

TO: ALL COUNTY PERSONNEL

FROM: VERDENIA C. BAKER
COUNTY ADMINISTRATOR

PREPARED BY: ADMINISTRATION

SUBJECT: HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY
ACT OF 1996, AS AMENDED BY THE HITECH ACT OF THE
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

PPM # : CW-P-072

ISSUE DATE
April 12, 2024

EFFECTIVE DATE
April 12, 2024

PURPOSE:

To assure compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996, as amended by the HITECH Act of the American Recovery and Reinvestment Act of 2009, (HIPAA), including the privacy, security and breach notification provisions pertaining to the protection of individually identifiable health information of (1) employees, retirees, and dependents participating in the County’s group health plans; and (2) individuals receiving healthcare provider services from County workforce members and/or County departments (Fire-Rescue Department and the Division of Senior and Veteran Services within the Community Services Department). Please note that this PPM should be read in concert with departmental HIPAA policies in effect for the Risk Management Department, the Fire Rescue Department and the Division of Senior and Veteran Services.

UPDATES:

Future updates to this PPM are the responsibility of the County HIPAA Privacy Officer.

AUTHORITY:

- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191; 45 CFR Parts 160 and 164) as may be amended; and
- Health Information Technology for Economic and Clinic Health Act (HITECH Act) of the American Recovery and Reinvestment Act of 2009 and its implementing regulations (HIPAA and HITECH are collectively referred to as “HIPAA”), as may be amended.

POLICY:

This PPM establishes the commitment of the Palm Beach County Board of County Commissioners (BCC) to comply with the requirements of HIPAA, which regulates, defines, and limits the use and disclosure of protected health information (PHI), whether in oral, electronic, or paper form. It is the responsibility of all County Departments with employees that have access to PHI to establish procedures to ensure compliance with HIPAA and the County's Policies and Procedures.

The County is a HIPAA Covered Entity through the healthcare provider services provided by the Fire Rescue Department and the Division of Senior and Veteran Services, and through the health plans and Employee Assistance Program provided through the Risk Management Department. Pursuant to County Resolution R2014-0173, the County is a hybrid entity under HIPAA, with the Risk Management Department, the Fire Rescue Department and the Division of Senior and Veteran Services being designated as County Healthcare Components subject to HIPAA. All other County departments are designated as non-healthcare components under HIPAA.

The designated County Healthcare Components are considered to be HIPAA Covered Entities and must comply with this PPM and the HIPAA regulations governing Covered Entities. In addition, employees in other County departments (for example the County Attorney's Office, Human Resources, Payroll, Internal Auditor and ISS), who may receive or have access to a County Healthcare Component's PHI for a legitimate HIPAA purpose, must comply with this PPM and the HIPAA regulations with respect to such PHI.

DEFINITIONS:

Business Associate – A Business Associate is a third-party that, on behalf of the County for a County Healthcare Component:

- a) Creates, receives, maintains, or transmits PHI for a function or activity regulated by HIPAA including claims processing or administration, data analysis, processing, or administration, utilization review, quality assurance, patient safety activities listed at 42 CFR 3.20, billing, benefit management, practice management, and repricing; or
- b) Provides, other than in the capacity of a member of the workforce of the Covered Entity, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for the Covered Entity;

Business Associates include:

- a) A health information organization, e-prescribing gateway, or other person that provides data transmission services with respect to Protected Health Information to a Covered Entity and that requires access on a routine basis to such Protected Health Information;
- b) A person that offers a personal health record to one or more individuals on behalf of a Covered Entity; and

- c) A subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of the Business Associate.

Business Associate Agreement – means a contract between a HIPAA Covered Entity and a HIPAA Business Associate that protects PHI in accordance with HIPAA guidelines. A Business Associate Agreement must be completed if it is determined that this shared health information is necessary in order for the Business Associate to perform the activities necessary for the administration of the County’s business.

County Healthcare Components – means the Risk Management Department, the Fire Rescue Department and the Division of Senior and Veteran Services, all of which were designated as healthcare components of the County pursuant to Resolution R2014-0173 and are considered to be HIPAA Covered Entities.

Covered Entity – A Covered Entity means a health plan, a health care clearinghouse or a health care provider that transmits any health information in electronic form in connection with activities regulated by HIPAA. For purpose of this PPM, Covered Entity means the County Healthcare Components (Risk Management Department, Fire Rescue Department and Division of Senior and Veteran Services).

Health Care – means care, services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following:

- a) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that effects the structure or function of the body; and
- b) Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

Health Plan – A Health Plan means a program that provides insurance or self-insurance coverage for defined medical, dental, vision and pharmaceutical services and other health benefits including those related to wellness.

Health Care Provider – Provider of medical health services (e.g., non-institutional providers such as physicians, dentists and other practitioners) as defined by Medicare, and any other person or organization that furnishes, bills, or is paid for health care in the normal course of business.

