

CITY OF SPOKANE ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 0620-11-58 LGL 2005-0044
TITLE: <b>HIPAA PRIVACY COMPLIANCE</b> EFFECTIVE DATE: March 30, 2004 REVISION EFFECTIVE DATE: June 22, 2011	

1.0 GENERAL

1.1 The purpose of this policy is to implement the relevant privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA) and the regulations promulgated thereunder.

1.2 TABLE OF CONTENTS

SECTION 1 -GENERAL  
SECTION 2 -DEPARTMENTS/DIVISION AFFECTED  
SECTION 3 -REFERENCES  
SECTION 4 -DEFINITIONS  
SECTION 5 -POLICY  
SECTION 6 -PROCEDURE  
SECTION 7 -RESPONSIBILITIES  
SECTION 8 -APPENDICES

2.0 DEPARTMENTS/ DIVISIONS AFFECTED:

This policy shall apply to all City divisions and departments.

3.0 REFERENCES:

Health Insurance Portability and Accountability Act of 1996, Pub.L.No. 104-191  
(Aug. 31, 1996)  
45 CFR Subtitle A, Parts 160 and 164

4.0 DEFINITIONS

4.1 "Business Associate" means an entity that assists another entity covered by HIPAA to perform a function or activity regulated by HIPAA's administrative simplification mandates or that provides certain services (for example, legal or consulting services) involving the use or disclosure of individually identifiable health information.

- 4.2 "Health Insurance Portability and Accountability Act of 1996 (HIPAA)" means a federal law, enacted in 1996, that made comprehensive changes to the portability of health insurance and established privacy rules. Pub.L.No. 104-191 (Aug. 21, 1996).
- 4.3 "Participant" means an employee or former employee who is or may become eligible to receive a benefit from a plan.
- 4.4 "Privacy Officer (Also referred to as Privacy Official at times.)" means the person designated by the employer or health care entity to monitor the entity's privacy responsibilities and to resolve complaints filed by participants regarding privacy issues.
- 4.5 "Protected Health Information (PHI). (Also referred to as Personal Health Information at times.)" means individually identifiable health information that is maintained or transmitted in any form by any entity covered by HIPAA, such as health plans and most health care providers.

## 5.0 POLICY

- 5.1 It is the policy of the City that specific individuals within the City's workforce are assigned to the responsibility of implementing and maintaining the Health Insurance Portability and Accountability Act (HIPAA) privacy requirements. Furthermore, these individuals will be provided sufficient resources and authority to fulfill their responsibilities. At a minimum, there will be one individual designated as the Privacy Officer by the Mayor or City Administrator.
- 5.2 The Privacy Officer, in conjunction with the appropriate administrative departments, shall:
  - a) prepare participant consent/authorization forms consistent with HIPAA;
  - b) prepare and distribute privacy notices to participants about the use and disclosures of protected health information;
  - c) review the process for storing information to allow for the tracking of disclosures and accessing of participant records;
  - d) review all contracts with City "business associates" to safeguard protected health information;
  - e) train employees having access to protected health information and maintain records of the training; and

- f) establish an internal complaint resolution process for participant complaints related to these policies.

### 5.3 Uses and Disclosures of Protected Health Information

5.3.1 Protected health information may not be used or disclosed except when at least one of the following conditions is true:

- a) The individual who is the subject of the information has authorized the use or disclosure.
- b) The individual who is the subject of the information has received an appropriate Notice of Privacy Practices (or if a dependent, the named insured has received Notice), thus allowing the use or disclosure and the use or disclosure is for treatment, payment or health care operations.
- c) The individual who is the subject of the information agrees or does not object to the disclosure and the disclosure is to persons involved in the health care of the individual.
- d) The disclosure is to the individual who is the subject of the information or to the U.S. Department of Health and Human Services for compliance-related purposes.
- e) The use or disclosure is for one of the HIPAA "public purposes" (i.e. required by law; determination of benefits under the FMLA, ADA, workers compensation leave, and other disability claims; etc.).

### 5.4 Complaints

5.4.1 All complaints relating to the protection of health information shall be investigated and resolved in a timely fashion. All complaints will be addressed to the Privacy Officer who will be duly authorized to investigate complaints and implement resolutions if the complaint stems from a valid area of non compliance with the HIPAA Privacy Rule.

