COUNTY OF EL DORADO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

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	Date Adopted: 1/23/07	Revised Date:

BACKGROUND:

The Health Insurance Portability and Accountability Act ("HIPAA") was enacted in 1996 to create a national standard to protect and enhance the rights of individuals by providing access to their health information and to control and limit the use and disclosure of protected health information ("PHI"). As a covered entity, El Dorado County is required to maintain written documentation of individual rights with respect to PHI.

The purpose of this policy is to establish the privacy rights of individuals, how individuals may exercise those rights, and how an individual may file a complaint if the individual believes his/her privacy rights have been violated

NOTE: HIPAA will not supercede any contrary State law that imposes more stringent privacy protections.

POLICY:

1. General
   a. El Dorado County's clients have the right:
      i. To access to their own protected health information, consistent with certain limitations;
      ii. To receive an accounting of disclosure of protected health information with certain limitations as outlined in this policy. The accounting request can include disclosures made up to six (6) years prior to the date of the request, excluding dates prior to April 14, 2003;
      iii. To submit complaints if they believe or suspect information has been improperly used or disclosed, or if they have concerns regarding the privacy policies of El Dorado County.
   b. Clients may ask El Dorado County to take specific actions regarding the use and disclosure of their confidential information, and El Dorado County may either approve or deny the request. Clients have the right to request:

i. The use and disclosure of the individual's PHI be restricted while carrying out treatment, payment activities, or health care operations;

ii. Information be sent to an alternative address and means, such as by mail, email, fax, or telephone;

iii. Amendments to the individual's PHI.

c. Notice of Privacy Practices

i. El Dorado County will use the "Notice of Privacy Practices" to inform clients how the County may use/disclose their confidential information. The Notice of Privacy Practices describes the actions a client may take or request with regard to the use/disclosure of their confidential information.

ii. El Dorado County reserves the right to make changes to its policies or to the Notice of Privacy Practices at any time to comply with state or federal law.

iii. El Dorado County will promptly revise and distribute its Notice of Privacy Practices whenever changes are made to the uses or disclosures, individual rights, legal duties, or other privacy practices stated in the notice.

iv. El Dorado County will retain copies of all Notice of Privacy Practices.

d. Decision-making authority within El Dorado County

i. The program's medical director or a licensed health care professional designated by the Program Administrator shall review a client's request to amend a health or medical record. The licensed health care professional may be a staff person involved in the client's case.

ii. A staff person designated by the Program Administrator shall review a client's request and any related documentation to amend any other confidential information that is not a health or medical record.

iii. El Dorado County may deny a client's access to their own confidential health information on the grounds that access may result in risk or harm to the client or to another person. However, prior to any decision to deny such access, the program's medical director or a licensed health

care professional, designated by the Program Administrator, shall review the request and any related documentation. The licensed health care professional may be an El Dorado County staff person involved in the client's case.

iv. Decisions related to any other requests made to El Dorado County under this policy shall be in accordance with federal and state laws and regulations and/or El Dorado County's policies and procedures applicable to the program, service, or activity.

2. Restricted Use and Disclosure of Protected Health Information [45 CFR § 164.522(a)]

   a. Clients have the right to request restrictions on certain uses and/or disclosures of his/her confidential information.

   b. El Dorado County applies confidentiality laws applicable to specific programs or activities to protect the privacy of client confidential information. Even if those laws would permit El Dorado County to make a use or disclosure of confidential information, a client has the right to request a restriction on a use or disclosure of that confidential information.

   c. Clients will submit a written request to restrict a use or disclosure of confidential information.

   d. El Dorado County is not obligated to agree to a restriction and may deny the request or may agree to a restriction that is more limited than the client's request. County staff will notify the client whether the request was approved or denied.

      Exception: Certain programs may only use confidential information that is authorized by the client, such as alcohol and drug programs or vocational rehabilitation participants. For those program recipients, El Dorado County will honor the request for restriction by making sure the authorization clearly identifies the authorized recipients of the confidential information.

   e. Emergency treatment should be provided even with an agreed upon restriction.

3. Receive Confidential Information [45 CFR § 164.522(b)]

a. El Dorado County must accommodate reasonable requests by clients to receive communications by an alternative means such as by mail, e-mail, fax or telephone, and

   i. When appropriate, the County may condition the provision of reasonable accommodations on how payment information, if any, will be handled, and on specification of an alternative address or other method of contact.

b. The County may not require an explanation for the request as a condition of providing communications on a confidential basis.

c. A health plan must permit individuals to request and must accommodate reasonable requests by an individual to receive communications of PHI from the health plan by alternative means or at alternative locations, if the individual clearly states that the disclosure of all or part of that information could endanger the individual.

