

## SCHUYLER COUNTY

### Administrative Policy for Departments Obligated to follow HIPAA law

**POLICY:** The County is responsible for the oversight of individually identifiable information obtained in the provision of health care services to County residents. Individually identifiable information is as described in 45 CFR Parts 160 and 164 (Privacy Standards), 45 CFR Parts 142 (Electronic Standards and Code Sets Standards), and 45 CFR Parts 162 (Security Standards) - HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OF 1996

**PURPOSE:** To outline the County's general guidelines and expectations for the necessary collection, use and disclosure of confidential information about individuals in order to provide services and benefits to individuals, while maintaining reasonable safeguards to protect their information.

#### **I. Administrative Oversight**

The County has established a Health Insurance Portability and Accountability Act (HIPAA) Administrative Oversight Committee per Resolution Nos. 42-04 and 128-04. In 2003, The County had established a HIPAA Steering Committee, which studied the impact of the Act and developed plans and policies to implement the provisions of HIPAA in the County. The Steering Committee was dissolved and the Administrative Oversight Committee was formed to monitor compliance with the provisions of HIPAA, to develop policy recommendations for the Legislature, and to address other HIPAA matters as they may arise. The Administrative Oversight Committee is to report to the County Administrator.

#### **II. Standards, Rules and Procedures to Promote Compliance**

##### **Personnel Designations 45 CFR 164.530 (a)(1): Privacy Official.**

The County's policy is to designate a Privacy Official/privacy designee for each department covered by HIPAA.

Each department's Privacy Official /privacy designee shall be responsible for the coordination and implementation of the department's Privacy and Compliance Program, subject to Administrative Authority.

The Privacy Official/privacy designee shall report directly to the department head. The department head shall have independent authority to seek advice of legal counsel regarding HIPAA compliance-related issues on an as needed basis.

*The duty statement* for the Privacy Official(s) is hereby incorporated into this plan. The Privacy Official shall be obligated to comply with all standards and requirements of the Privacy Rule.

The County Administrator will designate the Designated Privacy Official(s) as responsible to remain updated on changes in the standards and report any changes to the Committee. The County Administrator will reserve the County Attorney's Office for legal consultation as needed.

**Training 45 CFR 164.530 (b)(1):**

County policy is that all members of the applicable workforce are orientated to the County-wide guidelines, procedures and processes relevant to the privacy standards. Thereafter, new members of the workforce are trained within a reasonable period of time after the person joins the workforce or within 30 days of start date. Orientation to department specific policies will be done in the department within 30 days as deemed necessary and appropriate by the department head.

Workforce will be notified of and educated to any County-wide guide, procedure and/or process change(s) within 30 days of adoption of the changes, as necessary and appropriate.

Workforce may receive annual training regarding privacy issues and practices of the County and the Department, as necessary and appropriate.

Each Department shall maintain a record of training attendance.

**Safeguards 45 CFR 164.530 ( c)(1):**

County policy is that all protected health information be protected from any intentional or unintentional use or disclosure that is in violation of the law or County policy.

County will reasonably safeguard all protected health information with appropriate administrative, technical and physical safeguards.

**Complaints to the covered entity 45 CFR 164.530 (d)(1)**

County policy is that all complaints concerning the unintentional or intentional use or disclosure of protected health information are documented. All reports are received and will be investigated by the Privacy Official. Findings and disposition will be documented and retained in accordance with appropriate regulation.

**Mitigation relative to a complaint 45 CFR 164.530 (f)(1):**

County policy is to make practical and reasonable efforts to mitigate any harmful effect that is known to the County, in the event that protected health information is released in violation of policy.

**INTENTIONAL RELEASE OF PROTECTED HEALTH INFORMATION WITH FINANCIAL GAIN SHALL BE REPORTED TO THE U.S. SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND APPROPRIATE LAW ENFORCEMENT OFFICIALS.**

**Discipline 45 CFR 164.530 (e)(1):**

County policy is to discipline employees found to have violated County policy covering security of protected health information according to Section 75 of the Civil Service Law or under other applicable federal and state laws and contractual obligations.

**Refraining from intimidating or retaliatory acts 45 CFR 164.530 (g)(1):**

County policy is not to permit or promote retaliatory action, in any form, against individual(s) or others who exercise(s) their rights under this legislation.

