

HARBOR UCLA MEDICAL CENTER

SUBJECT: INTERDEPARTMENTAL MEMORANDUM OF UNDERSTANDING (MOU) POLICY AND PROCEDURE POLICY NO. 704

PURPOSE:

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 the Protected Health Information and use the Protected Health Information only as permitted by the Interdepartmental MOU.

POLICY:

The Covered Component shall execute an approved MOU with each designated MOU Department, in accordance with the requirements of the HIPAA Privacy Rule at 45 C.F.R. § 164.504(e). The Covered Component and its officers, employees and agents shall not disclose Protected Health Information to any MOU Department in the absence of a properly executed MOU. The MOU shall state the permitted uses and disclosures of Protected Health Information by the MOU Department and state its obligations to safeguard Protected Health Information.

An Interdepartmental MOU is not required for disclosures by the Covered Component to a health care provider concerning the treatment of an individual.

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.

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

DEFINITIONS:

“Protected Health Information” (PHI) means information, (1) that is created or received by a health care provider; (2) 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

EFFECTIVE DATE: 04/14/03
REVISED:
REVIEWED: 12/08, 05/14, 07/17
REVIEWED COMMITTEE: N/A

SUPERSEDES:

APPROVED BY: Kim McKenzie, RN, MSN, CPHQ
Chief Executive Officer

Anish Mahajan, MD
Chief Medical Officer

Patricia Soltero Sanchez, RN, BSN, MAOM
Chief Nursing Officer

Signature(s) on File.

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an individual; and (3) identifies the individual, with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

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

“MOU Department” means a person or entity that performs 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 Protected Health Information.

These functions include, but are not limited to:

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

The County has identified the MOU Departments as:

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

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PROCEDURE:**I. MANAGING INTERDEPARTMENTAL MOUs**

1. The Covered Component shall be responsible for managing and tracking all Interdepartmental MOUs, assuring that the required provisions are included in all appropriate MOUs and that such provisions are current and in compliance with the requirements of the HIPAA Privacy Rule.
2. The Covered Component shall be responsible for managing and tracking all Interdepartmental MOUs, assuring that the required provisions are included in all appropriate MOUs and that such provisions are current and in compliance with the requirements of the HIPAA Privacy Rule.
3. Contract Form. The provisions of the Interdepartmental MOUs 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 disclosure or use of Protected Health Information from the Covered Component for non-treatment purposes, the Covered Component must execute the Board approved “Interdepartmental MOU” (Attachment A) with such Department.
4. Changes to Interdepartmental MOUs. 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.

II. COVERED COMPONENT’S RESPONSIBILITIES TO THE MOU DEPARTMENT

1. With regard to the use and/or disclosure of Protected Health Information by MOU Departments, the Covered Component shall (1) inform the MOU Departments of the 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 C.F.R. § 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.
2. MOU Departments Awareness of the Covered Component HIPAA Privacy Practices. 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 Departments, upon request, to assure that the MOU Departments understand the basics of how the Covered Component is executing the HIPAA Privacy Rule, the Covered Component’s legal obligations and the expectations of the Covered Component regarding the activities of the MOU Departments to assure the Covered Component’s compliance with the HIPAA Privacy Rule.
3. Changes in Use or Disclosure of Protected Health Information. The Covered Component Privacy Officer(s), or their designee(s), shall notify the MOU Departments in writing within ten (10) business

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days of any arrangements permitted or required by the Covered Component that may impact the use or disclosure of Protected Health Information by its MOU Departments.

III. MOU DEPARTMENT'S OBLIGATIONS TO THE COVERED COMPONENT

1. Access to Protected Health Information. 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 Protected Health Information in a Designated Record Set to the Covered Component, the individual or his or her representative, to whom such Protected Health Information relates to in order to meet the requirements of 45 C.F.R. § 164.524 in accordance with the Covered Component's *Right to Access Health Information Policy*.
2. Amendment of Protected Health Information. At the request of and in the time and manner designated by the appropriate Covered Component's Privacy Officer, MOU Departments shall make any amendments to Protected Health Information in a Designated Record Set that the Covered Component directs and agrees to pursuant to 45 C.F.R. § 164.526 in accordance with the Covered Component's *Right to Amend Health Information Policy*.
3. Accounting of Disclosure of Protected Health Information. 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 individual or his or her representative, to whom such Protected Health Information relates to in order to meet the requirements of 45 C.F.R. § 164.528 in accordance with the Covered Component's *Right of Accounting of Disclosures Policy*.
4. Permitted Uses and Disclosure of Protected Health Information. MOU Departments shall not use or disclose Protected Health Information, except as permitted by the MOU or required by law. The MOU recognizes that a MOU Department may use or disclose Protected Health Information for the proper management and administration of its business, and as required by law.
5. Minimum Necessary. The MOU Departments shall take reasonable 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.
6. Appropriate Safeguards. MOU Departments shall use appropriate safeguards to prevent an impermissible use or disclosure of Protected Health Information.
7. Reporting Impermissible Uses or Disclosures. 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 Protected Health Information.
8. Contractors, Subcontractors and Agents. MOU Departments shall ensure that any agent, including a contractor or subcontractor, that receives PHI from the MOU Departments, or creates PHI for the MOU Departments, agree to the same restrictions and conditions on the use or disclosure of Protected Health Information that apply to the MOU Departments.

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9. Records Available to Secretary. MOU Departments shall make its internal practices, and books and records related to the use or disclosure of Protected Health Information available to the U.S. Secretary of the Department of Health and Human Services for purposes of determining the Covered Component compliance with the HIPAA Privacy Rule.
10. Mitigation. Each MOU Department shall mitigate, to 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.
11. Training. Each MOU Department shall ensure that all personnel that have access to PHI complete “HIPAA for MOU Departments” training.

**IV. DISPOSITION OF PROTECTED HEALTH INFORMATION AT SERVICE
TERMINATION.**

In the event that specific services are no longer required, the MOU Departments shall return or destroy all Protected Health Information in its possession relating to any the Covered Component, if feasible. MOU Departments shall also recover, return or destroy, any Protected Health Information in the possession of its contractor, subcontractors or agents. If it is not feasible to return or destroy the Protected Health Information, the provisions of the MOU shall be extended to protect the Protected Health Information so that no one has access to, or can use or disclose, that protect the Protected Health Information so that no one has access to, or can use or disclose, that Protected Health Information.

V. ADMINISTRATIVE DISPUTE RESOLUTION PROCESS (ADRP)

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 A).
2. If the Covered Component believes that 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 complaint and will work with the affected departments to develop a mutually satisfactory resolution of the complaint.
3. If a department believes that the Covered Component is not complying with the terms of the MOU, a complaint may be filed with the CIPO.
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 CAO, if it is not an involved party, for resolution. If the CAO is involved, County Counsel shall supervise the resolution.
5. If neither the CAO nor County Counsel are able to satisfactorily resolve the dispute, the issue would be submitted to the Board of Supervisors for final resolution.
6. In the event that 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.

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VI. DOCUMENT RETENTION

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.

REFERENCES:

45 C.F.R. §§ 160.103, 164.504(e)

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Attachment A

**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 Department 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 for 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 the department thereof shall file with the County's Chief Information Privacy Officer.
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 for at point 5, above.

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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.

7. 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 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 the 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 recommended appropriate administrative action. The Board's determination regarding obligations under the MOU shall be final.