Protected Health Information-The term Protected Health Information (often referred to as PHI) means individually identifiable health information transmitted or maintained by electronic media or any other form, including written and verbal, that is created or received by a healthcare provider, health plan, employer, or healthcare clearing house; and relates to the past, present or future physical or mental condition of an individual, the provision of healthcare to an individual, or the past, present or future payment for the provision of healthcare to an individual. PHI does not include individually identifiable health information in employment records held by a Covered Entity in its role as employer.

Work Force Member – An employee, volunteer, trainee, or other person whose conduct in performing work for a Covered Entity or Business Associate is under the direct control of the Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate. Workforce members include employees, volunteers, and trainees of each of the County Healthcare Components, as well as employees of other County departments (for example, the County Attorney’s Office, Human Resources, Payroll, Internal Auditor and ISS) who may receive or have access to a County Healthcare Component’s PHI for a legitimate HIPAA purpose.

PROCEDURES:

1. Privacy Requirements

- a) The County Healthcare Components and their workforce members shall take all necessary steps to reasonably safeguard PHI from any intentional or unintentional use or disclosure that is in violation of HIPAA;
- b) Under the provisions of the Privacy Rule, PHI may be used or disclosed as allowed but must be limited to the minimum amount of information necessary to accomplish the purpose of the use and disclosure;
- c) The County Healthcare Components shall implement necessary policies, procedures, forms and audit trail as necessary to ensure privacy and security; and
- d) In the event of a breach of privacy and security of PHI, all required rules, including but not limited to investigations and notifications as mandated by the HIPAA privacy rule, will be followed.

2. Safeguards – Each County Healthcare Component must have in place appropriate administrative, technical, and physical safeguards to reasonably safeguard PHI, including electronic PHI, from the intentional or unintentional unauthorized use or disclosure.

Workforce members may not share the PHI of a County Healthcare Component with any other County Healthcare Component, any non-healthcare component of the County, or any outside entity, unless such disclosure is otherwise permitted under HIPAA.

3. Individual Rights – Participants in the County’s group health plans (including the Employee Assistance Program) and individuals receiving health care from the County’s healthcare providers (i.e. Fire Rescue Department and Division of Senior and Veteran Services) have the following individual rights:

- a) To receive a notice of the County’s privacy practices;
- b) To inspect and obtain a copy of their own PHI;
- c) To request an amendment to their PHI;
- d) To obtain an accounting of disclosures of their PHI;
- e) To request restriction of the use and disclosure of their PHI; and
- f) To receive notice when there has been a breach of their unsecured PHI.

4. Training Program – It is the responsibility of each County Healthcare Component to coordinate and facilitate in a timely manner HIPAA training for its workplace members,

which includes employees, volunteers, and trainees of the County Healthcare Component, as well as employees of other County departments (for example, the County Attorney's Office, Human Resources, Payroll, Internal Auditor and ISS) who may receive or have access to a County Healthcare Component's PHI for a legitimate HIPAA purpose. For HIPAA training relating to the Fire Rescue Department or to the Division of Senior and Veteran Services, training should be coordinated by and/or through their respective HIPAA compliance officers at the contact information provided in paragraph 6. For other HIPAA training, including HIPAA training relating to the Risk Management Department, the appropriate training module(s) are located online under the Training tab on the Risk Management page of the County's intranet website.

5. **Confidentiality Agreement** – All workforce members of each County Healthcare Component will be required to sign a confidentiality agreement after the completion of HIPAA training.
6. **Complaint Procedures** – If a County employee, a participant in a County health plan (including the Employee Assistance Program), a recipient of County health care provider services, or any other individual feels his or her HIPAA rights have been violated, the individual has the right to file a written complaint to the County HIPAA Privacy Officer or to the U.S. Department of Health & Human Services as follows:

County HIPAA Privacy Officer
Reginald Duren, Assistant County Administrator
301 N. Olive Avenue, 11th Floor
West Palm Beach, FL 33401
(561) 355-3838
rduren@pbcgov.org

or

U.S. Department of Health & Human Services
Hubert H. Humphrey Building
200 Independence Ave. S.W.
Washington, D.C. 20201

For HIPAA matters regarding Fire Rescue, the individual may also file a written complaint to:

HIPAA Liaison
Palm Beach County Fire Rescue
405 Pike Road
West Palm Beach, Florida 33411
(561) 616-7025
LegalLiaison@pbcgov.org

For HIPAA matters regarding Senior Services, the individual may also file a written complaint to:

Faith Manfra
Division of Senior and Veterans Services
810 Datura Street, Suite 300
West Palm Beach, FL 33401
(561) 355-4746
fmanfra@pbcgov.org

For HIPAA matters related to County Health Plans or the Employee Assistance Program (EAP)

Scott Marting
Palm Beach County Risk Management
100 Australian Avenue, Suite 200
West Palm Beach, FL 33406
(561) 233-5400
smarting@pbcgov.org