**Waiver of rights 45 CFR 164.530 (h)(1):**

County policy will not require individuals to waive their rights as a condition for the provision of treatment, payment, health care operations, enrollment in a health plan or eligibility for benefits.

**Policies and procedures 45 CFR 164.530 (i)(1):**

County policy is to develop and implement policies and procedures that are designed to comply with this legislation. The County will maintain, update, change and implement policy and procedure as material changes in Federal legislation occur within a reasonable time frame thereafter.

**Group health plans 45 164.530 (k)(1):**

The County's Human Resources Department does not meet HIPAA's definition of a "health plan". However, Human Resources will be designated as a "health component" to facilitate exchange of protected and individually identifiable health information to perform the functions of the department.

**Documentation 45 CFR 164.530 (j)(1)**

County policy is to maintain all documentation required of this legislation for at least six years from the date of creation or the date when it was last in effect, whichever is later.

**PROCEDURE**

**1. General: The County will protect individually identifiable information.**

- a. The County may collect, maintain, use, transmit, share and/or disclose information about individuals to the extent needed to administer programs, services and activities.
- b. County will take reasonable and necessary safeguards to protect all confidential information about individuals.
- c. The County will inform individuals about the County's privacy practices.
- d. The County will respect individual privacy rights to the full extent of this policy.
- e. This policy identifies the types of individuals on whom the County is most likely to obtain, collect or maintain individual information:
  - Human Service Individuals
  - Providers
  - Employees of the County and other County municipalities
  - Retirees of the County
- f. The County will provide training regarding its privacy policies to all members of the workforce it deems necessary and appropriate and shall document such training. The workforce will sign a statement of their understanding that outlines their role and responsibility related to protecting the privacy of County individuals and participants.

**2. Safeguarding information about Individuals**

*An "individual" is someone who receives direct or indirect services from the County.*

- a. The County, its workforce and business associates will respect and protect the privacy of records and information obtained or created about individuals who receive services from the County. This includes, but is not limited to:
  - i. Applicants or recipients of health care services;
  - ii. Children and adults receiving preventive services;
  - iii. Persons or their representative who apply and/or receive any health care services from the County's designated health care components;
  - iv. Information received by County about an individual may be used or disclosed

consistent with applicable Federal and State Law and Regulation.

- b. All individually identifiable information obtained on behalf or created about a individual is confidential and is to be safeguarded in accordance with County policy and procedure.
- c. The County will use or disclose information unless either
  - i. The individual has authorized the use or disclosure in accordance with County Policy.
  - ii. The use or disclosure is permitted by County Policy or federal and/or state law or regulation.
- d. County Departments will adopt procedures to reasonably safeguard individual information.

### 3. **Safeguarding information about Providers**

A “provider” is a person or entity that provides health services to County individuals or seeks reimbursement from the County.

“Workforce” is a County employee, volunteer, or those persons subject to supervision and direction from the County’s Department Head or designee.

- a. Information received by the County about a provider may be used or disclosed consistent with applicable Federal and State Law and Regulation. Information about the qualifications of providers is public record.
  - i. The County will safeguard confidential information about providers consistent with Federal and State Law and Regulation and County policy.
  - ii. Information received by the County about individuals from a provider seeking reimbursement for services will be safeguarded.
  - iii. The County will review the performance of providers in the conduct of their health oversight activities.
  - iv. The County will safeguard confidential information about individuals obtained during health oversight activities consistent with Federal and State Law and regulation and County policy.

### 4. **Conflicts with privacy and safeguarding regulations**

- a. If any Federal or State regulations or a court order having appropriate jurisdiction, imposes a stricter requirement on any County policy regarding privacy or the safeguarding of information, the County shall act in accordance with the stricter standard.
- b. The County’s workforce will be expected to act in accordance to County and Department specific policies and guides regarding the confidentiality and safeguard information whether health related or not, in performance of their job.
- c. The County’s workforce will be expected to self-educate on the County’s specific policies and guides regarding confidentiality and safeguarding information.
- d. The Privacy Official should be consulted when any question arises on the application of County or departmental privacy practice policy.

### 5. **County Notice of Privacy Practices**

- a. The County will post a copy of privacy practices in the departments that provide health care services directly or indirectly to individuals.

