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Clinton County Health District

# Clinton County Health District

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Terry Kerr Holten MD, Medical Director

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## HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) PRIVACY RULE POLICY

Revised: August 27, 2018

Board of Health Resolution # 8184

- A. The Clinton County Health District will fully comply with all privacy regulations under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Public Law 104-191, as well as all applicable state and federal regulations. In addition, these policies will protect health information as required by the provisions of the Health Information Technology for Economic and Clinical Health Act (HITECH), Title VIII of Division A, and Title IV of Division B of the American Recovery and Reinvestment act 2009 (ARRA) (Pub.L. 111-5).
- B. The Clinton County Health District qualifies as a “hybrid entity.” As a hybrid entity, the agency is responsible for ensuring HIPAA compliance and oversight to covered health care components within the agency.
1. Some entities unquestionably have divisions which are covered entities and other divisions which are uncovered entities under HIPAA. These entities are specifically entitled hybrid entities under HIPAA. If a covered entity is a hybrid entity the requirements of HIPAA apply only to the covered health care components of the entity. Conversely any communications between the covered and non-covered portions of the hybrid entity must comply with the privacy and security guidelines.
- C. For the purposes of the CCHD policy, the following elements are considered individual identifiers if they are associated with medical information. Such information will be considered Protected Health Information (PHI) and must be protected from improper use or disclosure.
1. Names
  2. All geographic subdivisions smaller than a State, including street address, city, county, precinct, and zip code.
  3. Dates of service
  4. Telephone numbers
  5. Electronic mail addresses
  6. Social Security Numbers
  7. Medical Record Numbers
  8. Health plan beneficiary numbers
  9. Any other unique identifying number, characteristic, or code that can be re-identified.

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## PRIVACY OFFICER

- A. Responsibility for compliance with the CCHD privacy policies, including HIPAA regulations and other state and federal rules, is assigned to the Nursing Director. This responsibility includes the management and supervision of:
1. The use of security measures to protect PHI.
  2. The conduct of personnel in relation to the protection of PHI.
  3. Supervision of all personnel in relation to the protection of PHI.
  4. Assurance that all employees receive initial and annual training and education on the agency's privacy policies and procedures and have training documented.
  5. Evaluate adherence to policies and procedures to ensure effective implementation.
  6. Audit current policies and procedures to evaluate their adequacy and effectiveness.
- B. The Nursing Director is designated as the contact person who is responsible for receiving and processing complaints under this section. The contact person will be able to provide further information about our privacy policies.
- C. General Questions. In the event any employee has questions concerning disclosure or use of PHI, all such questions will be directed to the Nursing Director.

## CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION

- A. All health district PHI, including hard copy and computerized data, concerning an applicant, recipient or former recipient of care are considered as confidential information and will be safeguarded to protect the client from exploitation, harassment and/or embarrassment. No employee of the agency may disclose such information, directly or indirectly, without the client's written authorization, except as required by law, or permitted under the privacy practices of the Clinton County Health District.
- B. Additionally, this policy covers students, volunteers, trainees, contractors, personnel working through a temporary agency, and other persons whose conduct in the performance of work for our agency is under the direct control of the agency, whether or not they are paid by the agency.
- C. All PHI will be maintained in secured areas. Only authorized provider access to the information will be allowed.
- D. Employees shall read and use PHI only as necessary for their job functions. Discussions concerning client's care for the purpose of relaying information shall be discrete and private. Employees will exercise caution when discussing client-sensitive information in an unsecured area.

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- E. All records, forms, papers, log sheets, etc. with client names on them will be destroyed when being disposed.
- F. PHI maintained in electronic files will be password protected. Computer systems will be in secure locations, have an auto-log-off activation and have anti-virus software installed. All computer systems and data storage units will have a backup for disaster data retrieval. Access to on-line viewing will be controlled through individual, authorized UserIDs. Anyone allowing someone else to use his/her access or to otherwise inappropriately access information on the computer may be subject to disciplinary action.
- G. Passwords will not be stored in readable form without access control or in other locations where unauthorized persons might discover them.
- H. After separation of any employee, all UserIDs for that employee will be deleted. It is the responsibility of the Health Commissioner and Department Directors of the Clinton County Health District employees to preserve and protect the confidentiality and privacy of health department clients by adhering to agency policy, as well as State and Federal laws and regulations.
- I. Repeating or in any way disseminating PHI, except as permitted or required by law, is considered unauthorized disclosure of medical information and is a serious offense which may have personal civil and/or criminal liability. In accordance with the health district's personnel manual, violation of this policy may be grounds for disciplinary action.
- J. All employees shall be informed of the mandatory nature of confidentiality and be required to sign a security and confidentiality agreement at the time of hire. (See Security and Confidentiality Agreement form in Appendix).

