

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, CALIFORNIA



FROM: Executive Office

SUBMITTAL DATE: March 12, 2003

SUBJECT: Health Privacy Policy

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve establishing Board Policy B-23 on protecting the privacy of personal health information, shown in Attachment A;
2. Approve the notice of privacy practices attached to that policy as shown Attachment A.1, and the acknowledgement form attached to that policy in Attachment A.2 for use by all County departments, and authorize the Executive Officer to make minor revisions as necessary and as approved by Counsel;
3. Approve the business associate agreement template contained in Attachment A.3 to the policy, and authorize the Executive Officer to make minor revisions as necessary and as approved by Counsel; and,
4. Authorize the County Purchasing Agent to execute on behalf of the Board such business associate agreements with vendors as necessary and required by law.
5. Approve notifying employees of this new policy substantially as shown in Attachment B.

BACKGROUND: Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the U.S. Department of Health and Human Service issued federal regulations to protect the privacy of individually identifiable health information. Effective April 14, 2003, these regulations require all covered entities, such as the County, to implement certain measures.

(continued)

Denise C. Harden
Principal Management Analyst

FINANCIAL DATA:

CURRENT YEAR COST:	\$0	IN CURRENT YEAR BUDGET:	\$0
NET COUNTY COST:	\$0	BUDGET ADJUSTMENT:	No
ANNUAL COST:	\$0	IF YES, FOR FISCAL YEAR:	
SOURCE OF FUNDS:			

C.E.O. RECOMMENDATION: **APPROVE.**

Executive Officer Signature:

Policy
 Policy

Consent
 Consent

Per Department:
Per Executive Office:

Prev. Agn. ref.

Dist.

AGENDA NO.

3.26

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These measures include providing a notice of the covered entity's privacy practices to all clients at time of service, and where applicable obtaining an acknowledgement of receipt of that notice when possible. They also require execution of business associate agreements with vendors who handle clients' health information on behalf of the County specifying terms and conditions requiring vendors to safeguard such information. In addition, each covered entity must identify a privacy office or officer to manage implementation and administration of the entity's compliance with HIPAA regulations and investigate complaints.

Over the last several months, a task force of departmental staff worked diligently in concert to develop the attached Board policy, notice of privacy practices, acknowledgement form, and business associate agreement, among other ongoing HIPAA compliance efforts. The goal of the task force is to streamline and unify the County's efforts in order to minimize the cost of implementation and to continue to provide the highest possible quality of service to the public with minimal disruption. Specifically, the proposed Board policy:

- Defines and documents the legal limits within which the County may use and disclose protected health information pursuant to federal regulation and other applicable law;
- Outlines individuals' health privacy rights applicable under the regulations;
- Designates the Human Resources Department as the County's Privacy and Compliance Office;
- Identifies the County as an organized health care arrangement, as defined by the regulations; and,
- Establishes the terms under which vendors that handle the County's protected health information may do business with the County.

The notice of privacy practices outlines that policy in terms easily understandable by members of the public. Translations of this notice will be available in Spanish and other languages as required. This notice will be posted in the County's clinical facilities, and will be posted in English and Spanish on the County's web site. The acknowledgement form is required to accompany the notice. Formally identifying the County as an organized health care arrangement better enables and ensures all health care providers working on contract in clinical settings within County facilities, such as doctors and nurses who are themselves also covered entities, can do so under the County's privacy policy utilizing the County's notice of privacy practices.

The HIPAA Privacy and Compliance Office will provide both clients and employees a resource and single point of contact within the County to obtain information on HIPAA and file related complaints if they cannot resolve concerns at the departmental level. This office will ultimately be responsible for implementing and maintaining HIPAA-related countywide policies and procedures as specified in the regulations. The Executive Office and County Counsel identified Human Resources as best suited for such a countywide effort due to their experience in regulatory compliance, investigations, and staff training.

The business associate agreement ensures that certain vendors currently doing business with the County formally commit to safeguarding the individually identifiable health information they handle as part of the services they perform for the County. This agreement takes the form of an addendum to existing agreements to minimize the level of effort and cost necessary to obtain compliance immediately. Authorizing the Purchasing Agent to execute these agreements for this purpose will further expedite compliance. This addendum will be attached as applicable to all new agreements on a going forward basis.

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Attachment A

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Policy:

I. Health Privacy

The County creates records of health care to provide quality care and comply with legal requirements. The County understands health information is personal and private, and commits to safeguarding it to the extent reasonably possible. The law requires the County, as a single covered entity, to:

- Keep individually identifiable health information private;
- Provide notice of legal duties and privacy practices with respect to health information; and,
- Follow the terms of the notice currently in effect.

