



BOARD OF SUPERVISORS

County of Linn, Iowa

SUBJECT: Privacy Policy concerning Protected Health Information			Directive Number:
Approval Date: August 28, 2013	Effective Date: September 1, 2013	Revision No: 02	Policy Section & Number: RM-005
Reference: 45 CFR 164.501 et. seq. Discussed August 26, 2013 Adopted August 28, 2013			Distribution: AUDITOR, INTRANET, WEBSITE

Linn County, Iowa originally adopted policies and procedures concerning the privacy of Protected Health Information in accordance with state and federal law with a focus on compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These policies and procedures have been in effect since April 14, 2003. As of March 26, 2013, the Final Omnibus Rule took effect setting implementation deadlines for the expanded privacy rules under HIPAA including incorporation of rules promulgated by the Health Information Technology for Economic and Clinical Health Act as enacted under Title XIII of the American Recovery and Reinvestment Act of 2009 (HITECH) and the Genetic Information Nondiscrimination Act of 2008 (GINA). These expanded privacy rules represent substantial changes to the prior policies and procedures adopted by Linn County, resulting in the need for this updated Policy.

Linn County recognizes that departments within its organization would be categorized as either a health plan (i.e. paying for health care claims) or a health care provider (i.e. providing direct health care services) under federal law. These departments will be designated as the Linn County Health Care Component. Linn County also has departments within its organization that serve as neither, and therefore will not be designated as part of the Linn County Health Care Component. Finally, Linn County has departments within its organization that are providing support services to the departments in the Health Care Component that require access to protected health information. These departments were previously treated as “Internal Business Associates.” Under the new rules, these departments will be designated as part of the Linn County Health Care Component.

Linn County continues to choose to be treated as a “hybrid entity” for the purposes of HIPAA compliance. Each department within the Health Care Component will determine what functions they serve and how they create, receive, store and disseminate protected health information and will adopt department specific policies and procedures consistent with that analysis and with this Policy. If a Linn County department is included in the Linn County Health Care Component, these policies and procedures shall be implemented to the fullest extent possible. If a Linn County department is not included in the Linn County Health Care Component, the policies and procedures contained herein shall serve as a “best practices” model.

Privacy Policy

In the course of our work, we create or receive confidential information about individuals. This includes information about their life history, their physical or mental health, and financial information. Linn County has an ethical and legal obligation to safeguard the privacy of that information. We will only use or disclose protected health information¹ about individuals as permitted or required by law and by these policies and procedures.

¹ Throughout these policies and procedures, we use the term “protected health information”. This means any information that we create or receive that relates to the past, present or future physical or mental health or condition of an individual or payment for services to the individual, and which identifies or can be used to identify the individual.

Administration of our Privacy Program

These policies and procedures were approved by the Linn County Board of Supervisors on August 28, 2013. They are effective as of September 1, 2013 and supersede the policies previously put in effect on April 14, 2003.

Our Privacy Office is the Linn County Risk Management Office. The Privacy Office is responsible for oversight of implementation of our privacy policies and procedures. The Privacy Office can be reached at (319) 892-5200.

Our Contact Office is the Linn County Attorney's Office, Civil Division. Questions about our policies and procedures, requests to exercise individual rights, and complaints should first be directed to the Contact Office. The Contact Office can be reached at (319) 892-6340. If the Contact Office is unable to resolve a problem, please call the Privacy Office.

Posting of Notice of Privacy Practices. We will post departmental specific Notice of Privacy Practices in the waiting area or other public area of each location where an application for county health care services can be submitted or where health care services are provided. A departmental specific Notice of Privacy Practices will also be posted under a department's information on our website at <http://www.linncounty.org>. A Notice of Privacy Practices for Linn County Health Plans will be mailed to all current enrollees at a time of open enrollment and provided to subsequent enrollees at the time they are added to our Health Plan.

Business Associates. Some people or organizations (other than employees and Linn County departments) provide services to assist in our clinical or business operations and, as a result, require access to protected health information. As required by federal rules, we will enter into written agreements with each of these "business associates" which defines the data set and method of access required for the service being provided. It will also notify them that they are responsible to have and apply the same policies and safeguards for the use and disclosure of the protected health information made available to them as a department within our Health Care Component. They will also be responsible to create and maintain privacy agreements with any subcontractors that they may utilize. Breach of these requirements is grounds for termination of the business associate relationship.