### 5.5 Prohibited Activities

5.5.1 No employee or contractor may engage in any intimidating or retaliatory acts against persons who file complaints or otherwise exercise their rights under HIPAA regulations.

## 5.6 Mitigation

5.6.1 The effects of any unauthorized use or disclosure of protected health information shall be mitigated to the extent possible.

## 5.7 Safeguards

5.7.1 Appropriate physical safeguards will be in place to reasonably safeguard protected health information from any intentional or unintentional use or disclosure that is in violation of the HIPAA Privacy Rule. These safeguards will include physical protection of premises and protected health information, technical protection of protected health information maintained electronically and administrative protection. These safeguards will extend to the oral communication of protected health information.

## 5.8 Business Associates

5.8.1 Business associates must be contractually bound to protect health information to the same degree as set forth in this policy. Further, business associates who violate their agreement will be dealt with first by an attempt to correct the problem, and if that fails by termination of the agreement and discontinuation of services by the business associate.

## 5.9 Retention of Records

5.9.1 The HIPAA Privacy Rule records retention requirement of six years will be strictly adhered to. All records designated by HIPAA in this retention requirement will be maintained in a manner that allows for access within a reasonable period of time. This records retention time requirement may be extended at the City's discretion to meet with other governmental regulations or those requirements imposed by the City's professional liability carrier.

5.10 Violation of this policy or the procedures established pursuant to it may subject the offending employee to formal discipline.

## 6.0 PROCEDURE

### 6.1 Complaint Procedure

6.1.1 A complainant is encouraged to use the following complaint procedure to resolve complaints of violation of privacy pertaining to private health information under HIPAA regulations.

- a) The complainant must inform the Privacy Officer for the City of Spokane immediately when there is an allegation of violation of private health information under this policy. The City's Privacy Officer is Erin Jacobson, who may be contacted at: City of Spokane City Attorney's Office, 808 West Spokane Falls Boulevard., Room 550, Spokane, Washington 99201. Telephone: (509) 625-6225.
- b) The information in support of the allegation must be provided in writing in the form of a memorandum and must include the following:
  - 1) Name of the complainant
  - 2) Date and time of the complaint
  - 3) Basic facts describing the nature of the alleged violation
  - 4) Name of the staff member who received the complaint.

Complaint forms are available in the Human Resources Department.

- c) The Privacy Officer shall provide a written response to the complainant pertaining to the resolution of the complaint within thirty days of the receipt of the complaint.
- d) If the complainant is not satisfied with the resolution of the complaint, an appeal of the Privacy Officer's decision may be filed with the office of the City Administrator. The appeal must be filed within fifteen days of the employee's receipt of the Privacy Officer's written response.
- e) The City Administrator shall respond in writing to the complainant within fifteen days of the receipt of the appeal.
- f) If the complainant is not satisfied with the response from the City Administrator, he/she may also file a complaint with the Secretary of the U.S. Department of Health and Human Services at 1-877-696-6775.

6.2 This complaint procedure shall not rescind any procedures available under any existing federal or state law.

- 6.3 All employees of the City of Spokane are encouraged to use the internal complaint procedure whenever it is believed that a violation has occurred.
- 6.4 No individual will be retaliated against or otherwise adversely affected in employment as a result of making a complaint under this policy or participating in an investigation pertaining to a complaint under this policy or as a result of being erroneously accused of having committed a violation.
- 6.5 Employees are required to cooperate fully in processing of the complaint. Employees may be allowed to be accompanied by a union representative or a person of comfort. If the employee chooses to be accompanied by an attorney, the cost of the attorney will be the sole responsibility of the employee.
- 6.6 An employee who files a complaint that the employee knows to be false may also be disciplined for filing the false complaint. Discipline may include dismissal.

7.0 RESPONSIBILITIES

The Human Resources Department, in coordination with the Office of the City Attorney, Risk Management Department, and Retirement Department, shall administer this policy.

8.0 APPENDICES:

None

APPROVED BY:

  
City Attorney (Asst)

6-1-11  
Date

  
Director - Human Resources

6.3.2011  
Date

  
City Administrator

6-7-2011  
Date