7. **Mitigation of Inadvertent Disclosures of Protected Health Information** – The County shall mitigate, to the extent possible, any harmful effects that become known to it of a use or disclosure of an individual’s PHI in violation of this PPM, any departmental HIPAA policies and procedures or the HIPAA regulations. As a result, if a workforce member becomes aware of a use or disclosure of PHI, either by an employee of the County or an outside consultant/contractor, that is not in compliance with this PPM, any departmental HIPAA policies and procedures, or the HIPAA regulations, he or she should immediately contact the County HIPAA Privacy Officer and/or other applicable HIPAA compliance officer listed in paragraph 6, so the appropriate steps to mitigate the harm to the individual can be taken.
8. **Transmission of PHI via email** – email containing PHI shall be sent with a privacy setting of “confidential.” Under no circumstances should identifying information be contained in the subject line of the email. The subject line should instead indicate that the email is confidential. Emails containing PHI must also contain the following notice or a substantially similar notice:

HIPAA NOTE: This e-mail conforms to the rules and regulations of the HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA). All information including name, employee number, or any personal identifiers must remain confidential, and may only be viewed and utilized by those legally authorized. If this message is received in error please notify the sender and delete the original. Any other use is strictly prohibited.

9. **No Retaliation** – No employee may intimidate, threaten, coerce, discriminate against, or

take other retaliatory action against individuals for exercising their rights, filing a complaint, participating in an investigation, or opposing any improper practice under HIPAA. No individual shall be required to waive his or her privacy rights under HIPAA as a condition of treatment, payment, enrollment or eligibility.

10. Consequences of Non-Compliance – Workforce members who violate Departmental or Countywide PPM's relating to HIPAA will be subject to disciplinary action up to and including termination as, to the extent applicable, may be described in such policies and/or the disciplinary guidelines of the Palm Beach County Merit Rules or Fire Rescue.

11. COUNTY HIPAA Privacy Officer – The County HIPAA Privacy Officer is responsible for the development and implementation of HIPAA policies and procedures, and will serve as the contact person for questions, concerns or complaints about the privacy of PHI and other HIPAA related issues, including matters covered by the notices of privacy practices. The County HIPAA Privacy Officer is designated by the County Administrator. The County HIPAA Privacy Officer is:

Reginald Duren,, Assistant County Administrator
301 N. Olive Avenue, 11th Floor
West Palm Beach, FL 33401
(561) 355-3838
rduren@pbcgov.org

12. County HIPAA Security Officer – The County HIPAA Security Officer shall be designated by the County Administrator and shall be responsible for the security of the electronic PHI, in accordance with HIPAA. Electronic PHI means data transmitted or maintained in electronic media. The County HIPAA Security Officer shall develop and implement security procedures to protect electronic PHI, and may designate staff as necessary to facilitate the implementation of procedures and security measures. Such procedures are to include but not be limited to:

- a. Prevent, contain, and correct any security violations related to electronic PHI;
- b. Address security incidents related to electronic PHI;
- c. Create, maintain and retrieve exact copies of electronic PHI in a data back-up plan;
- d. Respond to an emergency or other occasion (ex. natural disaster) that damages systems that contain electronic PHI;
- e. Address the final disposition of electronic PHI, and the hardware and electronic media on which it is stored;
- f. Remove electronic PHI from electronic media before it is made available for re-use;
- g. Ensure that electronic PHI is not altered or destroyed in an unauthorized manner;
- h. Oversee on-going security risk assessment activities; and
- i. Develop and oversee audit protocols to ensure the confidentiality, integrity, and availability of PHI created, received, maintained or transmitted by the County.

The County HIPAA Security Officer is:

Archie Satchell – Chief Information Officer - ISS
301 N. Olive Avenue
West Palm Beach, FL 33401
(561) 355-3275
Asatchel@pbcgov.org

DOCUMENTATION:

The County Healthcare Components must maintain the required policies and procedures in written or electronic form and must maintain written or electronic copies of all communications, actions, activities or designations as are required to be documented under the HIPAA regulations for a period of at least six (6) years from the later of the date of creation or the last effective date or a longer period if required under State or other Federal law. Copies of all approved policies and procedures developed by each department must be submitted to the County HIPAA Privacy Officer to be retained.



VERDENIA C. BAKER
COUNTY ADMINISTRATOR

Supersession History:

1. PPM CW-P-072, effective 4/14/2003
2. PPM CW-P-072, effective 9/23/2013
3. PPM CW-P-072, effective 9/23/2013 (HIPAA Privacy Officer updated 6/13/2016)
4. PPM CW-P-072, effective 9/23/2013 (HIPAA Privacy Officer updated 1/3/2022)
5. PPM CW-P-072, effective 9/23/2023 (HIPAA privacy Officer updated 10/18/2023)