## NOTICE OF PRIVACY PRACTICES

- A. Clinton County Health District will provide a Notice of Privacy Practices (See Notice of Privacy Practices in Appendix) to individuals applying for or receiving covered health care services. Additionally, the agency shall make its Notice of Privacy Practices available to any individual(s) upon request, whether or not the individual is an agency client.
- B. The Notice of Privacy Practices will outline the uses and disclosures of protected health information that may be made, and notify individuals of their rights and the agency's legal duties with respect to PHI.
- C. A copy of the Privacy Notice will be posted in a clear and prominent location where it is reasonable to expect individuals seeking service from the agency will be able to read the Notice.
- D. The Notice of Privacy Practices will be posted on the agency's website. The notice on the website will reflect the most recent version.
- E. The Clinton County Health District will promptly revise its Privacy Notice whenever there is a change to the uses or disclosures, the client's rights, the agency's legal duties, or other privacy practices described in the Privacy Notice. A revised Privacy Notice shall

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be available upon request on or after the effective date of the revision. If a written acknowledgment was previously obtained or a good faith effort documented, another written acknowledgment is not required when the Privacy Notice is revised. In addition, the revised Privacy Notice will be promptly posted in a clear and prominent location.

- F. Except in an emergency situation the privacy notice will be provided to the client or their personal representative no later than the date of the first treatment service delivery.
- G. The Clinton County Health District will make a good faith effort to obtain a written acknowledgement of receipt of the Privacy Notice from the client or his/her legal representative, except in an emergency situation.
- H. The agency will not refuse to treat a client because he/she would not sign a written acknowledgment; instead, the agency should document the good faith effort to obtain the signature. Documentation of a good faith effort shall include the date the Privacy Notice and acknowledgment was given to the individual and the reason the client refused acknowledgement.

## USE OF PROTECTED HEALTH INFORMATION

- A. How Protected Health Information (PHI) Will Be Used:
  - 1. PHI will be used for the purposes of treating our clients, obtaining payment for that treatment, and for other health care operations.
  - 2. In general, payment for treatment will permit our office to share PHI with third-party billing services, to bill for services to insurance companies, government programs, or other third-party reimbursement sources.
  - 3. Administrative-Clinton County Health District and authorized state agency personnel may have access to PHI, without authorization from the client, for the purpose of conducting management, financial, or program evaluations, ascertaining the accuracy of financial, administrative, or medical information, and adhering to financial, legal, medical or administrative standards.
  - 4. We will also comply with state law in those situations where disclosure of PHI is required to report incidents of potential criminal activity, abuse or public health disclosures or such other disclosures as may be required by state or federal law.
    - a. Child Abuse-In accordance with O.R.C. 2151.421 health care providers are required to report known or suspected abuse or neglect of a minor or physically or developmentally disabled person to Children's Services.
    - b. Communicable Diseases-O.R.C. 3701.3 requires certain communicable diseases to be reported to the Ohio Department of Health.
    - c. If health district personnel believe a client may likely cause harm to a third party they will make a report to law enforcement.

