 1) Make the appropriate amendment to the individual’s PHI or record. Pottawattamie County should, at a minimum, identify records that are affected by the amendment and append or otherwise provide a link to the location of the amendment.
- 2) Inform the individual on a timely basis that the amendment is accepted and obtain the individual’s authorization to have Pottawattamie County notify the relevant persons with whom the amendment needs to be shared.
- 3) Make reasonable efforts to inform and provide the amendment within reasonable time to:
  - a) Persons identified by the individual as having received PHI and needing the amendment; and

- b) Persons, including business associates, that have the un-amended information and may have relied, or might rely in the future, on the information to the detriment of the Individual.

#### **D. Denying an Individual's Request for Amendment**

An individual's request for an amendment to his or her PHI held by Pottawattamie County may be denied under the following circumstances..

##### *1) Permissible Reasons for Denial*

Pottawattamie County may deny a request for amendment only for the following reasons:

- a) The PHI was not created by Pottawattamie County unless the individual provides a reasonable basis to believe that the originator of the PHI is no longer available to act on the requested amendment;
- b) The PHI is not part of the individual's designated record set;
- c) The PHI would not be available for inspection under Pottawattamie County's policy regarding the individual's right to access records; or
- d) The PHI is complete and accurate.

##### *2) Denial Procedures*

If Pottawattamie County denies the requested amendment, in whole or in part, the County must take the following steps.

- a) Pottawattamie County must provide the individual with a valid, written denial that explains:
  - i. The basis for the denial;
  - ii. How the individual may file a written statement disagreeing with the denial;
  - iii. The individual's option with respect to future disclosures of the disputed information; and
  - iv. How the individual may make a complaint to the Secretary of the Department of Health and Human Services.
- b) Pottawattamie County must permit the individual to submit a written statement disagreeing with the denial and the basis for the disagreement.
- c) Pottawattamie County may prepare a written rebuttal to the individual's statement of disagreement. If Pottawattamie County prepares a rebuttal, it must provide a copy to the individual.
- d) Pottawattamie County must identify, as appropriate, the information in the individual's record that is the subject of the disputed amendment and append or otherwise link to this information the request for an amendment,

Pottawattamie County's denial of this request, the individual's statement of disagreement, and Pottawattamie County's rebuttal to the information.

- e) Pottawattamie County must adhere to the following guidelines if it makes future disclosures of the individual's disputed PHI:
  - i. If the individual has submitted a statement of disagreement, Pottawattamie County must include either the material appended to the record, or an accurate summary of it, with any subsequent disclosure of the PHI to which the disagreement relates.
  - ii. If the individual has not submitted a written statement of disagreement, Pottawattamie County has to include the appended information with any subsequent disclosure only if the individual has requested that Pottawattamie County do so.

#### **E. Receiving a Notice of Amendment from Other Health Care Providers or Health Plans**

Other health care providers or health plans may contact Pottawattamie County to inform the County that they have made amendments to an individual's PHI. When Pottawattamie County is informed by another health care provider or health plan of an amendment to an individual's PHI, the County must make necessary amendments to the PHI in its records. The notice of amendment should be retained by Pottawattamie County, with a copy forwarded to the Privacy Officer.

#### **F. Time Period for Acting on Requests- 60 Days**

Pottawattamie County must act on an individual's request for an amendment within sixty (60) days of the receipt of the request, including making the requested amendment or sending a written denial. When a request for amendment is received by Pottawattamie County, that request must be forwarded immediately to the Privacy Officer. If Pottawattamie County is unable to act on the request for amendment within sixty (60) days, the Privacy Officer shall notify the individual, within the initial sixty (60) day time period, that it is extending the time for response by an additional thirty (30) days, and will provide the individual with a written statement of the reasons for the delay and the date by which the County will complete its action on the request. Pottawattamie County can only have one (1) such extension per amendment request.

# REQUESTS FOR PRIVACY PROTECTION FOR PHI POLICY

## I. POLICY

Pottawattamie County is committed to ensuring the confidentiality of PHI, and ensuring the rights of individuals under HIPAA to request restrictions of uses and disclosures of their PHI and requests to receive communications of PHI by alternative means or at alternative locations.

**REFERENCE-** 45 C.F.R. §164.522

## II. PROCEDURE

### A. Requesting Restrictions

Pottawattamie County shall allow an individual to request that the County restrict:

- 1) Uses and disclosures of PHI about the individual to carry out treatment, payment or health care operations; and
- 2) Disclosures made to family members or others pursuant to 45 C.F.R. §164.510 under which Pottawattamie County can generally disclose PHI to family members or others who are involved in the individual's care or payment for care.

### B. Pottawattamie County's Response to Requests for Restriction

#### 1) General Rule

Except as set forth below, Pottawattamie County is not required to agree to the requested restriction.

#### 2) Voluntary Agreement to a Restriction

If Pottawattamie County agrees to restrict PHI, the County shall not use or disclose PHI in violation of such restriction, except if the restricted information is needed in an emergency situation. If restricted information is disclosed during an emergency situation, Pottawattamie County shall request that the health care provider not further use or disclose the restricted information. Pottawattamie County may not agree to a restriction on disclosure of PHI if the HIPAA privacy provisions require the disclosure.

#### 3) Mandatory Agreement to a Restriction

Pottawattamie County must agree to the request of an individual to restrict disclosures of such individual's PHI, if the disclosure is to a health plan for purposes of carrying out payment or healthcare operations (and is not for treatment purposes), and the PHI pertains solely to a healthcare item or service for which the County was paid out of pocket in full.

### **C. Terminating a Restriction**

Pottawattamie County may terminate its agreement to a restriction, if:

- 1) The individual agrees to or requests the termination in writing;
- 2) The individual orally agrees to the termination and the oral agreement is documented; or
- 3) Pottawattamie County informs the individual that it is terminating its agreement to a restriction, except that such termination is only effective with respect to PHI created or received after it has so informed the individual, and the termination is not effective with respect to PHI that Pottawattamie County is mandated to agree to restrict upon the individual's request, as set out in this policy, above.

### **D. Confidential Communications**

- 1) A Pottawattamie County department, program or office that is a health care provider shall permit individuals to request and shall accommodate reasonable requests by individuals to receive communications of PHI from the County by alternate means or at alternate locations. Pottawattamie County cannot require an explanation from the individual as to the reason for the request as a condition of providing communications on a confidential basis. The determination regarding whether to grant the request for accommodation shall be made by the Privacy Officer.
- 2) A Pottawattamie County department, program or office that is a health plan shall permit individuals to request and shall accommodate reasonable requests by individuals to receive communications of PHI by alternate means and at alternate locations, if the individual clearly states that the disclosure of all or part of that information could endanger the individual. The determination regarding whether to grant the request for accommodation shall be made by the Privacy Officer.
- 3) Conditions on Providing Confidential Communications:
  - a) Pottawattamie County may require an individual to make a request for a confidential communication in writing.
  - b) Pottawattamie County may condition the provision of a reasonable accommodation on:
    - i. When appropriate, information on how payment, if any, will be handled; and
    - ii. Specification of an alternate address or other method of contact.

# **AUTHORIZATIONS POLICY**

## **I. POLICY**

Pottawattamie County requires an “Authorization to Release” form be completed for all uses and disclosures of PHI, other than those required by law, for treatment, payment and health care operations, or as otherwise permitted without an authorization, except for disclosure that are prohibited under law.

For any disclosures of mental health information, or other information that is provided greater protection under Iowa law, Pottawattamie County requires that specific processes be followed in order to comply Iowa laws that are more restrictive than HIPAA.

### **REFERENCES/CROSS-REFERENCES**

- 45 C.F.R. §164.502(a)
- 45 C.F.R. §164.508
- Iowa Code §228.2
- Iowa Laws Providing Greater Protection Disclosures Policy
- Overview: Handling Uses and Disclosures of Protected Health Information
- Family, Friend Involvement/Personal Representatives and Deceased Individual Policy
- Health Oversight Uses and Disclosures Policy
- Judicial and Administrative Purposes Disclosures Policy
- Law Enforcement Disclosures Policy
- Limited Data Set Policy
- Minimum Necessary Policy
- Required By Law Disclosures Policy
- Research Disclosures Policy
- Averting Serious Threat Disclosures Policy
- Specialized Government Functions Use and Disclosures Policy

## **II. PROCEDURE**

### **A. General Rule for Uses and Disclosures of PHI that is NOT Mental Health Information (as defined under Iowa Law)**

Pottawattamie County shall obtain a signed authorization form from all individuals before using or disclosing PHI for purposes other than treatment, payment or health care operations or unless the use or disclosure is otherwise permitted, required or prohibited under HIPAA or the County's privacy policies and procedures.

