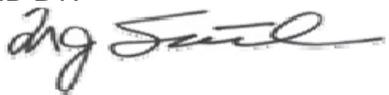




**DEPARTMENT OF MENTAL HEALTH
POLICY/PROCEDURE**

SUBJECT INTERDEPARTMENTAL MEMORANDUM OF UNDERSTANDING	POLICY NO. 510.01	EFFECTIVE DATE 04/14/2003	PAGE 1 of 7
APPROVED BY:  Director	SUPERSEDES 500.27 04/14/2003	ORIGINAL ISSUE DATE	DISTRIBUTION LEVEL(S) 1

PURPOSE

- 1.1 To establish a policy and procedure to protect the privacy and security of Protected Health Information (PHI) accessed, created or received by non-covered MOU Departments from or on behalf of the Covered Component. The County has Interdepartmental MOU provisions approved by the Board of Supervisors (“approved Interdepartmental MOU” or “approved MOU”) in which each MOU Department will safeguard PHI and use PHI only as permitted by the Interdepartmental MOU.

POLICY

- 2.1 The Covered Component shall execute an approved MOU with each designated MOU Department in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule at 45 CFR, Section 164.504(e). The Covered Component and its officers, workforce members and agents shall not disclose PHI to any MOU Department in the absence of a properly executed MOU. The MOU shall state the permitted uses and disclosures of PHI by the MOU Department and state its obligations to safeguard PHI.
- 2.2 An Interdepartmental MOU is not required for disclosures by the Covered Component to a health care provider concerning the treatment of an individual.
- 2.3 Covered Component Liability for the Actions of MOU Departments The Covered Component is not responsible or liable for privacy violations of the MOU Departments. The Covered Component is not required to actively monitor or oversee the means by which the MOU Department carries out privacy safeguards or the extent to which the MOU Department abides by the privacy requirements of the MOU.



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2.4 Departments participating in the MOU shall follow the Board approved Administrative Dispute Resolution Process (ADRP) to resolve disputes.

DEFINITIONS

3.1 **“Protected Health Information”** (PHI) means information that (i) is created or received by a health care provider; (ii) relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; and (iii) identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

3.2 **“Covered Component”** means the Department of Health Services (DHS) Department of Mental Health (DMH) and the Kirby Center Program of the Probation Department.

3.3 **“MOU Department”** means a person or entity that perform certain functions, activities or services on behalf of the Covered Component, other than a member of the Covered Component’s workforce, requiring the use and/or disclosure of PHI.

3.3.1 These functions include, but are not limited to:

- Claims Processing or Administration
- IT Services
- Billing
- Practice Management
- Auditing
- Accounting
- Data Aggregation
- Administrative Support
- Financial Services
- Transcription
- Data Analysis
- Quality Assurance
- Benefit Management
- Legal
- Actuarial
- Consulting
- Management Support
- Accreditation
- Training
- Document Destruction

3.3.2 The County has identified the MOU Department as:



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- Chief Administrative Office (CAO)
- Auditor-Controller (AC)
- Treasurer-Tax Collector (TTC)
- Internal Services Department (ISD)
- County Counsel

PROCEDURE

4.1 Managing Interdepartmental MOU's

4.1.1 The Covered Component shall be responsible for managing and tracking all Interdepartmental MOU's, assuring that the required provisions are included in all appropriate MOU's and that such provisions are current and in compliance with the requirements of the HIPAA Privacy Rule.

4.1.2 Contract Form The provisions of the Interdepartmental MOU's to be used by the Covered Component for the MOU Departments are detailed in the Board Letter, approved on March 25, 2003, entitled, "**Approval of the Health Insurance Portability and Accountability Act (HIPAA) Interdepartmental Memorandums of Understanding (MOU) for Los Angeles County as a Covered Hybrid Entity**". If a non-covered Department requires the use or disclosure of PHI from the Covered Component for non-treatment purposes, the Covered Component must execute the Board approved "Interdepartmental MOU" (Attachment I) with such Department.

4.1.3 Changes to Interdepartmental MOU's No changes or modifications to the language of the Interdepartmental MOU may be made without prior legal review and authorization by County Counsel and the Chief Information Privacy Officer.

4.2 Covered Component's Responsibilities to the MOU Departments

4.2.1 With regard to the use and/or disclosure of PHI by MOU Departments, the Covered Component shall (1) inform the MOU Departments of the



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privacy practices of the Covered Component; (2) notify the MOU Departments of any restrictions to the use or disclosure of PHI that the Covered Component has agreed to in accordance with 45 CFR, Section 164.522, to the extent that such restriction may affect the MOU Departments' use or disclosure of PHI; and (3) notify the MOU Departments of any changes in, or revocation of, permission by an individual to use or disclose PHI, to the extent that such changes may affect MOU Departments' use or disclosure of PHI.

4.2.2 MOU Departments Awareness of the Covered Component HIPAA Privacy Policies The Covered Component Privacy Officer(s), or their designee(s), shall make available the relevant HIPAA Privacy policies and procedures and forms to the MOU Department, upon request, to assure that the MOU Departments understand the basics of how the Covered Component is executing the HIPAA Privacy Rule, the Covered Components' legal obligations and the expectations of the Covered Component regarding the activities of the MOU Departments to assure the Covered Components' compliance with the HIPAA Privacy Rule.