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5. Such other exceptions as are provided by law and in the Notice of Privacy Practices of the Clinton County Health District.
  6. We will also use PHI to provide, when appropriate, information to our clients concerning the care and treatment of their particular conditions or new developments in medicine that relates to their condition and treatment.
  7. We will also disclose PHI in emergency situations where such information may be necessary to provide emergency medical care to the client.
- B. Release to Legal Representative and/or Immediate Family
1. In certain circumstances, our clients may have other persons serving as legal representative for the client. In cases where the client has a legally appointed representative, or in the case of a minor child, his/her parent, we will be permitted to disclose PHI to such individuals upon reasonable verification of their appointment as legal representative or their position as parent of the minor.
  2. We will also ask our clients in advance if we are permitted to disclose or discuss PHI with other persons they specify such as immediate family members.
- C. When releasing PHI over the phone to physicians for the purposes of treatment and or in person to the client, a signed release is not necessary.
1. Immunization records will be disclosed to physicians via phone/secure fax line on representation by the physician that they are the treating physician of the patient and will maintain confidentiality of the information.
- D. Revocation of Authorizations
1. At any time, the client in writing or verbally may withdraw their consent to release or discuss PHI to third-parties and, any such withdrawal will be duly noted on the client record.
- E. Complying with Minimum Necessary Standards
1. Disclosures of PHI will be limited to the minimum necessary for the purpose of the disclosure, unless we receive an authorization from the client. This provision does not apply to the disclosure of PHI for treatment purposes because physicians, specialists, and other providers need access to the full record to provide quality care. The minimum necessary standard requires that providers make all reasonable efforts to limit the PHI to the minimum necessary to accomplish the purpose of use or disclosure.
- F. Incidental Use and Disclosure

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1. Uses and disclosures that are incidental to an otherwise permitted use or disclosure may occur, provided that reasonable safeguards and minimum necessary requirements have been met.
  2. This specifically means that our office may use waiting room sign-in sheets; nurses can talk to clients in semi-private rooms, and nurses can confer at nurse's stations without fear of violating the rule if PHI is overheard by a passerby.
- G. PHI may be emailed for the purposes of coordinating treatment using the health department's internal secure email. All other emails containing PHI are prohibited.
- H. How PHI Will Not Be Used
1. PHI will not be used for purposes that are not related to health care - such as disclosures to employers to make personnel decisions, or to financial institutions - without written authorization from the client.
- I. Use of client photos
1. Instead of actual client photos for marketing and advertising, the agency will use generic photos or illustrations in lieu of actual client photo to protect the privacy of our clients, unless the client has signed an authorized photo release form.
- J. Patient Records for Alcohol or Drug Treatment
1. Federal law provides for the confidentiality of alcohol and drug treatment records and such information may not be released without a specific written client authorization.

## CLIENT ACCESS TO PROTECTED HEALTH INFORMATION

- A. Clients have the right to request a copy of their PHI. Clients will not be required to sign a release in order to receive a copy of their record. However, clients will need to verify their identity through use of a picture ID before receiving a copy.
1. The health district receives many calls for immunization records. The staff member will verify the caller is indeed the client or legal representative of the client by verifying the client's name, address, and date of birth.
  2. If the client requests a copy of their PHI, the Agency may charge a reasonable copy fee for copies of their PHI in accordance with the published rates of the Clinton County Health District.
- B. In the event a client desires to review his/her PHI, the client will be given the opportunity to review the record. This disclosure of the client's PHI will be included in the Accounting of Disclosures of Protected Health Information form. (See Accounting of



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Disclosures of PHI form in Appendix)

- C. When the review is requested, a date and time will be scheduled for the review, the file must be reviewed in the presence of an employee of the CCHD and no material in the file will be permitted to be removed or altered. If a client desires to modify the medical record in any way, he/she will be given the opportunity to submit additional information explaining the reason for the requested revision and which information will be included in the official record. (See Request for Amendment of PHI form in Appendix)

## RIGHT TO REQUEST PRIVACY RESTRICTIONS FOR PROTECTED HEALTH INFORMATION

- A. Each client has the right to object to, and request restrictions on, how his/her Protected Health Information (PHI) is used or to whom the information is disclosed. (See Authorization for Disclosure of PHI in Appendix)
1. Clients can make such requests/objections even if the restriction affects the clients' treatment or payment for that treatment or other health care operation activities.
- B. The Clinton County Health District is not required to agree to any requested restrictions. However, if a restriction is agreed to, it is binding and the agency may not use or disclose PHI in violation of the agreement, unless otherwise allowed or required under other Clinton County Health District policies.
1. For example, the agency may disclose PHI to permit emergency treatment.
  2. The agency is also not bound by restrictions when a disclosure is required by law.
- C. If the restriction is agreed to, the following procedure must be implemented:
1. The agency must honor the restriction;
  2. The restriction must be communicated to the agency staff in an approved manner;
  3. Documentation of the approved request must be provided to the client.
- D. If the request for restriction is denied, the following procedure must be implemented:
1. The agency's denial of the request shall be documented according to agency requirements.
  2. Documentation of the denied request must be provided to the client.
- E. The Clinton County Health District may terminate an agreement to a restriction at any time.