### **B. General Rule for Uses and Disclosures of Mental Health Information (as defined under Iowa Law)**

Mental Health Information is defined as oral, written, or recorded information which indicates the identity of an individual receiving professional services and which relates to the diagnosis, course, or treatment of the individual's mental or emotional condition. Pottawattamie County shall not disclose mental health information except as set out in this policy and in compliance with Iowa law regarding the disclosure of mental health information.

### **C. Restriction on Conditioning Treatment on Authorization**

Pottawattamie County will not condition treatment, payment or enrollment in the health plan, or eligibility for benefits, if applicable, on the provision of an authorization except that the County may condition enrollment or eligibility for benefits on the provision of an authorization requested by the County prior to the individual's enrollment in the health plan:

- 1) If the authorization is sought for the eligibility or enrollment determinations relating to the Individual; or
- 2) For its underwriting or risk rating determinations, and
- 3) The authorization is not for a use or disclosure of psychotherapy notes.

### **D. Authorization Rules Related to Psychotherapy Notes**

Prior to any use or disclosure of psychotherapy notes, including for treatment, payment or health care operations, Pottawattamie County shall obtain an authorization from the individual, except if the use or disclosure is for:

- 1) The following uses to carry out treatment, payment or health care operations:
  - a) The treatment activities of the originator of the psychotherapy notes;

- b) Pottawattamie County's own training programs in which mental health students, trainees or practitioners practice, under supervision, their skills in counseling; or
  - c) Pottawattamie County's defense in a legal action or other proceeding brought by the individual.
- 2) A use or disclosure of psychotherapy notes that is required or permitted under HIPAA and applicable state law.

An authorization for a use or disclosure of psychotherapy notes may not be combined with another authorization for the disclosure of other PHI, but may be combined with another authorization for a use or disclosure of the same individual's psychotherapy notes.

#### **E. Circumstances Under Which No Authorization is Required**

With the exception of mental health information and other information that is afforded greater protection under Iowa law, Pottawattamie County is not required to obtain authorization for the following purposes:

- 1) To carry out treatment, payment or health care operations;
- 2) Uses and disclosures required by law;
- 3) Uses and disclosures for public health activities;
- 4) Disclosures about victims of abuse, neglect or domestic violence;
- 5) Uses and disclosures for health oversight activities;
- 6) Disclosures for judicial and administrative proceedings;
- 7) Disclosures for law enforcement purposes;
- 8) Disclosing PHI about decedents;
- 9) Uses and disclosures for cadaveric organ, eye or tissue donation purposes;
- 10) Uses and disclosures for research purposes;
- 11) Uses and disclosures to avert a serious threat to health or safety;
- 12) Uses and disclosures for specialized government functions; and
- 13) Disclosures for workers' compensation purposes.

Iowa's Mental Health Privacy Law is very restrictive regarding disclosures of mental health information without a signed voluntary authorization from the individual or the individual's legal representative. Employees are required to contact the Privacy Officer any time a request is made to disclose mental health information without a signed authorization form.



## **F. Core Elements for Authorizations**

An authorization will contain the following core elements. Each health care component may use an authorization form specific to that department, program or office as long as the authorization form is approved by the Privacy Officer. (note that a Mental Health Authorization must have additional elements, as listed below):

- 1) Specific and meaningful description of the information to be used or disclosed;
- 2) Name or other specific identification of the person(s) or class of persons, authorized to make the requested use or disclosure;
- 3) Name or other specific identification of the person(s), or class of persons, to whom Pottawattamie County may make the requested use or disclosure;
- 4) A description of each purpose of the requested use or disclosure. The statement “at the request of the individual” is a sufficient description of the purpose when an individual initiates the authorization and does not, or elects not to, provide a statement of the purpose;
- 5) An expiration date or expiration event that relates to the individual for the purpose of the use or disclosure;
- 6) Signature of the individual and date. If the individual’s personal representative signs the authorization, a description of the representative’s authority to act for the individual must be provided.

In addition to the above core elements, the authorization shall also contain the following statements that adequately put the Individual on notice:

- 1) The Individual’s right to revoke the authorization in writing;
- 2) The exceptions to the right to revoke or a reference to Pottawattamie County’s Notice of Privacy Practices;
- 3) The ability of Pottawattamie County to condition treatment, payment, enrollment and/or eligibility for benefits on the authorization by stating the consequences to the individual of a refusal to sign the authorization; and
- 4) The potential for information disclosed to be subject to re-disclosure by the recipient.

Further, the authorization will be written in plain language and a copy of the signed authorization must be given to the individual.

## **G. Additional Elements for Disclosures of Mental Health Information**

The following additional rules apply to disclosures of mental health information:

An individual eighteen (18) years of age or older, or an individual’s legal representative, may consent to the disclosure of mental health information relating to the individual by signing an authorization form. The authorization shall:

- 1) Specify the nature of the mental health information to be disclosed;

- 2) State the persons or type of persons authorized to disclose the information;
- 3) State the purposes for which the information may be used both at the time of the disclosure and in the future;
- 4) Advise the individual of the individual's right to inspect the disclosed mental health information at any time;
- 5) State that the authorization is subject to revocation and state the conditions of revocation;
- 6) Specify the length of time for which the authorization is valid; and
- 7) Contain the date on which the authorization was signed.

A copy of the authorization shall be provided to the individual or to the legal representative of the individual authorizing the disclosure, and must be included in the individual's record of mental health information.

Upon the disclosure of mental health information for any reason, the employee disclosing the mental health information shall enter a notation on and maintain the notation with the individual's record of mental health information, stating the date of the disclosure and the name of the recipient of the mental health information.

Further, the employee disclosing the mental health information shall give the recipient of the information a statement which informs the recipient that disclosures may only be made pursuant to the written authorization of an individual or an individual's legal representative, or as otherwise provided under state and federal law, that the unauthorized disclosure of mental health information is unlawful, and that civil damages and criminal penalties may be applicable to the unauthorized disclosure of mental health information.

A recipient of mental health information shall not disclose the information received, except as specifically authorized for initial disclosure. However, mental health information may be transferred at any time to another facility, physician, or mental health professional in cases of a medical emergency or if the individual or the individual's legal representative requests the transfer in writing for the purposes of receipt of medical or mental health professional services, at which time the requirements of this policy regarding the disclosure of mental health information shall be followed.

An individual or an individual's legal representative may revoke a prior authorization by providing a written revocation to the recipient named in the authorization and to the individual/entity previously authorized to disclose the mental health information. The revocation is effective upon receipt of the written revocation by the person previously authorized to disclose the mental health information. After the effective revocation date, mental health information shall not be disclosed pursuant to the revoked authorization. However, mental health information previously disclosed pursuant to the revoked authorization may be used for the purposes stated in the original written authorization.

## **H. Defective Authorization**

An authorization will not be valid if it passes the expiration date; if it has not been filled out completely; if revoked or if any material information is known by Pottawattamie County to be false. In addition, Pottawattamie County will not combine authorizations for psychotherapy notes with any other document to create a compound authorization.

## **I. Revocation of Authorization**

An individual may revoke an authorization at any time, provided that the revocation is in writing, except, to the extent that:

- 1) Pottawattamie County has taken action in reliance on the authorization, or
- 2) The authorization was a condition of obtaining insurance coverage.

## **J. Record Retention**

Pottawattamie County will document and retain any signed authorization for a period of six (6) years.

# **FAMILY, FRIEND INVOLVEMENT/PERSONAL REPRESENTATIVES & DECEASED INDIVIDUAL POLICY**

## **I. POLICY**

When Pottawattamie County provides services to individuals, employees may receive inquiries from individuals, family members, friends or personal representatives to disclose a particular individual's PHI for various purposes. To comply with the provisions of HIPAA, employees will ensure that appropriate steps are taken to verify the identity and authority of individuals and entities requesting PHI, as required by the Privacy Rule and other federal, state and/or local laws and regulations.

**REFERENCES-** 45 C.F. R. §164.510(b) and §164.502(g)

## **II. PROCEDURE**

### **A. Uses and Disclosures for Involvement in the Individual's Care and Notification Purposes**

Pottawattamie County may disclose to an individual's family member, close personal friend or any other person identified by the individual only the PHI that is directly related to that person's involvement in the individual's care or payment for care. Pottawattamie County may disclose to a family member, a personal representative of the individual, or another person responsible for the care of the individual, PHI to notify or assist in notifying (including identifying or locating) such family, friend or personal representative of the individual's location, general condition, or death.