- b. Any individual applying for or receiving direct health care or services from the County will be provided with a Department specific privacy notice at the first encounter, when possible.
  - i. In emergency situations, it may not be possible to serve the individual with their notice on the first encounter, the notice will be served as soon as reasonably possible thereafter.
- c. Receipt of the privacy practice notice will be obtained and written acknowledgement retained in accordance with department policy. When acknowledgement can not be obtained, good faith efforts are initiated and documented.
- d. The privacy notice will contain all information required under federal regulations regarding the notice of privacy practices for protected health information.

**6. Individual Privacy Rights**

- a. The individual may request a restriction on the health information used or disclosed by the County about them. The County is not required to agree to the restriction. However, the County is required to consider any reasonable request and if the County agrees to the request, it must comply unless information is needed to provide emergency treatment to the individual.
- b. The individual may request confidential communications regarding their health matters in a certain way or at a certain location. The County is required to consider any reasonable request.
- c. The individual's right to access their health information, with some exception, will be reflected in department specific policies and procedures. These shall be in accordance with state and federal regulation.
- d. The individual requests an amendment to their health record if he feels that what the County's workforce documented is incorrect or incomplete.
- e. The individual has a right to complain if he feels his individually identifiable health information disclosed without valid authorization or not in accordance with state and federal law.
- f. Receive an accounting of disclosures for reasons other than those listed under section 7(c) of this procedure.
- g. Receive a paper copy of the Notice of Privacy Practices upon request.

**7. Minimum Necessary**

- a. The County's workforce and business associates will access or disclose only the minimum amount of information necessary to provide services and benefits to individuals. This will be in accordance with department specific policies.
- b. The County will not use or disclose any information about an individual or participant of a County program or service without a signed authorization for the release of the information, unless authorized by this policy or as otherwise allowed or required by state or federal law.
- c. This policy does **not** apply to:
  - i. Disclosures to or requests by a health care provider for treatment, payment and health care operations;
  - ii. Uses or disclosures made to the individual;
  - iii. Uses or disclosures authorized by the individual;
  - iv. Disclosures made to the Secretary of the United States Department of Health and Human Services in accordance with federal regulation 45 CFR 160,

Subpart C;

- v. Uses or disclosures that are required by law; and
  - vi. Uses or disclosures that are required for compliance with federal regulations at 45 CFR Parts 160 and 164.
- d. The County's workforce will make reasonable effort to limit the amount of information used or disclosed to the minimum necessary to effectively accomplish the activity.
- e. The County's workforce will follow department-specific protocols by only disclosing the minimum necessary information to serve the purpose of the request.
8. **Administrative, Technical and Physical Safeguards**  
The County and its workforce will take reasonable actions to safeguard confidential information from any intentional or unintentional use or disclosure. The County's policies and procedures will be adhered to.
9. **Uses and Disclosures for Research Purposes and Waivers**  
The County may use or disclose an individual's information for research purposes as outlined in department specific protocols.
10. **De-identification of Individual Information and Use of Limited Data Sets**  
The County will use and disclose information, without restriction, if steps have been taken by the County or another entity to de-identify the information.
11. **Business Associate Relationships**  
The County will disclose protected health information to business associates with whom there is a written contract or memorandum or understanding. Business associates are contractually obligated to meet federal and state regulations and County policy regarding privacy regulation. The County is not obligated to ensure that the business associate is compliant with the federal and state regulations regarding privacy.
12. **Individual Complaints**  
All verbal and written complaints relevant to a breach in an individual's privacy by the County and/or its workforce will promptly be reported to the department's Privacy Official. A thorough investigation will be conducted within 15 days of the reported complaint. If the investigation takes longer, the individual will be kept apprised of the reason for the delay, either by telephone or in writing. The investigation may include but, is not limited to: interviewing the patient, caregivers, family members/friends (with valid authorization), and members of the workforce.
13. **Mitigation, Enforcement, Sanctions and Penalties for Violations**  
Any complaint regarding the intentional or unintentional release of protected information will be investigated by the Privacy Official. County employees, if in violation, will be sanctioned in accordance with the findings pursuant to Section 75 of the Civil Service Law or under other applicable federal and state laws and contractual obligations.

Adopted by Resolution 257  
Dated June 14, 2004  
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Dated April 9, 2007  
Schuyler County Legislature