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1. If the client agrees to the termination by the agency, previously restricted information may be used or disclosed as if a restriction never existed.
  2. If a client objects to the termination, the termination is still in effect, but only with respect to the PHI created or received after the client is informed of the termination of the restriction.
- F. The Client's Right to Restrict Disclosure of Portions Of Their PHI
1. A client may ask the Clinton County Health District not to disclose a part of their medical information to others if the client has paid for the service related to the treatment in full when the Clinton County Health District may otherwise have billed an insurance company or other persons for such medical services. If requested, and provided not contrary to law, we will segregate that portion of the medical record and specifically note it is to be separate to prevent an inadvertent disclosure of that information if the record is copied and sent pursuant to an authorization or otherwise.
- G. The Clinton County Health District will not disclose any PHI for marketing purposes or sell any such information to other parties, except as expressly permitted by law.

## RIGHT TO REQUEST AMENDMENT TO PROTECTED HEALTH INFORMATION

- A. Each client has the right to request in writing amendments of his/her PHI for as long as the information is maintained by the agency (See Request for Amendment of PHI form in Appendix). It will be CCHD's policy not to delete or change any notation or component of the medical records maintained by us, but will include by insertion additional comments from the client.
- B. Each client request for amendment to his/her PHI must be in writing and must include the reason for requesting amendment.
- C. If the agency grants the amendment in whole or in part, the following steps must be taken:
  1. Identify all documents that need to be amended.
  2. Allow insertion of the amendment as an addendum to the contested portion of the PHI; however, the original portion of the PHI may not be deleted.
  3. Inform the requester that the amendment is accepted and obtain the client's identification and agreement to have the agency notify the relevant persons with which the amendment needs to be shared.
- D. Clinton County Health District may deny a request to amend a client's PHI if the agency determines that the information;

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1. Was not created by the agency (or the originator of the information is no longer available to evaluate the request for amendment);
  2. Is not part of the PHI;
  3. Is accurate and complete.
- E. Clinton County Health District will provide a timely, written denial to a client that is written in plain language and contains the following elements:
1. The basis for the denial;
  2. The client's right to submit a written statement disagreeing with the denial and how the client may file such a statement;
  3. A statement that if the client does not submit a statement of disagreement, the client may request that the agency include the client's request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment.
- F. If a client requests review of the denial to amend PHI, the agency will designate a different individual to review the decision to deny.
- G. The agency will promptly provide written notice to the client of the determination made by the reviewing official.
- H. If amendment to PHI is again denied in whole or part, the licensed health care professional is required to provide the client with a written explanation as to the reason for the denial.

## DISCLOSURE OF PROTECTED HEALTH INFORMATION WITH AUTHORIZATION

- A. Disclosure of Protected Health Information (PHI).
1. PHI will only be released for purposes other than treatment, payment or operations with the written authorization of the client, except as required by law or as authorized under the privacy practices of the Clinton County Health District.
- B. Examples of Situations Where an Authorization May Be Required.
1. The client is treated for a medical condition and requires a letter from the agency of such treatment in order to return to work with credit for a sick day. A letter cannot be sent to the employer without a written authorization from the client given in advance.
  2. A written request is submitted to the office by an attorney for the client for PHI in a personal injury lawsuit. The PHI cannot be duplicated and released to an

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attorney without a written authorization signed by the client in advance.

3. The client agrees to be interviewed by local media for a story on a public health related matter. If the client signs a release the agency may release the client's name, address and phone number to local media so the media can contact them for an interview.
- C. The authorization must be in writing and a copy of the authorization will be provided to the patient upon request. The client can revoke the authorization at any time. (See Authorization for Disclosure of PHI in Appendix)
- D. Minors or Incompetent Clients
1. Authorization to release medical information regarding a minor or an incompetent client of any age, must be provided by a parent of the minor, or a legally appointed representative of the minor or incompetent client. An exception to this requirement is in certain circumstances where a minor may give his/her own consent. In such a situation, he/she is the only person who may authorize a disclosure regarding that portion of the PHI.
- E. A written authorization, where required, must include the following information:
1. Name of the Clinton County Health District as the releasing agency.
  2. Title of the person or organization receiving the information.
  3. Client's name.
  4. Extent or nature of the information (specific dates if possible) to be released, including a specific request for any HIV information to be released.
  5. A statement that the authorization may be revoked at any time, but not retroactively, and a specific date, event or condition upon which the authorization will expire unless revoked earlier.
  6. Date the authorization is signed.
  7. Signature of the client or his/her legally authorized representative with relationship noted.
- (See Authorization for Disclosure of PHI in Appendix)
- F. Release procedures when authorized by the client.
1. Obtain authorization prior to the release of information. Verify the validity of authorization. A driver's license or other recognized form of poof of identity shall be required before releasing any PHI to a client/legal representative. A



