

**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**

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to set forth the obligations of certain Departments of Los Angeles County (MOU Departments) with respect to their receipt of Protected Health Information from the covered components of the County, pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and its implementing regulations. Under HIPAA, the covered components cannot disclose Protected Health Information to the MOU Departments in question without a MOU, unless it is for treatment purposes.

II. HIPAA Covered Component Departments

Department of Health Services (DHS), Department of Mental Health (DMH), and the Dorothy Kirby Center of the Probation Department (Kirby).

III. MOU Departments

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

IV. Enforcement of the MOU

This MOU will be effective upon execution by both parties, which includes the administrative procedures for its enforcement. The Departments are expected to safeguard Protected Health Information using reasonable measures. Privacy and security issues that cannot be resolved between the affected departments and to the satisfaction of the County's Chief Information Privacy Officer (CIPO), the CAO or County Counsel will require resolution by the Board of Supervisors, in accordance with the Administrative Dispute Resolution Process (ADRP) (Attachment 1).

Terms and Conditions of the HIPAA MOU

Under this MOU, the MOU Departments provide services to County (also Covered Entity) and receive, have access to, or create Protected Health Information in order to fulfill its obligations in providing those services. The Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Parts 160 and 164 ("Privacy Regulations");

The Privacy Regulations require the Covered Entity have this MOU between its covered components and the MOU Departments in order to mandate certain protections for the privacy and security of Protected Health Information, and those regulations prohibit the disclosure to the MOU Departments of Protected Health Information if such a MOU is not in place;

Therefore, the Covered Component and MOU Departments agree as follows:

DEFINITIONS

- 1.1 “Use” or “Uses” mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such information within a MOU Department’s internal operations.
- 1.2 “Disclose” and “Disclosure” mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside a MOU Department’s internal operations or to other than its employees.
- 1.3 “Individual” means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- 1.4 “Protected Health Information” has the same meaning as the term “protected health information” in 45 C.F.R. § 164.501, limited to the information created or received by a MOU Department from or on behalf of a Covered Component Department. Protected Health Information includes information that (i) 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; (ii) identified the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is received by a MOU Department from or on behalf of a Covered Component Department, or is created by a MOU Department, or is made accessible to a MOU Department by a Health Care Component Department.
- 1.5 “Required By Law” means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing benefits.

IDENTIFIED Protected Health Information DISCLOSURES

- 2.1 {Covered Department} discloses Protected Health Information to {MOU Department} for the following purposes:
- (a) {Purpose 1}
 - (i) {Covered Department} understands that {MOU Department} will further disclose this Protected Health Information to the following persons or organizations:
 - a. {Person/Organization 1}
 - b. {Person/Organization 2}
 - c. {Person/Organization 3}...
 - (b) {Purpose 2}
 - (i) {Covered Department} understands that {MOU Department} will further disclose this Protected Health Information to the following persons or organizations:
 - a. {Person/Organization 1}
 - b. {Person/Organization 2}
 - c. {Person/Organization 3}...
 - (c) {Purpose 3}...

OBLIGATIONS OF MOU DEPARTMENTS

- 3.1 Permitted Uses and Disclosures of Protected Health Information. A MOU Department:
- (a) Shall Use and Disclose Protected Health Information as necessary to perform its obligations to the Covered Entity, the covered components or a department thereof;
 - (b) Shall Disclose Protected Health Information to the Covered Entity or the covered component Departments upon request;
 - (c) May, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:
 - (i) Use protected Health Information; and
 - (ii) Disclose Protected Health Information if the Disclosure is Required by Law.
 - (d) A MOU Department shall not Use or Disclose Protected Health Information for any other purpose.

- 3.2 Adequate Safeguards for Protected Health Information. Each MOU Department warrants that it shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this MOU. Each MOU Department agrees to limit the Use and Disclosure of Protected Health Information to the **minimum necessary** in accordance with the Privacy Regulation’s minimum necessary standard.
- 3.3 Reporting Non-Permitted Use or Disclosure. Each MOU Department shall report to the appropriate covered component Department(s) each Use or Disclosure that is made by the MOU Department, its employees, representatives, agents, contractors or subcontractors but is not specifically permitted by this Agreement. The initial report shall be made by telephone call to [the covered Departmental Privacy Officer], telephone number _____ within forty-eight (48) hours from the time the MOU Department becomes aware of the non-permitted Use or Disclosure, followed by a full written report no later than ten (10) business days from the date the MOU Department becomes aware of the non-permitted Use or Disclosure to the Chief Information Privacy Officer at:

Chief Information Privacy Officer
Kenneth Hahn Hall of Administration
500 West Temple ST
Suite 493
Los Angeles, CA 90012
(213) 974-2164
cipo@cio.co.la.ca.us