#### *1) Individual Present and Has Capacity*

If the individual is present for, or otherwise available prior to, a use or disclosure permitted under this section, and has the capacity to make health care decisions, Pottawattamie County may use or disclose the PHI to the individuals described above if Pottawattamie County:

- a) Obtains the individual's agreement;
- b) Provides the individual with an opportunity to object and the individual does not express an objection to the disclosure; or
- c) Reasonably infers from the circumstances, based on the exercise of professional judgement, the individual does not object to the disclosure.

#### *2) Individual Not Present or Lacks Capacity*

If the individual is not present or the individual lacks capacity to consent (due to an emergency condition or otherwise), Pottawattamie County may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the individual, and, if so, disclose only the PHI that is directly relevant to the

person's involvement with the individual's care or payment related to the individual's care or needed for notification purposes. Pottawattamie County may use professional judgment and its experience with common practice to make reasonable inferences of the individual's best interests in allowing a person to act on behalf of the individual to pick up certain medical records or discuss billing or payment matters.

3) *Deceased Individual*

If the individual is deceased, Pottawattamie County may disclose to the persons identified above who were involved in the individual's care or payment for health care prior to the individual's death, PHI of the individual that is relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the individual that is known to the County.

4) *Disaster Relief*

Pottawattamie County may use or disclose PHI to a public or private entity authorized by law or by its charter to assist in disaster relief efforts, for the purpose of coordinating with such entities the uses or disclosures permitted under this section.

## **B. Family Members**

With the exception of the circumstances described above, if Pottawattamie County receives an inquiry from a family member regarding an individual's PHI, Pottawattamie County shall inform the family member that the individual must authorize the disclosure. The employee may then forward an authorization form to the individual.

## **C. Personal Representatives**

1) General Rules

Except as provided in Paragraphs 2 and 3 below, the personal representative of an individual shall have the same rights as the individual and shall be treated as the individual for purposes of Pottawattamie County's policies and procedures and the Privacy Rules.

- a) A person who has authority to make health care related decisions on behalf of another adult or emancipated minor shall be treated as a personal representative of such individual.
- b) An executor, administrator or other person authorized to act on behalf of a deceased individual or the individual's estate shall be treated as a personal representative of such Individual.
- c) If an employee is unsure, to any extent, whether a person is a personal representative of an Individual, the employee shall contact the Privacy Officer for consultation.

2) Abuse, Neglect and Endangerment

Pottawattamie County may elect not to treat a person as a personal representative of an individual if there is a reasonable basis for believing that the individual has been or may be the subject of domestic violence, abuse or neglect by such person or treating such person as the personal representative may endanger the individual. If abuse, neglect or endangerment is suspected, an employee shall immediately consult with the Privacy Officer for a determination as to whether or not to treat the person as a personal representative of the individual.

3) Minor Children

a) Payment purposes

For purposes of payment, the parent, guardian or other person acting in a parental capacity (e.g., foster parent or step-parent) (collectively referred to herein as “parent”) shall be authorized to act and shall be treated as the personal representative of an un-emancipated minor child.

b) All other purposes

For all other purposes, unless applicable state law (including case law) specifically permits or prohibits disclosure to or access by the parent to the PHI of such minor child, a parent shall be authorized to act and shall be treated as the personal representative of an un-emancipated minor child under Pottawattamie County’s policies and procedures, except to the extent that:

- i. The minor has consented to the health care, no other consent is required by law, and the minor has not requested that the parent be treated as a personal representative;
- ii. The minor child may lawfully consent to the health care provided without the consent of a parent and the minor (or a court or other legally authorized person) has provided such consent; or
- iii. The parent consents to an agreement of confidentiality.

For purposes other than payment, an employee shall consult immediately with the Privacy Officer with respect to whether a parent will be treated as the personal representative of an un-emancipated minor.

## **MINIMUM NECESSARY POLICY**

### **I. POLICY**

While Individual information must be available to health care professionals in the process of ensuring proper care or other professional services, employees should avoid disclosing more individual information than needed to perform their respective duties. , Pottawattamie County will ensure that the appropriate steps are taken to disclose only the minimum amount of PHI necessary to accomplish the particular use or disclosure, as required under HIPAA.

#### **REFERENCE/CROSS-REFERENCE**

- 45 C.F.R. §164.502(b)
- 45 C.F.R. §164.514(d)

### **II. PROCEDURE**

A. The minimum necessary standard applies to all of Pottawattamie County's uses and disclosures of PHI except:

- 1) Disclosures to or requests by a health care provider when the PHI will be used for treatment purposes;
- 2) Disclosures to the individual who is the subject of the PHI;
- 3) Uses or disclosures made pursuant to an authorization requested by the individual;
- 4) Disclosures made to the Secretary of the Department of Health and Human Services (or his/her designee) under HIPAA;
- 5) Uses or disclosures that are required by law under 45 CFR 164.512(a); and
- 6) Uses and disclosures that are required for compliance with the Privacy Rule.

Pottawattamie County employees shall follow proper procedures to ensure that only the minimum amount of PHI necessary to accomplish the specific purpose of a use or disclosure is actually used or disclosed. Pottawattamie County employees shall request only the minimum amount of PHI necessary to accomplish the specific purpose of the request.

B. When using or disclosing PHI, or when requesting PHI from another entity, Pottawattamie County must make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request for health information. Pottawattamie County must implement the following requirements after assessing their own unique circumstances. The requirements do

not require limiting PHI use or disclosure to only what is absolutely the minimum necessary amount, but rather to what may reasonably be necessary to accomplish the purpose of the use or disclosure.

1) Access to PHI by Employees

Each department has identified those employees who need access to PHI to carry out their duties. For each employee, the Elected Official or Department Head shall identify the category or categories of PHI to which access is needed, and any appropriate conditions to such access. Each department must make reasonable efforts to limit the access to PHI of such identified employees to the identified categories of PHI.

2) Review of Requests

All proposed uses or disclosures of PHI shall be reviewed by persons having an understanding of Pottawattamie County's privacy policies and practices, and sufficient expertise to understand and weigh the necessary factors.

3) Entire Record

Pottawattamie County shall only use, disclose, or request an entire medical record when the entire medical record is specifically justified as being reasonably necessary to accomplish the purpose of the use, disclosure, or request.

4) Criteria

The following criteria will be used in limiting the amount of PHI requested or disclosed by Pottawattamie County's employees:

*Does the Individual who is requesting (disclosing) the PHI have complete understanding of the purpose for the use or disclosure of the PHI?*

*Are all of the individuals identified for whom the requested use or disclosure of the PHI is required?*

5) Minimum Necessary Disclosure of PHI

- a) For disclosures made on a routine and recurring basis, the Privacy Officer must implement a standard protocol that limits the disclosure to PHI reasonably necessary to achieve the purpose of the disclosure.
- b) For non-routine disclosures, the Privacy Officer must develop criteria for determining and limiting such disclosure to the minimum necessary PHI to accomplish the purpose of the non-routine disclosure. Such disclosures must be reviewed on a case by case basis in accordance with these criteria.



6) Reasonable Reliance

Pottawattamie County may rely on a requested disclosure for PHI as being the minimum necessary for a stated purpose when the request is made by:

- a) A public health official or agency for a disclosure permitted under the Privacy Rule;
- b) Another Covered Entity;
- c) A professional who is an employee or Business Associate of Pottawattamie County holding the PHI; or
- d) A researcher with appropriate documentation from an Institutional Review Board or Privacy Board.

## **HEALTH OVERSIGHT USES & DISCLOSURES POLICY**

### **I. POLICY**

For most disclosures other than in the usual course of treatment, payment, or health care operations, Pottawattamie County must obtain the individual's authorization before using or disclosing the individual's PHI. However, Pottawattamie County may use or disclose PHI without an authorization, for health oversight activities pursuant to the Privacy Rule.

**REFERENCE-** 45 C.F. R. §164.512(d)

### **II. PROCEDURE**

#### **A. Health Oversight Agency**

This means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

#### **B. General Rule Regarding Use or Disclosure of PHI for Purposes Other Than Treatment, Payment or Health Care Operations**

Under the Privacy Rule, Pottawattamie County may not disclose an individual's PHI for purposes other than treatment, payment or health care operations or other permitted uses and disclosures, without obtaining the individual's prior written authorization.

#### **C. Exceptions to General Rule**

In some situations, Pottawattamie County may have an obligation to disclose PHI to a health oversight agency, if the conditions set forth in this Policy are met prior to the use or disclosure. In these circumstances, PHI may be disclosed without obtaining the written authorization of the individual, and without providing the opportunity for the individual to agree or object.