4.2.3 Changes in Use or Disclosure of PHI The Covered Component Privacy Officer(s), or their designee(s), shall notify the MOU Departments in writing within ten (10) business days of any arrangements permitted or required by the Covered Component that may impact the use or disclosure of PHI by its MOU Departments.

4.3 MOU Departments' Obligations to the Covered Component

4.3.1 Access to PHI At the request of and in the time and manner designated by the appropriate Covered Component's Privacy Officer, MOU Departments shall provide access to PHI in a Designated Record Set to the Covered Component, the client or their representative, to whom such PHI relates in order to meet the requirements of 45 CFR Section 164.524 in accordance with the Covered Component's Right to Access Information Policy.



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- 4.3.2 Amendment to PHI At the request of and in the time and manner designated by the appropriate Covered Component's Privacy Officer, MOU Department shall make any amendments to PHI in the Designated Record Set that the Covered Component direct and agrees to pursuant to 45 CFR, Section 164.526 in accordance with the Covered Component's Right to Amend Health Information Policy.
- 4.3.3 Accounting of Disclosure of PHI At the request of and in the time and manner designated by the appropriate Covered Component's Privacy Officer, MOU Departments shall provide an accounting of disclosure to the Covered Component, the client or their representative, to whom such PHI relates in order to meet the requirements of 45 CFR Section 164.528 in accordance with the Covered Component's Right to Accounting of Disclosures Policy.
- 4.3.4 Permitted Use and Disclosure of PHI MOU Departments shall not use or disclose PHI, except as permitted by the MOU or required by law. The MOU recognizes that a MOU Department may use or disclose PHI for the proper management and administration of its business and as required by law.
- 4.3.5 Minimum Necessary The MOU Departments shall take responsible steps to ensure that it limits the use and disclosure of PHI to the minimum necessary to carry out their functions for the Covered Component.
- 4.3.6 Appropriate Safeguards MOU Departments shall use appropriate safeguards to prevent an impermissible use or disclosure of PHI.
- 4.3.7 Reporting Impermissible Use and Disclosure MOU Departments shall report violations to the appropriate Covered Component's Privacy Officer within forty-eight (48) hours upon learning of any impermissible use or disclosure of PHI.
- 4.3.8 Contractors, Subcontractors and Agents MOU Departments shall ensure that any agent, including a contractor or subcontractor, that



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receives PHI from the MOU Departments or creates PHI for the MOU Departments, agrees to the same restrictions and conditions on the use and disclosure of PHI that apply to the MOU Departments.

- 4.3.9 Records Available to Secretary MOU Departments shall make its internal practices, and books and records related to the use or disclosure of PHI available to the Secretary of the United States Department of Health and Human Services for purposes of determining the Covered Components' compliance with the HIPAA Privacy Rule.
- 4.3.10 Mitigation Each MOU Department shall mitigate, the extent practicable, any harmful effect that is known to it of a use or disclosure of PHI by it in violation of the MOU requirements.
- 4.3.11 Training Each MOU Department shall ensure that all workforce members have access to PHI complete "HIPAA for MOU Departments" training.
- 4.4 Disposition of PHI at Service Termination In the event specific services are no longer required, the MOU Departments shall return or destroy all PHI in its possession relating to any Covered Component, if feasible. MOU Departments shall also recover, return or destroy any PHI in the possession of its contractors, subcontractors or agents. If it is not feasible to return or destroy the PHI, the provisions of the MOU shall be extended to protect the PHI so that no one has access to, or can use or disclose, that PHI.
- 4.5 Administrative Dispute Resolution Process (ADRP)
 - 4.5.1 The ADRP approved by the Board of Supervisors provides for the resolution of disputes between departments and for the enforcement of the MOUs as required by HIPAA. (Attachment 1 to the MOU).
 - 4.5.2 If the Covered Component believes the terms of the MOU have been or will be violated by any recipient of PHI in another department, the Covered Component shall file a written complaint with the Chief Information Privacy Officer (CIPO). The CIPO will investigate the



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complaint and will work with the affected departments to develop a mutually satisfactory resolution of the complaint.

- 4.5.3 If the department believes the Covered Component is not complying with the terms of the MOU, a complaint may be filed with the CIPO.
- 4.5.4 If the CIPO and the affected departments are not able to resolve their differences to their mutual satisfaction, the matter will be referred to the Chief Administrative Office (CAO), provided it is not an involved party, for resolution. If the CAO is involved, County Counsel shall supervise the resolution.
- 4.5.5 If neither the CAO nor County Counsel are able to satisfactorily resolve the dispute, the issues will be submitted to the Board of Supervisors for final resolution.
- 4.5.6 In the event the Board determines that a department has violated the terms of the MOU, it may take or recommend appropriate administrative action. The Board's recommendations regarding obligations under the MOU shall be final.

DOCUMENT RETENTION

- 5.1 The Covered Component will document and retain the executed MOUs for a period of at least six (6) years from the date of its creation or the date when it was last in effect, whichever is later.

ATTACHMENT

- Attachment I Interdepartmental Memorandum of Understanding Regarding HIPAA and the Disclosure of Protected Health Information from the Covered Component to Certain Other Departments of the County of Los Angeles- plus its Attachment 1