Personnel Policies and Staff Training. Our personnel policies require all employees to abide by these privacy policies and procedures. All staff will be trained about our privacy policies and procedures and related policies and procedures pertaining to use of information systems. Staff working with protected health information within the Linn County Health Care Component will receive additional training specific to their function.

Ownership of records. The clinical records and other protected health information about individuals created by the Linn County Health Care Component is the property of Linn County, Iowa.

Maintenance of records including protected health information. Treatment records and financial records that include protected health information will be maintained for three years after the last date of service to an individual, however a separate record indicating any disclosure of information other than those made for treatment, payment or health care operations will be maintained for six years after the last date of service.

Disposal of records of protected health information. When disposing of records, papers or electronic media that include protected health information: (a) written materials must be shredded; and (b) electronic media (such as computer hard drives, floppy disks, and CDs) must be "wiped" clean using software programs designed to eliminate "ghost images" of deleted files or physically destroyed.

Our use of information about individuals

Access to protected health information. Our employees and independent contractors who perform services on our behalf may have access to protected health information as necessary to enable them to perform their work. All employees and contractors are expected to limit their requests for access to information about individuals to the information they need for their own work (minimum necessary standard).

Use of Computer Systems. Protected Health Information residing on our computer systems will be encrypted. Access to protected health information stored on our computer systems will be controlled to the best of our ability

within departmental resources to ensure that people only have access to information that is relevant to their work. Please refer to our Policies and Procedures regarding Use of Information Systems for detailed information.

Storage of Records. All written records containing protected health information must be maintained in a secure area or in locked file cabinet. Departments shall have written procedures concerning access to and security of records within their department. Records should be returned to a secure area or a locked filing cabinet at the end of the workday. If it is necessary to maintain records away from a physically secure site, reasonable precautions shall be taken to secure the records while they are in the field.

Use for treatment, payment and health care operations. We will use protected health information as necessary to deliver treatment, seek payment or pay claims for services, and to operate our programs. We inform patients that we will use their information for these purposes in our Notice of Privacy Practices. It is not necessary to obtain a specific authorization for our own use of protected health information for these purposes.

Communications with patients. As needed, we will communicate with individuals about our service to them. Communication may be by telephone, mail, or electronic mail. We will respect individual requests for confidential communications.

We will send appointment reminders or telephone individuals to remind them of appointments if appropriate.

Marketing and Fundraising. Linn County does not use protected health information to generate marketing or fundraising contact lists. Any health care or wellness promotions will be distributed to all employees through normal employee channels.

Use of Genetic Information: Linn County is self-insured and does not use or disclose any genetic information, even if available as part of an individual's protected health information, for underwriting purposes (to establish rates).

Disclosure of protected health information to third parties

Minimum necessary standard. Ordinarily, we will ask people or organizations who request disclosure of protected health information to limit their request to that information which is the minimum necessary to enable them to perform their function. If there is a concern that a request is unreasonable, the matter should be referred to the Contact Office. This rule does not apply to disclosures for treatment purposes, disclosures to individuals who request their records, and disclosures to regulatory agencies such as the Department of Health and Human Services.

Disclosure to arrange treatment of an individual. We will disclose protected health information to health care providers as required to arrange for treatment of an individual.

While an attempt will be made to obtain permission through a written consent form at the time an individual presents himself or herself for services, it is not necessary to obtain written permission from an individual before disclosing information for treatment purposes.

Disclosure for purposes of payment for services. We will disclose protected health information as needed to engage in billing and payment activities related to service to individuals. This includes billing, claims payment, coordination of benefits, and credit card transactions. It also includes utilization reviews for purposes of determining the medical necessity of the service delivered. We will disclose protected health information as needed for our payment transactions or for the payment transactions of a health care provider or a health plan. The information disclosed will be limited to that necessary to accomplish the transaction.

While an attempt will be made to obtain permission through a written consent form at the time an individual presents himself or herself for services, it is not necessary to obtain written permission from an individual before disclosing information for payment purposes.

Disclosure for health care operations. We will disclose protected health information as required to support our own health care operations or the health care operations of another health care organization that has a relationship with an individual. For example, we will disclose information to organizations that review our operations to determine if we

meet national standards for quality of care. These reviews may be conducted at our request or at the request of a health benefits plan that pays for service to an individual.