#### **D. General Requirements for Use or Disclosure of PHI to a Health Oversight Agency**

From time to time, a health oversight agency will request PHI from Pottawattamie County. Pottawattamie County may disclose PHI for health oversight activities in accordance with the following guidelines:

- 1) Pottawattamie County may disclose PHI to a health oversight agency for health oversight activities including:
  - a) Audits;
  - b) Civil, administrative or criminal investigations;
  - c) Inspections;
  - d) Licensure or disciplinary actions;
  - e) Civil, administrative or criminal proceedings; or
  - f) Other activities necessary for appropriate oversight of the following:
    - i. The health care system;
    - ii. Government benefit programs for which health information is relevant to beneficiary eligibility;
    - iii. Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; and
    - iv. Entities subject to civil rights laws for which health information is necessary for determining compliance.
- 2) If a health oversight activity or investigation is conducted in conjunction with an oversight or investigation relating to a claim for public benefits unrelated to health, Pottawattamie County considers the joint activity to be a health oversight activity and will disclose PHI.
- 3) Pottawattamie County shall not disclose PHI without an authorization in cases where an individual is the subject of an investigation or other activity, if such investigation or other activity does not arise out of and is not directly related to:
  - a) The receipt of health care;
  - b) A claim for public benefits related to health; or
  - c) Qualification for or receipt of public benefits or services when an individual's health is integral to the claim for public benefits or services.

#### **E. Privacy Officer**

When Pottawattamie County is presented with a request for PHI from a health oversight agency, the employee shall refer the matter to the Privacy Officer. The Privacy Officer will evaluate the proposed use or disclosure. No Pottawattamie County employee may make such a use or disclosure prior to conferring with the

Privacy Officer unless otherwise permitted by department, office or program policy. At times, state law may prohibit such disclosure even though it would otherwise be permitted under HIPAA (e.g., disclosure of mental health information).

**F. Response to a Request for Disclosure from a Health Oversight Agency**

Pottawattamie County employees will confer with the Privacy Officer and shall follow the following guidelines:

- 1) Pottawattamie County employees will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting PHI.
- 2) If the identity and authority of the individual requesting access to PHI cannot be verified, Pottawattamie County employees will refer the issue to the Privacy Officer for immediate action.
- 3) Once the request for access and the verification of the health oversight agency representative's identity and authority have been verified, a decision will be made whether or not the disclosure is appropriate and may be made. Once it is determined that use or disclosure is appropriate, Pottawattamie County employees with appropriate access clearance will access the individual's PHI using proper access procedures.
- 4) The requested PHI will be delivered to the health oversight agency requesting it in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

# JUDICIAL OR ADMINISTRATIVE PURPOSES DISCLOSURES POLICY

## I. POLICY

Pottawattamie County will respond to requests for access to PHI through the judicial or administrative process that meet the statutory requirements for compliance.

**REFERENCES-** 45 C.F.R. §164.512(e)

## II. PROCEDURE

### A. Receipt of a Request for PHI from a Judicial or Administrative Tribunal

In some situations, PHI may be disclosed pursuant to a judicial or administrative process without obtaining written authorization of the individual, or the opportunity for the individual to agree or object. Health care components that routinely receive requests for PHI accompanied by court orders may respond to such requests pursuant to the department specific policies that are approved by the Privacy Officer. When an employee is in receipt of a request for PHI pursuant to a judicial or administrative process that does not meet the criteria set forth in department policies, or who is employed in a health care component that does not have a department specific policy on the issue, the employee must forward the request to the Privacy Officer. The Privacy Officer will evaluate the request, in consultation with legal counsel prior to authorizing any release of PHI.

### B. General Requirements for Judicial and Administrative Release

Pottawattamie County shall comply with all lawful and appropriate requests from regulatory and judicial authorities and disclose PHI necessary to respond to a subpoena, grand jury subpoena, discovery request, or other lawful process, whether or not accompanied by the order of a court or administrative tribunal. Only the information that is responsive to the request may be disclosed.

### C. Response to Request for PHI Pursuant to Subpoena, Discovery Request or Other Lawful Process that is NOT Accompanied by an Order of a Court or Administrative Tribunal

In the event that a subpoena, discovery request or any other legal process is not accompanied by an order of a Court or an Administrative Tribunal, the request must be forwarded to the Privacy Officer. PHI may only be released in such a situation where either of the following has occurred:

- 1) Pottawattamie County has received satisfactory assurances from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the PHI that has been requested has been given notice of the request, and that the notice meets the requirements of 45 C.F.R. §164. 512 (e) (1) (iii).
- 2) Pottawattamie County received satisfactory assurance from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of 45 C.F. R. § 164.512 (e) (1) (iv).

# LAW ENFORCEMENT DISCLOSURES POLICY

## I. POLICY

Pottawattamie County will respond to requests from law enforcement for PHI as long as the requests comply with the requirements set forth in this policy.

**REFERENCE-** 45 C.F.R. §164.512(f)

## II. PROCEDURE

### A. Definition

Law Enforcement Official means an officer or employee or any agency or authority of the United States, a State, a territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by law to investigate or conduct an official inquiry into a potential violation of law; or prosecute or otherwise conduct a criminal, civil or administrative proceeding arising from an alleged violation of law.

### B. Disclosure to Law Enforcement

In some situations, Pottawattamie County may have an obligation to disclose PHI to a law enforcement official, if the conditions set forth in this policy are met prior to the use or disclosure. In these circumstances, PHI may be disclosed without obtaining the written authorization of the individual, and without providing the opportunity for the individual to agree or object.

### C. General Requirements for Use or Disclosure of PHI for Law Enforcement Purposes

From time to time, a law enforcement agency or law enforcement official may request PHI. The Pottawattamie County Attorney's office should be consulted in connection with such a request.

#### 1) *Mandatory Reporting of Wounds or Other Injuries*

Pottawattamie County may disclose PHI as required by law, such as laws that require the reporting of criminal wounds or other physical injuries.

#### 2) *Limited Disclosures*

Pottawattamie County may disclose PHI to a law enforcement official in compliance with and as limited by the provisions set forth in 45 C.F.R. §164.512(f) (1) (ii).

3) *Identification and Location Purposes*

Other than stated in this Policy, Pottawattamie County shall not disclose PHI related to an individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissues in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person. However, employees may disclose the following PHI in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person:

- a) name and address;
- b) date and place of birth;
- c) Social security number;
- d) ABO blood type and Rh factor;
- e) Type of injury;
- f) Date and time of treatment;
- g) Date and time of death, if applicable; and
- h) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars and tattoos.

4) *Crime on the Premises*

Pottawattamie County may disclose to law enforcement officials PHI that the county believes in good faith constitutes evidence of criminal conduct that occurred on the premises of Pottawattamie County.

5) *Reporting Crime in Emergencies*

Pottawattamie County may, in providing emergency health care in response to a medical emergency, other than emergency care provided on the premises of Pottawattamie County, disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

- a) The commission and nature of a crime;
- b) The location of such crime or of the victim(s) of such crime; and
- c) The identity, description, and location of the perpetrator of such crime.

6) *Reporting Regarding Decedents*

Pottawattamie County may disclose PHI about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the County has a suspicion that such death may have resulted from criminal conduct.



## 7) *Reporting Regarding Victims of Crime*

Pottawattamie County may disclose PHI in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime if the individual agrees to the disclosure.

- a) In cases where the individual is suspected to be a victim of a crime and where Pottawattamie County is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, Pottawattamie County will:
  - i. Obtain representation from the requesting law enforcement official that such information is needed to determine whether a violation of law by a person other than the victim occurred and that such information is not intended to be used against the victim;
  - ii. Obtain representation from the law enforcement official that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and
  - iii. In the exercise of professional judgment, make a determination that the disclosure is in the best interest of the individual before disclosing the PHI.

### **D. When Privacy Officer Review Is Required**

When a Pottawattamie County employee is presented with a request for PHI from a law enforcement official, the employee shall forward the request to the Privacy Officer prior to making any such use or disclosure. The Privacy Officer will evaluate the proposed use or disclosure before authorizing any release of PHI. Prior to forwarding a request from law enforcement, employees will verify the identity and authority of the law enforcement official and shall follow the following guidelines:

- 1) Pottawattamie County employees will follow appropriate policies and procedures for verifying the identity and authority of individuals requesting PHI.
- 2) If the identity and authority of the individual requesting access to PHI cannot be verified, the employee will refer the issue to the Privacy Officer for immediate action.
- 3) Once the request for access and the verification of the law enforcement official's identity and authority have been forwarded to the Privacy Officer, a decision will be made whether or not the disclosure is appropriate and may be made.
- 4) The requested PHI will be delivered to the law enforcement official requesting it in a secure and confidential manner such that the information cannot be accessed by employees or other persons who do not have appropriate access clearance to that information.