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request for the release of such information should be referred to the Nursing Director.

2. Requests for PHI shall be referred to the Nursing Director or designee. The Nursing Director will insure all PHI is complete prior to release. All copying of PHI for release must be coordinated with the appropriate program staff.
3. An employee who is uncertain about the appropriate response to a request for PHI will refuse to release that information until the employee has consulted his/her supervisor or the Privacy Officer (Nursing Director). Employees will be aware of and responsive to time constraints in responding to subpoenas.
4. The employee releasing PHI from a client record is required to document in the record the following:
  - a. The date the PHI is released
  - b. The names of the persons and/or agencies receiving the PHI
  - c. The specific PHI released
  - d. A copy of the completed authorization form shall be sent with the PHI requested and/or to the agency from which PHI is requested. The original form shall remain in the client's record.
  - e. This record will satisfy the accounting responsibilities under HIPAA and will be available upon request.

(See Accounting of Disclosures of PHI in Appendix)

## G. Mailing of PHI

1. PHI mailed to someone other than a medical provider, institution or other recognized service provider or agency will be sent via registered mail, receipt required.

## H. Faxing of PHI

1. Requests from clients with an appropriate authorization to fax Protected Health Information (PHI) to medical providers, institutions or other recognized service providers or agencies will be honored.
2. The cover sheet used in faxing documents must indicate the confidential nature of the transmission and contain directions as to how the faxed materials are to be handled in the event they are inappropriately received.
3. Documentation of disclosure will be noted on the Accounting of Disclosures of PHI form in the client's file. The signed authorization from the client or the



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client's legal representative, if available, will also be included.

- I. Disclosure of HIV Test Results or a Diagnosis of AIDS or HIV
  - 1. O.R.C. 3701.243 prohibits health care providers and state agencies from disclosing the following information without specific written client authorization. A general medical release is not sufficient.
    - a. The identity of an individual on whom an HIV test is performed.
    - b. The results of an HIV test (unless anonymous).
    - c. The identity of any individual diagnosed with AIDS or ARC.
  - 2. Any disclosure of HIV or AIDS information shall be in writing and must be accompanied by the following written statement:
    - a. "This information has been disclosed to you from confidential records protected from disclosure by state law. You shall make no further disclosure of this information without the specific, written, and informed release of the individual to who it pertains, or as otherwise permitted by state law. A general authorization is not sufficient for the purpose of the release of HIV test results or diagnosis."
- J. Disclosure of Patient Records for Alcohol And Other Drug Treatment
  - 1. Public Health Service act (42 USC 290dd-3 and Title 42 CFR Part No. 2) restricts the disclosure and use of PHI about individuals with substance abuse issues or treatment. Disclosures of information of substance abuse diagnosis or treatment requires a specific written client authorization. A general medical release is not sufficient.

#### RESPONDING TO A SUBPOENA

- A. Document the circumstances of receipt (i.e. date, time, and manner of service, person served).
- B. Notify your Director/supervisor of the receipt of the subpoena. With the Director/supervisor, review subpoena for required information and time for compliance. Determine whether client has signed authorization (authorization should accompany subpoena).
- C. If the subpoena is not accompanied with an authorization, the Director/supervisor will immediately consult with the Health Commissioner and contact the prosecutor's office for further guidance. If the subpoena and authorization are valid, compile and review material responsive to subpoena.