While an attempt will be made to obtain permission through a written consent form at the time an individual presents himself or herself for services, it is not necessary to obtain written permission from an individual before disclosing information for health care operations purposes.

Emergencies. We will disclose protected health information as needed to enable health care providers and others to provide emergency care to an individual. An emergency is a situation in which there is an immediate and serious risk to a person's physical or mental health, and the information requested is needed to provide treatment. It is not necessary to obtain written permission for the release of protected health information in an emergency. The fact of the disclosure should be noted in the individual's record.

Disclosures to family and others involved in care of an individual. Adult patients have the right to control disclosure of their information to third parties, including family members and friends. But if circumstances suggest that the individual does not object to disclosure, it is permissible to share information with family members or friends involved in care of an individual. The information shared should be limited to that which is necessary to enable the family member or friend to assist the individual. Written permission is not required. It is not necessary to note the disclosure in the individual's record. If an individual objects to disclosure to any or all family members or friends, his or her wishes must be respected.

Disclosures to health oversight agencies. We will disclose protected health information to the Department of Health and Human Services as required for DHHS to audit compliance with federal law and rules for privacy of health information, and to audit our compliance with the requirements of the Medicare and Medicaid programs. We will disclose information to the Food and Drug Administration as required to track adverse reactions or to affect a recall. We will also disclose information to state and local government agencies that have legal authority to review our operations. Written permission is not required. A note of the disclosure should be made in the individual record.

Disclosures to child protection agencies or dependent adult protection agencies. We will disclose protected health information as needed to comply with state law requiring reports of suspected incidents of abuse or neglect of a child or of a dependent adult. Written permission is not required. A note of the disclosure should be made in the individual record.

Other disclosures without written permission. There are other circumstances in which we may be required to disclose protected health information without the permission of the individual who is the subject of the record. They include disclosures made:

- Pursuant to court order;
- To public health authorities;
- To school districts regarding immunization records;
- To law enforcement officials in some circumstances;
- To correctional institutions regarding inmates;
- To federal officials for lawful military or intelligence activities;
- To coroners, medical examiners and funeral directors;
- To researchers involved in approved research projects; and
- As otherwise required by law.

In each case, the request for disclosure should be referred to the Contact Office. Written permission of these disclosures is not required. A record should be made of the disclosure.

Disclosures with permission of individuals. No other disclosure of protected health information will be made unless the individual who is the subject of the record gives written authorization for the specific disclosure. The Authorization form approved by legal counsel for Linn County will be used to document this permission. Any questions regarding whether a request for disclosure requires individual authorization will be referred to the Contact Office. A copy of any Authorization will be maintained in the individual's record.

Procedures for working with individuals regarding use and disclosure of protected health information about them

Notice of Privacy Practices. We will provide each person who presents himself or herself for services with a department specific copy of our Notice of Privacy Practices. This will be provided the first time an individual appears for service after September 1, 2013. If we change our privacy policies, we will give patients a copy of our revised notice. If an individual has difficulty reading or understanding a written Notice, a member of the staff will explain it.

Acknowledgement of receipt of Notice of Privacy Practices. Each person who receives a Notice of Privacy Practices from a provider in the Linn County Health Care Component will be asked to acknowledge receipt of the Notice. If the person refuses or is unable to sign an acknowledgement, a note will be made in the person's record to confirm that the notice was provided.

Consent to disclosure for treatment, payment, health care operations. Prior to receiving services, an individual will be asked to give written permission for use and disclosure of protected health information for purposes of their treatment, payment for services, and the health care operations of Linn County and other health care organizations that have an interest in their care.

Rights of Individuals

Presumption of competency. Unless a court finds a person to be incapable of making personal decisions, adults are presumed to be competent, regardless of their physical or mental condition.

Personal representatives. A "personal representative" is a person who has the right to make health care decisions on behalf of an individual. The parent or legal guardian of a young child is the child's "personal representative". The personal representative of an adult would ordinarily be his or her spouse or another member of the immediate family. An individual can also grant another person the right to act as his or her personal representative in an advance directive (such as a Power of Attorney), a voluntary guardianship, or living will.

Personal representatives may exercise the rights of adult patients if the adult is incapable of making a decision about use or disclosure of protected health information.