- 3.4 Mitigation of Harmful Effect. Each MOU Department agrees to mitigate, to the extent practicable, any harmful effect that is known to it of a Use or Disclosure of Protected Health Information by it in violation of the requirements of this MOU.
- 3.5 Access to Protected Health Information. Each MOU Department shall, to the extent the Covered Entity or a Covered Component Department determines that any Protected Health Information constitutes a “designated record set” as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified available to the Individual(s) identified by the Covered Entity or the Covered Component Department as being entitled to access and copy that Protected Health Information. Each MOU Department shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from the Covered Entity or the Covered Component Department, and shall provide copies of that Protected Health Information within five (5) business days after receipt of the request.
- 3.6 Amendment of Protected Health Information. Each MOU Department shall, to the extent the Covered Entity or a the Covered Component Department determines that any Protected Health Information constitutes a “designated record set” as defined by 45 C.F.R. § 164.501, make any amendments to Protected Health Information that are requested by the Covered Entity or a Covered Component Department. The MOU

Department shall make such amendment within ten (10) business days after receipt of the request in order for the Covered Entity to meet the requirements under 45 C.F.R. § 164.526.

3.7 Accounting of Disclosures.

- a. Upon the Covered Entity's request, MOU Department shall provide to the Covered Entity an accounting of each disclosure of Protected Health Information made by its employees, agents, representatives, contractors or subcontractors. However, MOU Departments are not required to provide an accounting of Disclosures that are necessary to perform the Services because such Disclosures are for either payment or health care operations purposes, or both.
- b. Any accounting provided by the MOU Department under this shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Protected Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting, the MOU Department shall document the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure. MOU Departments shall provide to the covered components, within ten (10) business days after receipt of request from the covered components, information collected in accordance with this Section 3.7 to permit the covered components to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

3.8 Use of Contractor, Subcontractors and Agents. Each MOU Department shall require each of its agents, contractors and subcontractors that receive Protected Health Information from it, or create Protected Health Information for it, to execute a written agreement obligating the agent, contractor or subcontractor to comply with all the terms of this MOU.

3.9 Training. Each MOU Department shall ensure that all personnel that have access to Protected Health Information shall complete the requisite training curriculum, "HIPAA for MOU Departments."

3.10 Amendment. The parties to this MOU may amend its terms from time to time, as may be necessary to conform to law or to clarify their obligations, as long as the written changes are approved by the County Counsel and the CIPO.

AGREED, Effective as of April 14, 2003:

Department Head
MOU Department:

Department Head
Covered Component Department:

Department

Department

Attachment 1

Administrative Procedures to Implement MOU Between Covered Component and Departments or Offices Receiving Protected Health Information

Purpose of MOU: To Govern the Exchange of Protected Health Information (PHI) Between the County's HIPAA Covered Component and Other Departments

Purpose of These Administrative Procedures: To Provide an Enforcement Mechanism Related to the MOU Process, To Deal with Disputes Between County Departments or Offices Regarding the MOU

1. The Board of Supervisors will adopt the MOU itself and these administrative procedures for its enforcement.
2. The County's Covered Component is comprised of the Departments of Health Services (DHS), Mental Health (DMH), and the Dorothy Kirby Center of the Probation Department
3. The Covered Component will provide "protected health information" (PHI) to other County departments only in accordance with the MOU.
4. The purpose of these administrative procedures is to set forth the process whereby the MOU will be enforced within the County.
5. In the event the Covered Component, or any department thereof, believes that the terms of the MOU have been or will be violated by any recipient of PHI in another department, the Covered Component or department thereof shall file with the County's Chief Information Privacy Officer ("Privacy Officer") a written complaint. The Privacy Officer will investigate the complaint and will be authorized to work with the affected departments to develop a mutually satisfactory resolution of the complaint.
6. In the event a department believes the Covered Component, or a department thereof, is not complying with the terms of the MOU, a complaint may be filed with the Privacy Officer, as set forth at point 5, above.
7. If the Privacy Officer and the affected departments are not able to resolve their differences to their mutual satisfaction, the matter will be referred to the Chief Administrative Officer (CAO), or his/her designee for resolution. The Privacy Officer will provide his/her findings and recommendations to the CAO before resolution of the matter. In the event the dispute involves the CAO, the matter shall be referred to the County Counsel, or his/her designee for resolution. A resolution by the CAO (or County Counsel) which is satisfactory to the affected departments shall be a final resolution of the matter.

8. In the event the matter is not resolved to the satisfaction of the affected departments and the CAO (or County Counsel), the matter shall be referred to the Board of Supervisors, in its capacity as the final authority of the County of Los Angeles. The affected departments, the CAO, and the Privacy Officer shall provide the Board their respective positions in writing before the Board's determination of the matter.
9. In the event the Board determines that a department has violated the terms of the MOU, it may, in its determination, take or recommend appropriate administrative action. The Board's determination regarding obligations under the MOU shall be final.