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1. Do not produce information not within scope of subpoena.
- D. Copy the materials and prepare a certification.
  1. Contact the prosecutor's office to ensure that copies are acceptable in lieu of originals.
  2. Make notes of materials produced for records.
- E. Comply with the subpoena
  1. If only the record is required and not an appearance by a specified individual, send the documents with certification within time specified.
  2. If a specified individual is required to attend, bring copies of record together with certification (ensure that copies are acceptable in lieu of originals).

## ACCOUNTING FOR DISCLOSURE OF PROTECTED HEALTH INFORMATION

- A. The Clinton County Health District will keep a record of any disclosure of Protected Health Information (PHI) which is made for other treatment, payment, or practice operations. (See Accounting of Disclosures of PHI form in Appendix) If the Clinton County Health District adopts electronic medical records for PHI, it will also account for disclosure of PHI which was disclosed electronically for any purposes. No accounting, however, will be required for the release of PHI which was done in a paper or non -electronic format for billing or medical treatment purposes, except as otherwise required by law.
- B. A record of the disclosure of PHI will be maintained for (a) any disclosure that was electronic or (b) if the disclosure was in paper form, for reasons other than medical treatment, billing or operations. For example, a return to work letter must be noted. An independent medical examination report must be noted.
- C. A list of all PHI disclosures will be kept in the patient's chart (See Accounting of Disclosures Form in Appendix). Such list will be maintained for a minimum of ten years. If the disclosure was made electronically using electronic medical records systems, an appropriate log or other system accounting device will be used to track the disclosures of PHI and will include in the listing the date of disclosure, the name and address of the person to whom the PHI was sent, a brief description of the PHI disclosed, and the purpose for which the PHI was disclosed. A copy of the authorization for the disclosure will be included in the chart.
- D. Each client has a right to receive an accounting of disclosures of his/her PHI made by the agency at any time during the previous six years (reduced to three years if a change to electronic medical records). Such requests may not include dates prior to April 14, 2003. This includes any disclosures made to or by any business associate of the agency. An accounting of disclosures made in paper form will be provided to the client, but disclosures of the following type do not have to be included on the accounting of

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Pamela Walker-Bauer, MPH, RS, Health Commissioner,

Terry Kerr Holten MD, Medical Director

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disclosures:

1. Disclosures to the client;
2. Disclosures made based upon signed authorization of the client or personal representative;
3. Disclosures for purposes of treatment, payment or health care operations.

(See Request for Accounting of Disclosures of PHI form in Appendix)

- E. Clinton County Health District shall require requests for accounting of disclosures to be in writing and forwarded to Nursing Director or designee for action.
- F. The Clinton County Health District will provide for a complete accounting of any disclosed information as follows:
1. Date of the disclosure;
  2. Name and address of the organization or person who received the PHI;
  3. Brief description of the PHI disclosed
  4. For disclosures other than those made at the request of the patient, the purpose for which the information was disclosed and a copy of the request or authorization for disclosure.
- G. Disclosures made to health oversight agencies or law enforcement officials may be temporarily excluded from an accounting if the covered agency has been notified by the oversight agency or law enforcement official that providing an accounting could impede the progress of their activities.

## PRIVACY COMPLAINTS

- A. Privacy complaints will be documented, investigated, and resolved in a timely manner, ensuring clients and other individuals that the agency is committed to protecting the health information that is created, received, and maintained by the agency.
1. Investigations will focus on both the specific privacy complaint and any patterns of similar privacy complaints.
  2. Documentation of privacy complaints, investigative efforts, and complaint disposition is considered administrative information and shall be maintained by the Privacy Officer for at least ten years.
  3. Documentation of privacy complaint information shall not be filed in a client's record.

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Equal Opportunity Employer-Provider**



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- B. The agency will make every effort to ensure documentation of privacy complaints is accurate and reflects the complainant's concerns.
- C. The Agency shall make a good faith effort to have all complaint documentation signed by the client and will use the same procedures for obtaining signatures for privacy complaints as they use to obtain signatures for authorizations. If a client appears in person the complaint information may be documented by the client or by the Privacy Officer (Nursing Director), at which time the client will be requested to sign the documentation. Written documentation received through the US mail, e-mail, or facsimile from the client shall constitute signature. Telephone complaints shall be documented by the Privacy Officer (Nursing Director). A copy of the documented complaint shall be sent to the client with a request for signature. Regardless of whether a signed copy of the form is returned by the client, the sending of a copy constitutes a good faith effort to obtain signature. Investigation of a complaint shall begin immediately following receipt of the complaint.
- D. The Clinton County Health District will not retaliate against any individual for filing a privacy complaint with the agency.
- E. Investigation of Possible Violations

In the event the personnel of the CCHD should determine that a potential violation of the policies has occurred which could compromise the security or privacy of protected health information, it shall be reported to the Nursing Director or designee who will begin an investigation of such event.