## **REQUIRED BY LAW DISCLOSURES POLICY**

### **I. POLICY**

Pottawattamie County will comply with requests for disclosures of PHI without an authorization if required by law to do so.

**REFERENCE-** 45 C.F.R. §164.512(a)

### **II. PROCEDURE**

#### **A. Required by Law**

Required by law refers to a mandate contained in the law and enforceable by a court, which compels Pottawattamie County to use or disclose PHI. This includes, but is not limited to, court orders, subpoenas issued by a court, grand jury, or administrative body authorized to require the production of information, and civil or investigative demands.

In some situations, Pottawattamie County may have an obligation to disclose PHI pursuant to a federal, state or local law. PHI may be disclosed when required by one of these laws without obtaining the written authorization of the individual, and without providing the opportunity for the individual to agree or object.

#### **B. General Requirements for Use or Disclosure of PHI When Required By Law**

Pottawattamie County may use or disclose PHI to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

#### **C. Examples of Disclosures Required By Law**

Pottawattamie County may use or disclose PHI to the extent that such use or disclosure is required by law, including, but not limited to:

- 1) For public health activities required by law;
- 2) For disclosures about victims of abuse, neglect, or domestic violence;
- 3) In order to comply with a judicial or an administrative request;
- 4) For health release;
- 5) To avert a serious threat to health or safety; or
- 6) To comply with special government functions or requests.

**D. Privacy Officer Review**

When an employee believes that a use or disclosure of an individual's PHI is required by law, the employee shall refer the matter to the Privacy Officer prior to making any such use or disclosure. The Privacy Officer will evaluate the proposed use or disclosure, in consultation with the County Attorney's office.

**E. Response to Request for Disclosure as Required By Law**

Employees will refer or forward a request for disclosure of an individual's PHI to the Privacy Officer after verifying the identity and authority of the requestor.

## **RESEARCH USES & DISCLOSURES POLICY**

### **I. POLICY**

Pottawattamie County shall comply at all times with the rules governing the use or disclosure of PHI for research purposes. PHI may be used or disclosed for research purposes only if either:

- A. The individual(s) who are the subject of the PHI provide Pottawattamie County with an appropriate authorization for the use or disclosure; or
- B. An Institutional Review Board or Privacy Board has approved a waiver of the need to obtain authorization from the individual(s).

Pottawattamie County employees involved in research must comply with this Policy at all times.

**REFERENCE-** 45 C.F.R. § 164.512(i)

### **II. PROCEDURE**

Prior to entering into any research activities involving the disclosure of PHI, the department head of the health care component involved in the research project shall consult with and receive approval from the Privacy Officer to ensure that all of the relevant requirements of 45 C.F.R. § 164.512(i) regarding use of PHI for research purposes have been addressed prior to the use or disclosure of PHI for research purposes.

# **SPECIALIZED GOVERNMENT FUNCTIONS DISCLOSURES POLICY**

## **I. POLICY**

Pursuant to certain specialized government functions, and subject to the requirements set forth in this Policy, PHI may be disclosed without the authorization of the individual, or the opportunity for the individual to agree or object.

### **REFERENCES/CROSS REFERENCES**

- 45 C.F.R § 164.5 12(k)
- National Security Act, 50 U.S.C. § 401, et seq.
- Executive Order 12333
- 18 U.S.C. § 3056
- 22 U.S.C. § 2709(a)(3)
- 18 U.S.C. § 871
- 18 U.S.C. § 879
- Executive Order 10450
- Executive Order 12968
- Foreign Service Act

## **II. PROCEDURE**

### **A. Public Benefits**

#### **1) Eligibility or Enrollment Information**

Pottawattamie County may disclose PHI relating to eligibility for or enrollment in its health plan to another agency administering a government program providing health benefits if the sharing of eligibility or enrollment information among Pottawattamie County and the other agency or the maintenance of such information in a single combined data system accessible to all such government agencies is required or expressly authorized by a statute or regulation.

#### **2) Same or Similar Populations**

Pottawattamie County may disclose PHI relating to its health benefit program to another Covered Entity that is a government agency administering a government program providing public benefits if the programs serve the same or similar populations and the disclosure of protected health information is necessary to coordinate the covered functions of such programs or to improve administration and management relating to the covered functions of such programs.

## **B. Other Specialized Government Functions**

### 1) Military and Veterans Activities

Pottawattamie County may use and disclose PHI of individuals who are Armed Forces personnel or foreign military personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, if the appropriate military authority has published the following information in the Federal Register: the appropriate military command authorities and the purposes for which the PHI may be used or disclosed.

### 2) National Security and Intelligence

Pottawattamie County may disclose protected health information to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act (50 U.S.C. 401, et seq.) and implementing authority (e.g., Executive Order 12333).

### 3) Protective Services for the President and Others

Pottawattamie County may disclose PHI to authorized Federal officials for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056 or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or for the conduct of investigations authorized by 18 U.S.C. 871 and 879.

### 4) Medical Suitability Determinations

Pottawattamie County may use PHI to make medical suitability determinations and may disclose whether or not the individual was determined to be medically suitable to the officials in the Department of State who need access to such information for the following purposes:

- a) For the purpose of a required security clearance conducted pursuant to Executive Orders 10450 and 12968;
- b) As necessary to determine worldwide availability or availability for mandatory service abroad under Sections 101(a) and 504 of the Foreign Service Act; or
- c) For a family to accompany a Foreign Service member abroad, consistent with Sections 101(b)(5) and 904 of the Foreign Service Act.

### 5) Law Enforcement Custodial Situations

#### a) Disclosure to Correctional Institution

Pottawattamie County may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual PHI about that inmate or individual, if the correctional institution or law enforcement official represents that the PHI is necessary for:

- i. Provision of health care to such individuals;
- ii. The health and safety of such individual or other inmates;

- iii. The health and safety of the officers or employees of or others at the correctional institution;
- iv. The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;
- v. Law enforcement on the premises of the correctional institution; or
- vi. The administration and maintenance of the safety, security, and good order of the correctional institution.

b) Serving as a Correctional Institution

When Pottawattamie County serves as a correctional institution, it may use PHI of individuals who are inmates for any purpose for which such PHI may be disclosed.

c) Application after Release

For the purposes of this Section, Pottawattamie County will not consider an individual to be an inmate when released on parole, probation, supervised release, or when the individual is otherwise no longer in lawful custody.

# **SERIOUS THREAT TO HEALTH OR SAFETY DISCLOSURES POLICY**

## **I. POLICY**

Pottawattamie County is committed to ensuring the privacy and security of individual's PHI. For most disclosures other than in the usual course of treatment, payment, or health care operations, Pottawattamie County must obtain the patient's authorization before using or disclosing the patient's PHI. However, pursuant to serious threat to health or safety, and subject to the requirements set forth in this policy, PHI may be disclosed without the authorization of the individual, or the opportunity for the individual to agree or object.

### **REFERENCES/CROSS REFERENCES**

- 45 C.F.R § 164.512(j)
- 45 C.F.R. § 164.501
- 45 C.F.R. § 164.512(f)(2)(i)
- Law Enforcement Disclosure Policy

## **II. PROCEDURE**

### **A. General Rule Regarding Use or Disclosure of PHI Based on a Serious Threat to Health or Safety**

Pottawattamie County may be requested to disclose PHI based on a serious threat to public health or safety.

Generally, Pottawattamie County may disclose PHI if the County, in good faith, believes the use or disclosure:

- 1) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the disclosure is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or
- 2) Is necessary for law enforcement authorities to identify or apprehend an individual:
  - a) Because of a statement by an individual admitting participation in a violent crime that Pottawattamie County believes may have caused serious harm to the victim; or
  - b) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in 45 C.F.R. § 164.501.



## **B. Exceptions to General Rule**

Pottawattamie County may not disclose PHI in the event of a serious threat to health or safety if the information described in Section A of this policy is learned by Pottawattamie County:

- 1) In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure, or counseling, or therapy; or
- 2) Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy.

## **C. Limitation on Information Disclosed**

When disclosing information based on a serious threat to health or safety, Pottawattamie County shall only disclose the information described in Section A of this Policy and the following:

- 1) Name and address;
- 2) Date and place of birth;
- 3) Social Security Number;
- 4) ABO blood type and Rh factor;
- 5) Type of injury;
- 6) Date and time of treatment;
- 7) Date and time of death, if applicable; and
- 8) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

## **D. Good Faith Requirement**

Pottawattamie County must only disclose information based on a serious threat to health or safety based on actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.