This policy outlines the limits within which the County will handle individuals' health information. In accordance with federal law, the County will provide a copy of the notice in Attachment 1 outlining this policy to each individual receiving health care and related services from the County, and to participants in certain health plans administered or operated by the County. Where applicable, the County will make the best effort to obtain completed acknowledgements of receipt of this notice from each client, substantially in the form in Attachment 2. This notice and acknowledgement may be amended as needed with the approval of County Counsel and the Executive Officer, and amended copies provided upon request.

A. Use and Disclosure – General

Generally, except as otherwise specified below, the County may use and disclose health information, as allowed under state and federal law:

1. For treatment;
2. For payment;
3. For health care operations; and
4. For health plan administration.

B. Use and Disclosure Requiring Authorization

On a limited basis, the County may use and disclose health information as follows only with a valid authorization, as allowed under state and federal law:

1. From mental health records; and,
2. From or pertaining to some substance abuse treatment programs.

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C. Use and Disclosure Requiring an Opportunity to Agree or Object

In certain cases, the County may use and disclose health information as follows only if it informs individuals in advance and provides them the opportunity to agree or object, as allowed under state and federal law:

1. For facility directories;
2. To individuals involved in the individual's care; and,
3. To assist in disaster relief efforts.

D. Use and Disclosure NOT Requiring Authorization or an Opportunity to Agree or Object

In specific cases, the County may be required to use and disclose health information as follows without authorization and without providing the opportunity to agree or object:

1. As required by law;
2. For public health activities;
3. To report victims of abuse, neglect or domestic violence;
4. For health oversight activities;
5. To the minimum extent necessary to comply with judicial and administrative proceedings when compelled by an order of a court or administrative tribunal, or in response to a subpoena, discovery request or other lawful process as allowed by law;
6. For law enforcement purposes;
7. To coroners, medical examiners and funeral directors;
8. On a deceased person for organ, eye or tissue donation and transplantation;
9. For research purposes in compliance with required conditions approved by an Institutional Review Board;
10. To avert serious threats to health and safety;
11. On Armed Forces and foreign military personnel for activities deemed necessary by appropriate military command authorities to assure proper execution of a military mission;
12. To determine eligibility for or entitlement to veterans benefits;
13. To authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities;
14. To correctional institutions and other law enforcement custodial situations;

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15. To determine eligibility for or enrollment in a government health plan program, or to coordinate and improve administration of benefits for such government plans; and,
16. To the minimum extent necessary to comply with workers' compensation laws or similar programs providing benefits for work-related injuries or illnesses.

The County will not disclose individuals' health information to outside parties for marketing, fundraising, or any other reasons not listed above without prior written authorization.

E. Rights and Responsibilities

With regard to health information, the County recognizes and commits to safeguard each individual's:

1. Right to request restrictions on certain uses and disclosures;
2. Right to confidential communications;
3. Right to inspect and copy records;
4. Right to amend health records;
5. Right to an accounting of certain disclosures;
6. Right to obtain a paper copy of the required notice of privacy practices upon request; and,
7. Right to file complaints without fear of retaliation.

F. HIPAA Privacy and Compliance Office

The County designates the Human Resources Department as the official HIPAA Privacy and Compliance Office of the County. Individuals may choose to direct inquiries and complaints regarding health privacy issues to designees within departments, to the County Privacy and Compliance Office, or to the Secretary of the Department of Health and Human Services. Under no circumstances will the County allow or enable retaliation or reprisal against individuals who file such complaints.

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G. Organized Health Care Arrangement

The County engages and partners with doctors, nurses, and other providers of health care services who participate with the County to provide health care. The County may share or disclose protected health care information to such parties for the purposes outlined above. In such instances, the County requires those entities to agree to abide by all applicable laws and regulations, this policy, and the terms of the County's privacy notice in Attachment 1.

H. Business Associates

The County engages and partners with a variety of vendors who perform functions on behalf of the County. The County may share or disclose protected health care information to such parties for the purposes outlined above. In such instances, the County requires those entities to agree to abide by all applicable laws and regulations, this policy, and the terms of the County's business associate agreement substantially as shown in Attachment 3. The terms of this agreement may be amended from time to time with the approval of County Counsel and the Executive Officer. This policy authorizes the County Purchasing Agent to execute all Business Associate Agreements pertaining to this policy on behalf of the Board of Supervisors.

I. Effective Date

This policy shall take effect on April 14, 2003.