

COUNTY OF SHASTA ADMINISTRATIVE MANUAL		Attachment A
		8-400
SECTION:	Miscellaneous	Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Policy for Shasta County's Designation as a Hybrid Entity
INITIAL ISSUE DATE:	June 29, 2004	
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PURPOSE

WHEREAS, Shasta County is committed to protecting the privacy of individual health information, in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191), the Health Information Technology for Economic and Clinical Health Act (HITECH), and the implementing regulations promulgated by the federal Department of Health and Human Services (45 Code of Federal Regulation (CFR) Parts 160 and 164), including the standards for the privacy and security of individually identifiable health information, and the rules related to breach notification. All laws, rules and regulations referenced in this paragraph shall together herein after be referred to as “Regulations” for the purposes of this policy.

WHEREAS, HIPAA imposes privacy requirements on Covered Entities (defined below).

WHEREAS, Shasta County is a Covered Entity that is a single legal entity and conducts both Covered and Non-Covered Functions under the Regulations.

WHEREAS, the Regulations permit a Covered Entity to designate itself as a Hybrid Entity when it performs both Covered and non-Covered Functions and to designate Health Care Components, which must comply with the Regulations.

WHEREAS, a Hybrid Entity limits the Covered Entity’s potential liability by requiring only those departments designated as Health Care Components to comply with the Regulations.

WHEREAS, Shasta County is committed to ensuring the confidentiality, integrity, and availability of all Protected Health Information (PHI) that designated Health Care Components of the County create, receive, maintain, or transmit in compliance with the Regulations.

This administrative policy is adopted in order to designate the County as a Hybrid Entity, to designate the specific Health Care Components of the County Hybrid Entity, and to implement the policies and procedures required by the Regulations, including the Privacy Rule, the Security Rule, and the Breach Notification Rule. This administrative policy applies to protected health information (PHI) and electronic protected health information (ePHI) created, received, maintained, or transmitted by the designated Health Care Components of the County in compliance with the Regulations. This policy is also established to protect against any reasonably anticipated uses or disclosures of PHI and ePHI not permitted or required by the Privacy Rule, and to ensure compliance of the workforce of the County’s designated Health Care Components with the Security Rule. The Privacy Rule and the Security Rule shall hereinafter be collectively referred to as the “Regulations.”

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DEFINITIONS

The definitions of terms set forth in the Regulations are adopted and incorporated herein by reference as if fully set forth.

Business Associate - A person or entity that performs a function on behalf of a Covered Entity or assists a Covered Entity with a function or activity involving the use or disclosure of PHI.

Business Associate Agreement (BAA) - A contract between a HIPAA covered entity and a HIPAA business associate which protects PHI in accordance with the Regulations.

Covered Entity - A health plan, a health care clearinghouse, or a health care provider that transmits any health information in electronic form within the scope of HIPAA.

Covered Functions - Those functions of a Covered Entity which make it a health plan, health care provider or health care clearinghouse.

Electronic Protected Health Information (ePHI) - Protected health information created or received by a Covered Entity that is transmitted by electronic media or maintained by electronic media.

Health Care Component - A component or combination of components of a Hybrid Entity designated by the Covered Entity, including any component that would meet the definition of a Covered Entity if it were a separate legal entity.

Hybrid Entity - A single legal entity that is a Covered Entity whose business functions include Covered and Non-covered Functions as defined by the Regulations. The entity must designate Health Care Components and document the designation in accordance with the Regulations.

Non-covered Functions - Those functions performed by components of a Hybrid Entity that are not subject to HIPAA requirements.

Protected Health Information (PHI) - Individually identifiable health information collected from an individual that is created or received by a Covered Entity. PHI encompasses information that identifies an individual and relates to the past, present or future physical or mental health of an individual, the provision of health care to an individual, or payment for the provision of health care to the individual.

PROCEDURE FOR HYBRID ENTITY DESIGNATION

Shasta County hereby designates itself as a Hybrid Entity pursuant to the Regulations, as it conducts business activities which include Covered Functions and non-Covered Functions, and also designates

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the Health Care Components of the Shasta County Hybrid Entity on the “Shasta County Designated Health Care Components List” (List), attached hereto as Attachment A. The components listed with a “Yes” in the “HIPAA Component?” column on the List are hereby designated as Health Care Components of the Shasta County Hybrid Entity. All other departments, organizations or functions of Shasta County that do not engage in Covered Functions and are identified by a “No” in the “HIPAA Component?” column on the List are considered Non-covered Functions of the Shasta County Hybrid Entity.

The Privacy Officer shall update the County’s designated Health Care Components at least annually and shall document such updates in the List. The updated List shall be provided to, and the Privacy Officer shall seek review and guidance from, the County Counsel, the County Executive Officer, the Chief Information Officer, the County’s HIPAA Security Officer, and each affected Department Head (“Department Head” includes an agency director, a branch director, and an assistant or deputy agency or Department Head) of each designated Health Care Component. The designated Health Care Components shall not disclose PHI or ePHI to the Non-covered Components of the County, unless the Regulations would permit such disclosures to a separate legal entity. It is the responsibility of the Department Head of each designated Health Care Component to assure their workforce complies with this administrative policy. The Department Head of a designated Health Care Component shall adopt additional departmental policies and procedures to comply with the Regulations and more stringent state and federal laws regarding protecting the privacy and security of PHI and ePHI.