## **VERIFICATION OF IDENTITY POLICY**

### **I. POLICY**

In the normal course of business and operations, Pottawattamie County may receive requests to disclose PHI. Pottawattamie County will ensure that appropriate steps are taken to verify the identity and authority of individuals and entities requesting PHI, as required by HIPAA and other federal, state and/or local laws and regulations.

**REFERENCES-** 45 C.F.R. §164.514(h)

### **II. PROCEDURE**

#### **A. Verification of Identity**

There are circumstances under which Pottawattamie County may disclose PHI, without an authorization, in response to requests from various entities, including but not limited to public health authorities, law enforcement, courts of law and administrative tribunals. In these situations, the employee must verify the identity and authority of the person or entity making the request if the identity or any such authority of such person is not known to the employee or representatives of Pottawattamie County.

#### **B. Reasonable Reliance**

If Pottawattamie County requires disclosure on particular documentation for verification, the County may rely, if such reliance is reasonable under the circumstances, on documentation that, on its face value, meet the requirements. Verification may be satisfied by, for example, an administrative subpoena or a written statement that demonstrates that the requirement has been satisfied. However, the documentation must be signed and dated.

#### **C. Procedures for Verification of Identity and Authority of Public Officials**

In verifying the identity and legal authority of a public official or a person acting on behalf of the public official requesting disclosure of PHI:

- 1) Employee's may rely on the following, if such reliance is reasonable under the circumstances, when disclosing PHI:
  - a) Documentation, statements, or representations that, on their face value, meet the applicable requirements for a disclosure of PHI;
  - b) Presentation of an agency identification badge, other official credentials, or other proof of government status, if the request is made in person;

- c) A written statement on appropriate government letterhead that the person is acting under the government's authority;
  - d) Other evidence or documentation from an agency, such as a contract for services, a memorandum of understanding that establishes that the person is acting on behalf of a public official;
  - e) A written statement of the legal authority under which the information is requested or if a written statement would be impracticable, an oral statement of such legal authority;
  - f) A request that is made pursuant to a warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal that is presumed to constitute a legal authority.
- 2) Whenever possible, a copy of the applicable identification and/or evidence of legal authority should be made for retention in Pottawattamie County's files.

#### **D. Professional Judgement and State Law**

Pottawattamie County employees may rely on the exercise of professional judgment and follow the requirements of applicable state law and other law, in consultation with the County Attorney's office, in making the following uses or disclosures of PHI:

- 1) Use or disclosure to others for involvement in the individual's care or payment for care; or
- 2) Disclosure to avert a serious threat to health and safety.
- 3) Prior to a disclosure being made under these circumstances, employees should contact the Privacy Officer pursuant to the applicable policy applicable to the requested disclosure.
  - a) Employees will document the identity of the individual, the authority under which he or she is requesting information, the information requested and the date of the request. This information will be forwarded, along with the request, to the Privacy Officer.
  - b) Once it is determined that the use or disclosure is appropriate, employees with appropriate access clearance will access the individual's PHI using proper procedures.
  - c) The requested PHI will be delivered in a secure and confidential manner, such that the information cannot be accessed by employees or other persons who do not have authorization to access that information.
  - d) The Privacy Officer will appropriately document the request and delivery of PHI.

# BREACH NOTIFICATION POLICY

## I. POLICY

Pottawattamie County recognizes that individual rights are a critical component to maintaining quality care and service, and is committed to complying with the breach notification requirements of HIPAA. Pottawattamie County maintains written policies and procedures to provide guidance to employees who are monitoring and reporting incidents of unauthorized uses or disclosures of unsecured PHI.

**REFERENCES-** 45 C.F.R. §164.402 through 164.410

## II. PROCEDURE

### A. Definition of a Breach and Unsecured PHI

Breach means the acquisition, access, use, or disclosure of unsecured PHI in a manner not permitted by the Privacy Rule that compromises the security or privacy of the PHI. Breach in all cases excludes:

- 1) Any unintentional acquisition, access, or use of PHI by an employee or person acting under the authority of Pottawattamie County or a Business Associate, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.
- 2) Any inadvertent disclosure by an employee who is authorized to access PHI at Pottawattamie County or Business Associate to another person authorized to access PHI at Pottawattamie County or Business Associate, or organized health care arrangement in which Pottawattamie County participates, and the PHI received as a result of such disclosure is not further used or disclosed in a manner not permitted under the Privacy Rule.
- 3) A disclosure of PHI where Pottawattamie County or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such PHI.

Unsecured PHI means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified in Department of Health and Human Services guidance, as updated from time to time (e.g., encryption, shredding).

## **B. Presumption of Breach and Risk Assessment Necessary to Demonstrate Low Probability of a Breach**

If an acquisition, access, use, or disclosure of PHI in a manner not permitted by the Privacy Rule does not fall within any of the three exceptions set out in the definition of “Breach” above, then it is **presumed** to be a Breach unless Pottawattamie County or its Business Associate demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

- 1) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification.
- 2) The unauthorized person who used the PHI or to whom the disclosure was made.
- 3) Whether the PHI was actually acquired or viewed.
- 4) The extent to which the risk to the PHI has been mitigated.

## **C. Notification Procedures**

- 1) Monitoring and Reporting Incidents of Unauthorized Acquisition, Access, Use or Disclosure of Unsecured PHI

Pottawattamie County will take reasonable steps to monitor the unauthorized acquisition, access, use or disclosure of unsecured PHI. Employees shall be required to immediately report all suspected unauthorized acquisition, access, uses or disclosures to the Privacy Officer. Pottawattamie County will rely on its Business Associates to monitor and report incidents of unauthorized acquisition, access, use or disclosure of unsecured PHI with respect to PHI the Business Associates acquires, accesses, uses or discloses, in accordance with the Breach Notification Requirements.

- 2) Determination Whether Unauthorized Acquisition, Access, Use or Disclosure Constitutes Breach

Upon receiving a report of unauthorized acquisition, access use or disclosure, the Security Officer and Privacy Officer, will undertake a risk assessment to determine whether the unauthorized acquisition, access use or disclosure constitutes a breach of unsecured PHI. Pottawattamie County will make and retain records of such risk assessment and determinations, including the basis for determinations that unauthorized acquisition, access, uses or disclosures are not breaches of unsecured PHI. Pottawattamie County will rely on its Business Associates to determine whether incidents of unauthorized acquisition, access, use or disclosure of unsecured PHI constitute a breach with respect to PHI the Business Associate or one of its subcontractors acquires, accesses, uses or discloses, in accordance with the breach notification requirements.

3) Notice to Affected Individuals of Breach

If the unauthorized acquisition, access, use or disclosure of unsecured PHI is determined to constitute a breach, the Privacy Officer, or his or her designee(s), will notify the individual(s) whose unsecured PHI was acquired, accessed, used or disclosed improperly in accordance with the breach notification requirements via written notice, substitute notice no later than sixty (60) days from the discovery of the breach, or when it could reasonably have been known, or more timely notice in urgent situations, as appropriate. Such notice must comply with the requirements of 45 C.F. R. 164.404.

4) Notice to Media of Breaches Involving More Than 500 Residents of the Same State or Jurisdiction

If a breach involves more than five hundred (500) residents of the same State or jurisdiction, the Privacy Officer, will notify the media in accordance with the breach notification requirements. Such notification will be provided without unreasonable delay and in no case later than sixty (60) calendar days after discovery of the Breach.

5) Notice to Department of Health and Human Services of Breaches Involving 500 or More Individuals

If a Breach involves five hundred (500) or more Individuals, the Privacy Officer, will notify the Department of Health and Human Services in the manner specified in the breach notification requirements located on the Department of Health and Human Services website. Such notification will be provided without unreasonable delay and in no case later than sixty (60) calendar days after discovery of the Breach.

6) Maintenance of Log and Annual Notice to Department of Health and Human Services of Breaches Involving Less than 500 Individuals

The Privacy Officer shall maintain a log of breaches involving less than five hundred (500) individuals and, not later than sixty (60) days after the end of each calendar year, shall notify the Department of Health and Human Services in the manner specified in the breach notification requirements located on the Department of Health and Human Services website.

7) Breaches by Business Associates

Pottawattamie County may, as permitted by the breach notification requirements, contract with Business Associates for Business Associates to undertake the notification requirements of this policy and procedure with respect to PHI acquired, accessed, used or disclosed by the Business Associate relating to Pottawattamie County, in addition to the obligations directly applicable to the Business Associates under the breach notification requirements (including the obligations with respect to monitoring unauthorized uses or disclosures of PHI and making determinations whether such unauthorized uses or disclosures constitute a breach.) If the Business Associate Agreement does not so provide,

however, upon notification by a Business Associate of a breach, the Privacy Officer, shall undertake the notification requirements under this policy to the extent necessary.