1. Investigation and Risk Assessment

- a. The person will make inquiries to determine what occurred, who obtained access to the protected information, if the person or persons had an appropriate reason for such access, and determine how an unauthorized person obtained access, if applicable.
- b. The person will conduct a risk assessment to determine whether the events posed a significant risk of financial, reputational or other harm to the insured. The person, as part of that assessment, will also consider the type and amount of protected health information that was involved in the impermissible use or disclosure.
- c. If the investigation concludes that the breach was unintentional, made in good faith, and within the scope of general authority, and further confirms that the information was not further disclosed or used, except as authorized by the privacy rules, it is not considered to be a breach.
- d. If the person concludes that it is an inadvertent disclosure and can confirm that the information was not further used or disclosed in a manner not permitted by the privacy rules, or has confirmed that the unauthorized person could not reasonably be able to retain or keep such information,

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then such actions will also not be deemed a breach.

- e. If the protected health information was in an electronic form and the information was encrypted and a disclosure of the information in the encrypted form occurred, then such disclosure is also not considered a breach.

## 2. Notices to Individuals:

If after conducting the investigation and risk assessment, it is determined that a breach has occurred, then the person shall prepare a summary of their findings on the form attached in the Appendix. As soon as possible, but no later than 60 days after the confirmation of a breach has occurred, CCHD will provide written notice to the client or clients, whose information was disclosed or accessed, including the following information within the Notice:

- a. Description of what happened, the date of the breach, and the date of the discovery of the breach, if known;
- b. A description of the types of protected health information that were involved in the breach, such as name, social security number, address, diagnosis, date of birth, and other types of information;
- c. Steps the insured should take to protect themselves from potential harm by virtue of the breach;
- d. A description of what steps we have taken to investigate the breach, to mitigate harm to the patient, and to protect against future breaches; and
- e. Identify contact procedures for the appropriate person at the agency, including telephone number, mailing address, and email address, if applicable.
- f. The Notices will be sent by first class mail or by electronic mail if the client had given such information to the agency, or if the agency knows that the client has died, the Notice will be sent to the next-of-kin or personal representative of the insured.

## 3. Substitute Notice

In the event that the Agency no longer has current contact information for the client, the Agency will take the following steps:

- a. If fewer than 10 clients are involved for which there is out-of-date contact information, then the Agency will attempt to reach such clients by an alternate form of written notice, telephone or other means;



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- b. In the event that there is insufficient or out-of-date contact information for 10 or more clients, then the Notice shall: (a) be posted on the website for the CCHD, or (b) included in a conspicuous notice in the major newspaper or broadcast media in the area of the clients and include in such notice a toll-free number where clients can contact the plan for at least 90 days concerning the situations.

#### 4. Emergency Notice

- a. In the event that a breach has occurred, which we determine in good faith requires more immediate notice, the agency will accelerate the time of giving notice to the client, including telephone or other means.

#### 5. Notification to the Media

- a. In the unlikely event that a breach of unsecured protected health information involves more than 500 clients, then in addition to the notices described above, we will contact prominent media outlets serving our area, providing a general description of the same information provided above, without identifying the specific name of the clients, but describing the circumstances, and contact procedures for the appropriate person at the agency.

#### 6. Notification to the Secretary

- a. In the event a breach has occurred for which notice is required, the Nursing Director will maintain a log or other documentation describing each of the breaches and the steps taken by the Agency to provide notice. In addition, the Nursing Director will report to the Secretary the incident, as required at the U.S. Department of Health and Human Services' website by completing the online notification reports in the categories of 500 or more or less than 500 individuals as provided. The website for these reports is currently:

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brinstruction.html>

### CLIENT INFORMATION SECURITY

- A. It is CCHD's policy to maintain confidentiality of all clients' information and to adopt security standards to prevent access to such information by unauthorized persons. This includes protecting information stored electronically and in paper form.
- B. Administrative Safeguards
  1. The CCHD's Nursing Director or designee will conduct an assessment of potential risks and vulnerabilities to the confidentiality, integrity and availability of electronic protected health information held by the Agency. The



CCHD's Nursing Director or designee will further implement security measures to reduce risks and vulnerabilities and to protect against reasonable anticipated threats or hazards to the security or integrity of such information, and to prevent unauthorized disclosure of such information.