BACKGROUND ON COMPLIANCE WITH REGULATIONS

County departments designated as Health Care Components shall comply with the Regulations. They shall also comply with California laws and regulations pertaining to the use and disclosure of PHI, ePHI, and medical information, unless such State laws and regulations are preempted by the Regulations.

PROCEDURE FOR COMPLIANCE

1. County HIPAA Privacy Officer

The County HIPAA Privacy Officer (Privacy Officer) is the County Executive Officer or their designee. The Privacy Officer shall be deemed the “privacy official” for the purposes of the Regulations. The Privacy Officer shall periodically review compliance by the County designated Health Care Components with this administrative policy and report non-compliance to the County Executive Officer.

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2. County HIPAA Security Officer

The County HIPAA Security Officer (Security Officer) is the County Executive Officer or their designee. The Security Officer shall be deemed the “security official” for the purposes of the Regulations.

3. Preemption Analysis

There are situations when California law may be more “stringent” with regard to privacy than the Regulations. When a designated Health Care Component requires a preemption analysis to determine whether the Regulations or State law is more stringent, the matter shall be brought to the Privacy Officer and County Counsel for a determination.

4. Health Care Components

Shasta’s County’s Designated Health Care Components shall not disclose PHI or ePHI to a Non-covered Component of the Covered Entity in circumstances in which the Regulations would prohibit such disclosure if the Health Care Component and the other component were separate and distinct legal entities.

Shasta County’s designated Health Care Components shall safeguard PHI or ePHI from Non-covered Components of the Covered Entity to the same extent that it would be required under the Regulations to safeguard such information if the Health Care Component and the other component were separate and distinct legal entities.

If a person performs duties for both the Health Care Component in the capacity of a member of the workforce of such component and for a Non-covered Component of the entity in the same capacity with respect to that component, such workforce member must not use or disclose PHI created or received in the course of, or incident to, the member's work for the Health Care Component in a way prohibited by the Regulations.

5. Records Retention

Designated Health Care Components must retain the following documentation for six years from the date of its creation or the date it was last in effect (whichever is later):

- (a) Privacy Policies and Procedures: Any privacy policy or procedural documentation, including Notice of Privacy Practices, authorizations, and other standard forms.

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- (b) Security Policies, Procedures, and Documents: Any security policies and procedures, disaster recovery and contingency plans, IT security system reviews (including new procedures or technologies implemented), logs recording access to and updating of PHI, physical security maintenance records, security risk assessments, and related documentation.
- (c) Patient Requests: Patient requests for access, amendment, or accounting of disclosures.
- (d) Complaints: The handling of any individual's complaints.
- (e) Workforce Training: The processes for and content of workforce training and security reminders, including who received training.
- (f) Breach Policies and Procedures: Any breach notification policy or procedure, security incident response policy or procedure, forensic analysis, risk analysis of impermissible uses and disclosures of ePHI and security incidents, breach notifications and related documentation.
- (g) Business Associate and Data Use Agreements: All Business Associate Agreements and Limited Data Use Agreements.
- (h) Accounting of Disclosures: All information necessary to provide an Accounting of Disclosures provided in response to patient requests and all Accounting of Disclosures provided to patients.

If State law requires longer retention periods, then those requirements control. Designated Health Care Components shall include these requirements in their Board-approved Records Retention resolution.

6. Business Associates

All persons or entities that contract as a Business Associate of a designated Health Care Component of the County shall be bound by HIPAA language contained in any new contract or amended contract signed after April 14, 2003, as required by the Regulations. The addendum is attachment D to Administrative Policy 6-101, *Shasta County Contracts Manual*. Sanctions

A violation of this Administrative Policy and/or the Regulations shall be grounds for discipline, as provided for in the Shasta County Personnel Manual and any applicable Memorandum of Understanding.

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7. Subpoenas

Any designated Health Care Component that receives a subpoena for PHI or ePHI shall immediately submit a copy of the subpoena and any documentation related thereto to the office of County Counsel.

RESPONSIBLE DEPARTMENTS/PERSONS

County Administrative Office (CAO)
Office of County Counsel
Health and Human Services Agency
Shasta County Privacy Officer and Security Officer – Duty Statement Available from CAO
Departments and Agencies in Shasta County Designated Health Care Components List (List)

REFERENCES

BOS Policy Resolution No. 2019-01 – 6/18/19 (Amended)
BOS Policy Resolution No. 2012-07--11/13/12 (Amended)
Administrative Update--07/13/2012
BOS Policy Resolution No. 2009-03--5/12/09 (Amended)
BOS Policy Resolution No. 2008-02--3/4/08 (Amended)
BOS Policy Resolution No. 2007-2--4/24/07 (Amended)
BOS Policy Resolution No. 2006-4--8/22/06 (Amended)
BOS Policy Resolution No. 2005-2--4/19/05 (Amended)
BOS Policy Resolution No. 2004-3--6/29/04