8) Law Enforcement Delay

If a law enforcement official determines that a notification, notice, or posting required under HIPAA would impede a criminal investigation or cause damage to national security, such notification, notice, or posting shall be delayed as follows:

- a) If law enforcement provides a written statement and specifies the time for which a delay is required, the County or its Business Associate shall delay such notification, notice or posting for the time period specified in writing.
- b) If the statement provided by law enforcement is only verbal, Pottawattamie County or its Business Associate must document the statement, and delay the notification, notice or posting temporarily and no longer than thirty (30) days from the date of the verbal statement, unless the law enforcement official provides a written statement.

# **PROHIBITION OF MARKETING & SALE OF PHI POLICY**

## **I. POLICY**

Pottawattamie County is a governmental entity committed to providing services for the citizens of Pottawattamie County. Pottawattamie County does not engage in either the sale of PHI or the use of PHI for marketing purposes. Activities determined to be prohibited sales or marketing of PHI will be considered a violation of this policy.

### **REFERENCES**

- 45 C.F.R. §164.501
- 45 C.F.R. §164.508(a) (3) & (4)

## **II. PROCEDURE**

### **A. Definition**

Marketing means to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service. Marketing does not include a communication made:

- 1) To provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the individual, only if any financial remuneration received in exchange for making the communication is reasonably related to the cost of making the communication. For purposes of this Marketing Policy, the term “financial remuneration” means direct or indirect payment from or on behalf of a third party whose product or service is being described.
- 2) For the following purposes, except where Pottawattamie County receives financial remuneration in exchange for making the communication:
  - a) For treatment of an individual, including case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual;
  - b) To describe a health-related product or service (or payment for such product or service) that is provided by Pottawattamie County; or
  - c) For case management or care coordination, contacting of individuals with information about treatment alternatives, and related functions to the extent these activities do not fall within the definition of treatment.



## **B. Marketing Prohibition**

Pottawattamie County will not use or disclose PHI for marketing purposes.

## **C. Sales Prohibition**

Pottawattamie County shall not directly or indirectly receive payment in exchange for PHI of an individual unless the payment falls within one of following exceptions which will not be prohibited under this policy:

- 1) The purpose of the exchange is for public health activities (as described in 45 C.F.R. § 164.512(b) or § 164.514(e)).
- 2) The purpose of the exchange is for research (pursuant to 45 C.F.R. § 164.514(e) or § 164.512(i)) and the payment received is a reasonable cost-based fee to cover costs of preparation and transmittal of the PHI for such purpose.
- 3) The purpose of the exchange is for the treatment of the individual or for payment purposes pursuant to 45 C.F.R. § 164.506(a).
- 4) The purpose of the exchange is to facilitate the sale, transfer, merger, or consolidation of all or part of Pottawattamie County, and due diligence related to such activity.
- 5) The purpose of the exchange is for activities that a Business Associate undertakes on behalf of Pottawattamie County, and the payment is provided to the Business Associate solely for the performance of those activities.
- 6) The purpose of the exchange is to provide an individual with a copy of the individual's PHI pursuant to 45 C.F.R. § 164.524 or § 164.528.
- 7) The exchange is required by law as permitted under 45 C.F.R. § 164.512(a).
- 8) The exchange is for any other purpose permitted by the privacy rule when the only payment received is a reasonable, cost-based fee to cover costs of preparation and transmittal of the PHI for such purpose or a fee otherwise expressly permitted by law.

# COMPLAINTS, NON-RETALIATION & WAIVER OF RIGHTS POLICY

## I. POLICY

Pottawattamie County recognizes that individual rights are a critical component to maintaining quality care and service, and is committed to allowing individuals to exercise their rights under applicable federal, state and/or local laws and regulations. Pottawattamie County maintains written policies and procedures to provide guidance to employees when faced with a complaint by an individual regarding the County's use or disclosures of the individual's PHI.

**REFERENCES** - 45 C.F.R. §530(d)

## II. PROCEDURE

### A. Individual's Right to File a Complaint

Under the Privacy Rule, an individual has a right to file a complaint with Pottawattamie County regarding the County's use or disclosure of the Individual's PHI.

#### 1) *Form of Complaint*

An individual desiring to file a complaint should be provided with Pottawattamie County's Complaint Form.

#### 2) *Verbal Complaint*

If an individual refuses to complete the complaint form, but wishes to make a complaint, the employee shall give the individual the name, or title, and telephone number of the Privacy Officer, or designee.

#### 3) *No Waiver*

Pottawattamie County shall not require individuals to waive their right to file a complaint with the Department of Health and Human Services as a condition of the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits.

### B. Report of Concern by Employees and Agents of Pottawattamie County

Pottawattamie County believes that an effective system of communication is important in identifying compliance violations of the privacy standards adopted by the County to protect PHI. To encourage communication of compliance concerns by employees and other agents doing business with Pottawattamie County, Pottawattamie County has implemented a reporting system that permits employees and other agents to report concerns openly or anonymously, verbally or in writing, in accordance with established procedures.

Pottawattamie County will make every reasonable effort to protect the identity of a reporting employee, unless the employee permits the County to reveal their identity. However, no guarantee of anonymity can be assured. No disciplinary action or retaliation will be taken against an employee who makes a good faith report of a compliance concern.

A report of concern may be made by anyone having knowledge or information about a known or suspected violation of Pottawattamie County's privacy standards or the laws and regulations governing Pottawattamie County. Reports may be made verbally or in writing to the Pottawattamie County Privacy Officer or to the Office for Civil Rights, U.S. Department of Health and Human Services, 601 East 12th Street--Room 248, Kansas City, Missouri 64106. Voice Phone (816) 426-7278. FAX (816) 426-3686. TDD (816) 426-7065. All reports, whether verbal or written, will be documented on the Confidential Report of Concern, attached hereto.

Following the filing of a confidential report of concern, the Privacy Officer, or designee, shall investigate, and will complete the investigation report, attached hereto.

### **C. Non-Retaliation**

Pottawattamie County will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against anyone for:

- i) Exercising any right under, or participating in any process established by the Privacy Rule or this Policy;
- ii) Filing a complaint with the Privacy Officer and/or the Department of Health and Human Services;
- iii) Testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing; or
- iv) Opposing in good faith any act or practice made unlawful by the Privacy Rule, provided that the manner of the opposition is reasonable and does not itself involve disclosure of PHI in violation of the applicable law.

### **D. Instructions Related to Complaints**

If a complaint is ever received, verbally or in writing, the complaint should be provided a copy of the complaint form. The completed form, or if the complaint is verbal, the information, shall be immediately provided to the Privacy Officer.

# **SAFEGUARDS POLICY**

## **I. POLICY**

Pottawattamie County shall implement reasonable and appropriate administrative, technical and physical safeguards to protect the privacy of PHI.

**REFERENCES-** 45 C.F.R. §164.530(c)

## **II. PROCEDURE**

Pottawattamie County's protocol for safeguarding PHI takes into account the County's computer equipment and computer security options, physical layout, staffing level and individual population, in order to protect, to the greatest extent possible, any incidental uses and disclosures of PHI that could occur. The protocol will be based on the following principles:

### **A. General Rule**

PHI may be used or disclosed only as allowed by the Privacy Rule, regardless of whether that use or disclosure occurs in person, electronically or through a workstation.

### **B. Workstation**

Pottawattamie County may use or disclose PHI by way of a workstation only in a manner that reasonably safeguards the PHI from unintentional disclosure to or use by anyone other than the intended user or recipient. The Privacy Officer shall in conjunction with Elected Officials and Department Heads develop and maintain specific policies to provide reasonable safeguards appropriate to the particular duties and functions of their department, office or program. Reasonable safeguards may include:

- 1) Ensuring that workstations are not positioned in a manner that allows others to easily view the workstation screen;
- 2) Ensuring that workstations are equipped with password protection and other reasonable security measures so that unauthorized persons cannot access PHI on an unattended workstation or through the County's server or network; and
- 3) Restricting access to the workstations to the designated employees who have a legitimate need to have such access.