2. The CCHD's Nursing Director or designee will further periodically review our records to assure continued updates and compliance, and to respond to any incidents of breaches of security.

C. Physical and Technical Safeguards

All protectable information, which is in an electronic format, will be password protected. Computer systems will be in secure locations and will have an automatic log-off and anti-virus software installed. Only individuals who require access to this protected information will have access to the electronic system. In addition, any private information in paper form will be maintained in secured locations, and only personnel having a reasonable need to access such records will be permitted to do so.

D. Backup and Disaster Plan

Electronically stored information will be backed up on a periodic basis with offsite storage. This material will be in a form permitted to be retrieved in the event of a disaster or other destruction of electronic records. While all records are to be password secured, the CCHD Nursing Director or their designee will have access to medical records in the event of an emergency.

E. Facsimiles

No confidential client information will be faxed unless precautions are taken to assure the recipient is known.

F. Medical Files

All clients' records will be maintained in secured areas. Only persons with reasonable need to use the information will be allowed access to such information.

G. Oral Communication

CCHD employees will be instructed to exercise caution when discussing client-sensitive information in an unsecured area.

H. Training

Specific training will be provided regarding the security measures necessary for compliance with these policies.

I. Audit



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The CCHD Nursing Director or designee will periodically audit and review our systems to verify ongoing compliance with these security standards.

J. Business Associate Agreement

The requirements to implement information will be incorporated in the Business Associate Agreements (E.G. Contracts, MOUs, MAUs)

K. Record Destruction

All paper records containing protectable information will be destroyed by shredding or other secured methods. Information in electronic form will contain programs and features that will prevent the ability to access previously deleted data in accordance with the recommendations from the agency's information technology consultants or vendors.

### BUSINESS ASSOCIATE

- A. All business associates involved with PHI will have a written Business Associate Agreement (See Business Associate Agreement in Appendix) signed protecting the Clinton County Health District in the event a business associate mishandles protected information or such language written into their contract language.
- B. Business associates may include outside contractors, compliance consultants, attorneys, information technology contractors, third-party billing companies, suppliers and temporary staffing firms.
- C. All of our business associates must confirm in writing to us that they have a HIPAA compliance plan which covers the privacy regulations and security standards and further, includes the provisions required by HITECH. The business associate must agree to coordinate investigations of any breaches with us and to take other steps as we may require from time to time to protect the privacy of protected health information. All Business Associates must sign and agree to all provisions in the "Business Associate Agreement." It will be the responsibility of Health Commissioner and Nursing Director or designee to insure Business Associate Agreements are completed and on file.

### TRAINING AND EDUCATION

- A. It is CCHD's policy to inform CCHD employees and business associates to comply with the privacy policies of the agency. We will conduct training programs for all current employees to describe the privacy policies of the agency and the importance of such policies. All new employees will be given an orientation regarding patient privacy within 30 days of their employment with more detailed training to be conducted within their probationary period of 6 months of such employment. We will maintain general training records for employees. The appropriate supervisor will insure training is scheduled for all new employees that work with PHI.



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## PENALTIES

- A. We believe that the rights of our patients and the protection of their protected health information (PHI) is extremely important. In the event that any employee should violate the policies and procedures of the practice regarding such confidentiality, such employee will be subject to immediate discipline and re-education, or based upon the severity of the violation, may be subject to immediate discharge. These repercussions will be explained and disclosed to employees during training sessions.

## AMENDMENTS AND MODIFICATIONS

- A. This procedure manual may be amended or modified based upon subsequent revisions in government regulations or subsequent interpretations of those regulations requiring appropriate modifications.
- B. It is further CCHD's policy that to the extent that any state or federal law requires additional protection for the rights of patients and the use of their information, that the more restrictive law will apply. As previously noted, to the extent state law requires disclosure of information, such is CCHD's policy to comply with that state law and its mandated disclosures.