Parents or legal guardians of minors exercise the rights of the minor, with some exceptions. In some cases where provided by law, minors may make their own decisions about receiving treatment and disclosure of protected health information about them

Any question about the rights of a person or organization claiming to be the personal representative of an individual should be referred to the Contact Office.

Domestic abuse.

Disclosure of protected health information to personal representatives may be limited in cases of domestic abuse, dependent adult abuse or child abuse. If this situation may exist, the matter should be referred to the Contact Office.

Restrictions on consent. It is our policy to accommodate reasonable requests that will not disrupt service. Any such request should be forwarded to the Contact Office.

Right to revoke a Consent or Authorization. An individual person may, at any time, revoke Consent or Authorization to use or disclose protected health information. We will honor the person's wishes and discontinue use and disclosure as directed. The revocation will not affect any previous use or disclosure permitted by the individual. The individual will be asked to sign a written confirmation of the revocation.

In the case of a revocation of Consent to use and disclosure for purposes of treatment, payment or health care operations, the individual may be advised that it will not be possible to continue service without such permission.

A revocation of Consent or Authorization should be documented in the individual record, and the Contact Office and Privacy Office should be notified

Right to request confidential communications. Any patient may request that our communications with them be made in a private manner. If the individual provides a method to assure payment for services, we will accommodate that request. If the request is granted, the Contact Office along with any department providing services must be notified. A note should be made in the individual's record.

Right to review and copy record. Individuals have the right to review and receive copies of records used to make decisions about them. These records are called the "designated record set". They include the clinical record, utilization review records and financial records.

An individual request to see a record will be accommodated unless a clinical professional determines that disclosure would create a substantial risk of physical harm to the individual or a third party.

Information supplied in confidence by third parties may be redacted from the record provided to the individual. Protected health information about other persons may also be redacted from the record.

If an individual asks for a copy of his/her record, we will provide one, but will charge a reasonable fee for copying and delivery of the records. If the record is maintained in a readily accessible electronic format, an individual may request an electronic copy. If an individual provides a written request, a copy of his/her records may be forwarded directly to a third party.

Requests for access to records should be referred to the Contact Office.

Right to "amend" record. Individuals have the right to request an addition to their record if they believe an error has been made. Any such request must be referred to the Contact Office. The request will be reviewed by a supervisor of the department responsible for creating the record. If there is a mistake in the record, a note will be entered to correct the error. If not, the individual will be given the opportunity to add a short statement to the record explaining why he or she believes there is an error. If this information might affect decisions about the individual, these additions to the record will be forwarded to third parties to whom protected health information has been disclosed.

Right to an accounting. Individuals have a right to an accounting of disclosure of their protected health information other than disclosures that occur in the context of treatment, payment or health care operations, or disclosures authorized by the individual. We will provide an accounting of any such disclosure made in the preceding six years. We will withhold reporting disclosures to law enforcement authorities made in the course of an active criminal investigation until such time as the investigation has concluded. Requests for an accounting should be referred to the Contact Office.

Prohibition against intimidation, retaliation or waiver of legal rights. Linn County will not intimidate or retaliate against individuals who wish to exercise their legal rights as explained in this policy. Nor will we ask individuals to waive these legal rights.

Notice of Breach/Mitigation. If there is an unauthorized disclosure of protected health information, Linn County will make an effort to mitigate any damage to the individual whose record is disclosed. The Contact Office should be immediately informed of any unauthorized disclosure of protected health information about an individual. Notice of an unauthorized disclosure will be made to the individual unless a risk assessment of the incident concludes that there is a low probability that the protected information has actually been compromised.

Response to requests to exercise individual rights. We will respond within thirty days to any request by an individual to exercise the rights described above. If we are unable to provide a complete response within thirty days, we will notify the individual within the first thirty days, and provide a complete response within sixty days of the initial request.

Enforcement

Employees of Linn County who violate any part of this policy are subject to disciplinary action up to and including dismissal.

Linn County reserves the right to immediately terminate for cause any contract or business relationship with any User who violates any part of this policy.

Questions about this policy should be directed to:

Linn County Attorney's Office, Civil Division
(319) 892-6340
hipaa_contact@linncounty.org

Policy Review

The Privacy Office is responsible for periodic review of this document to ensure ongoing compliance with state and federal regulations.