### **C. Oral Communications**

Pottawattamie County employees shall use reasonable safeguards to protect individual privacy during all interactions with individuals or other individuals, related to PHI. The safeguards employees use shall be tailored to the particular facts and circumstances of each interaction, depending on the physical layout of their department, the proximity to other individuals in the area, the content of the interaction with the individual, and other conditions or circumstances that may affect the privacy of employee interactions regarding PHI. It is the responsibility of each employee to determine, in each circumstance, the reasonable safeguards to employ in order to protect individual privacy to the greatest extent possible, while considering the potential effects on individuals. The Privacy Officer along with Elected Officials and Department Heads shall develop and maintain specific policies to provide reasonable safeguards appropriate to the particular duties and functions of their respective department, office or program. Reasonable safeguards may include:

- 1) Keeping voices low during all interactions regarding PHI so that others cannot hear the conversation;
- 2) Taking steps to ensure that discussions involving PHI are not overheard. Persons will be trained on the following safeguards to protect oral communications:
  - i) conducting conversations in a room with a door if necessary,
  - ii) lowering speaking voice when discussing PHI,
  - iii) using the handset of the telephone instead of the speakerphone,
  - iv) when speaking to an individual about PHI keeping a distance from surrounding Individuals; and (v) being sure to disclose only the minimum necessary amount of PHI.
- 3) Persons will verify that the person with whom he or she is speaking is the actual individual who is the subject of the PHI or the authorized representative of such individual (e.g., requesting social security number or date of birth, or other identifying information).
- 4) Restricting the type and amount of information left on an individual's home or work voicemail or answering machine.

### **D. Disposal of PHI**

PHI must not be discarded in unsecured trash bins, unsecured bags or other publicly-accessible locations. Instead, all PHI, such as paper records including PHI and any electronic or optical media, shall be discarded in secured trash receptacles or other non-publicly-accessible locations, and destroyed in a manner so that PHI is rendered essentially unreadable, indecipherable, and otherwise cannot be reconstructed.

# SANCTIONS POLICY

## I. POLICY

Pottawattamie County has established and will apply appropriate sanctions against employees, as well as other agents and contractors, who fail to comply with its HIPAA policies and procedures.

Civil penalties range from \$100 for each violation to a maximum of \$1,500,000 per year for the same violations.

Criminal penalties vary from \$50,000 and/or one year imprisonment to \$250,000 and/or ten years imprisonment (42 U.S.C. §§ 1320d 5 and 1320d 6).

**REFERENCE** - 45 C.F.R. §164.530(e)

## II. PROCEDURE

### A. General Rule Regarding Sanction

Employees shall comply with the written policies and procedures included in the Privacy and Security Manuals as amended from time to time, and any additional policies implemented by the County, their respective department, program or office. Pottawattamie County shall apply appropriate disciplinary action up to and including termination of employment against employees that fail to comply with the Privacy policies and procedures. Disciplinary action shall be applied in accordance with County policies and procedures and applicable collective bargaining agreements. The type and severity of disciplinary action shall depend on whether the violation was intentional or unintentional, whether the violation indicates a pattern or practice of improper access, use or disclosure of health information, and similar factors..

Employees, agents, and other contractors should be aware that violations may result in notification to law enforcement officials, individuals whose PHI is inappropriately accessed, acquired, used or disclosed, as well as to regulatory, accreditation, and/or licensure organizations.

### B. General Process for Responding to Possible Violations

- 1) Employees are encouraged to report possible privacy violations to the Privacy Officer.
- 2) Whenever possible privacy violations arise, the Privacy Officer shall conduct an investigation and determine whether a violation has occurred.
- 3) A record of the event and any discipline imposed shall be maintained by the Privacy Officer in addition to any records maintained by human resources.

### **C. Mitigation**

Pottawattamie County shall mitigate, to the extent practicable, any harmful effect known to the County of a use or disclosure of PHI in violation of its policies and procedures by employees or by the County's business associates.

### **D. Examples of HIPAA Violations Which May Result in Disciplinary Actions**

- Accessing information that the employee does not need to know to do their job;
- Sharing computer access codes (user name & password)/ Using another employee's computer access codes (user name & password);
- Leaving computers unattended while logged into a PHI program;
- Sharing PHI with another employee without authorization;
- Copying PHI without authorization;
- Changing PHI without authorization;
- Discussing confidential information in a public area or in an area where the public could overhear the conversation;
- Discussing confidential information with an unauthorized person;
- Failure to cooperate with the Privacy Officer or Security Officer;
- Any unauthorized use or disclosure of PHI;
- Failure to comply with a mitigation decisions;
- Obtaining PHI under "false pretenses"; or Using and/or disclosing PHI for commercial advantage, personal gain or malicious harm.

# TRAINING POLICY

## I. POLICY

Pottawattamie County is required to adhere to federal, state and/or local laws and regulations with regard to HIPAA. The County recognizes that providing appropriate training is critical to ensure compliance with HIPAA as well as protecting individual's rights.

**REFERENCE-** 45 C.F.R. §164.530(b)

## II. PROCEDURE

### A. General Requirement

All applicable employees will be trained, as appropriate for their jobs, on Pottawattamie County's HIPAA Policies and Procedures and will be required to comply with the written policies and procedures. included in the Privacy and Security Manuals, as amended from time to time. In addition, employees shall be subject to disciplinary action for failing to comply with the County's Privacy Policies and Procedures.

### B. Annual HIPAA Training

HIPAA training will occur within a reasonable period of time upon initial employment and thereafter on a regular basis and as necessary to reflect any changes in the Privacy Rule or changes in the County's Privacy Policies and Procedures within a reasonable period of time after the material change becomes effective.

### C. Training for Health Care Providers and Health Plans

Employees who have work responsibilities in departments, programs or offices that have been specifically identified as providing health care, or operating as a health plan, shall receive training regarding individual rights, privacy and confidentiality, and use and disclosure as set forth below.

### D. Individual Rights

Training regarding individuals' PHI and use and disclosure of, and access to, their PHI which will include, where appropriate, the following:

- 1) Allowing individuals to file complaints concerning Pottawattamie County's Policies and Procedures required by HIPAA and its compliance with such Policies and Procedures;



- 2) Allowing individuals to receive an appropriate accounting of disclosures of their PHI;
- 3) Allowing individuals to access, inspect, and/or obtain a copy of their PHI maintained in a designated record set;
- 4) Denying a request from an individual to access, inspect, and/or obtain a copy of their PHI;
- 5) Providing an individual with a written statement for the reason of a denial to inspect and copy his/her PHI;
- 6) Allowing individuals to request confidential communications of PHI;
- 7) Allowing individuals to request restriction of the uses and disclosures of their PHI;
- 8) Allowing individuals to request an amendment or correction to their PHI that is erroneous or incomplete; and
- 9) Denying a request from an individual to amend or correct their PHI that is erroneous or incomplete.

#### **E. Privacy and Confidentiality**

Training regarding the privacy and confidentiality of individual health information will include the following:

- 1) Uses and disclosure of PHI for treatment, payment, and health care operations;
- 2) Uses and disclosure of PHI pursuant to individual authorization;
- 3) Uses and disclosure of PHI pursuant to the individual's opportunity to agree or disagree with the use or disclosure;
- 4) Uses and disclosure of PHI that do not require individual authorization, or opportunity to agree or disagree;
- 5) Individuals' rights concerning their PHI; and
- 6) Any other information as necessary for the respective providers of the workforce to carry out their duties and responsibilities with respect to the proper use or disclosure of PHI.

#### **F. Use and Disclosure**

Training regarding use and disclosure of PHI will include the following:

- 1) The process by which an individual may request access to PHI;
- 2) The documents to be used for individuals to request access to PHI;
- 3) The process by which Pottawattamie County may request the use or disclosure of an individual's PHI;

- 4) The documents to be used for Pottawattamie County to solicit a request for an individual's PHI;
- 5) The right of an individual to revoke an authorization;
- 6) The identification of defective authorizations;
- 7) The recognition of when Pottawattamie County may condition the provision to an individual for treatment, payment, enrollment, or eligibility for benefits on the provision of obtaining an authorization.

#### **G. Training for Support Functions and Departments Acting as Business Associates**

Employees with duties in departments, programs and offices that provide support functions for health care providers or health plans within Pottawattamie County or who have duties in relation to their role as a Business Associate to another Covered Entity shall receive training regarding the Pottawattamie County HIPAA Policy and Procedures Manual as applicable to their particular job functions.

#### **H. The Privacy and Security Officer**

The Privacy Officer and the Security Officer shall be responsible for implementing appropriate training resources that reflect the application of the Pottawattamie County HIPAA Policies and Procedures.

#### **I. Execution of Employee Confidentiality Agreement**

The execution of an employee confidentiality agreement may be required as a condition of employment/contract/association/appointment with Pottawattamie County. Pottawattamie County employees shall be required to sign the confidentiality agreement at the commencement of their relationship with Pottawattamie County if they will come into contact with PHI as part of their job responsibilities.

#### **J. Documentation**

All training shall be documented and retained in accordance with the Record Retention Policy.