4. Access to Protected Health Information [45 CFR § 164.524]

   a. Clients have the right to access, inspect, and obtain a copy of his/her confidential health information on file with El Dorado County.

   b. Clients will submit a written request to access their records.

   c. El Dorado County will release PHI to a guardian or personal representative, recognized under the law, as authorized to access an individual's confidential information and to act on behalf of the individual.

   d. El Dorado County will verify the identity of all individuals requesting access to PHI.

      i. If El Dorado County maintains confidential information about the client in a record that includes confidential information about other individuals, the client is only authorized to see the information pertaining to the client, **except** as provided below:

         A. If a person identified in the file is a minor child of the client, and the client is authorized under California law to have access to the minor's confidential information or to act on

behalf of the minor for making decisions about the minor's care, the client may obtain confidential information about the minor except for the following:

I. Abortion: A minor may consent for an abortion. No notification is allowed to the parent/guardian without consent of the minor;

II. Birth Control [FC 6925]: A minor may consent for birth control (except sterilization). No notification is allowed to the parent/guardian without consent of the minor;

III. Pregnancy [FC 6925]: A minor may consent for pregnancy prevention, diagnosis, and treatment (including inpatient care). No notification is allowed to the parent/guardian without consent of the minor;

IV. Sexually Transmitted Diseases (STDs), Contagious and Reportable Diseases [FC 6926]: A minor who is 12 years or older may consent for contagious and reportable diseases diagnosis and treatment. No notification is allowed to the parent/guardian without consent of the minor;

V. HIV Testing [FC 6926]: A minor who is 12 years or older and assessed as competent to give informed consent, may consent to receive a HIV test. No notification is allowed to the parent/guardian without consent of the minor;

VI. Outpatient Mental Health Treatment [FC 6924(b)]: A minor who is 12 years or older may consent for Outpatient Mental Health Treatment provided in the opinion of the attending professional the minor is mature enough to consent and:

1. The minor is the victim of incest or child abuse and,
2. The minor would present a threat of serious physical or mental harm to self or others without treatment.
3. Parent consent and notification should be made <u>unless</u> the provider believes it is inappropriate.

VII. Alcohol/Drug Abuse Treatment [FC 6929(b)]: A minor who is 12 years or older may consent for Alcohol/Drug Abuse Treatment. Parent notification and consent is

required for methadone treatment. Minor consent for parent/guardian notification is required for all other Alcohol/Drug Abuse Treatment;

VIII. Rape [FC 6927]: A minor who is 12 years or older who is alleged to have been raped may consent for medical treatment. No notification is allowed to the parent/guardian without consent of the minor;

IX. Sexual Assault [FC 6928]: A minor may consent for medical treatment related to a sexual assault. Parent notification shall be made unless the provider believes the parent or guardian was responsible for the assault.

e. El Dorado County may deny a client's access request to PHI if prohibited by federal law. Some denials may be subject to review while others are not. Under federal law, clients have the right to access, inspect, and obtain a copy of his/her confidential health information with the following **exceptions**:

i. Psychotherapy notes;

ii. Protected health information compiled in reasonable anticipation of or for use in civil, criminal, or administrative actions proceedings;

iii. Protected health information that is subject to the Clinical Laboratory Improvement Amendments of 1988, or exempt pursuant to 42 CFR 493.3(a)(2);

iv. Confidential information that, in good faith, El Dorado County believes can cause harm to the client or to any other person, or is reasonably likely to endanger the life or physical safety of the individual or other person;

v. If prohibited by state or federal laws, and;

vi. Documents protected by the attorney-client privilege and/or attorney work-product doctrine.

f. A licensed health care professional will review a client or personal representative's access request. Access may be denied if the licensed health care professional determines there is a substantial risk of significant adverse or detrimental consequences to the client or another person or as otherwise provided herein. In certain circumstances identified in 45 CFR 164.524, the client

may request a review of this decision by another licensed health care professional who was not part of the original determination.

g. El Dorado County will notify the client whether the access request was approved or denied.

5. Amendments to Protected Health Information [45 CFR § 164.526]

a. Clients have the right to request an amendment to his/her confidential health information maintained by the County.

b. Clients will submit a written request to amend PHI.

c. El Dorado County is not obligated to agree to an amendment and may deny the request or limit its agreement to amend. The client will be notified whether the request is accepted or denied within 60 days of receipt the request unless extended pursuant to 45 CFR 526(b)(2)(ii).

d. El Dorado County may deny the client's request for amendment if:

i. The information is found to be accurate and complete;

ii. The information was not created by El Dorado County, unless the client provides a reasonable basis to believe the originator of the health information is no longer available to act on the requested amendment;

iii. The information is not part of El Dorado County's designated record set, or;

iv. The information is not available for inspection or access by the client, pursuant to Section 4 of this policy.

6. Accounting of Disclosures [45 CFR § 164.528]

a. Clients have the right to receive an accounting of certain disclosures, as outlined in the procedure section of this policy, which El Dorado County has made for any period of time not to exceed six (6) years prior to the date of the request and excluding dates prior to April 14, 2003.

b. El Dorado County will temporarily suspend a client's right to receive an accounting of disclosure, as outlined in the procedure section of this policy, made to a health oversight agency or to a law

enforcement official, for the length of time specified by the agency or official, or for a period not to exceed thirty (30) days when the agency's or official's request was made verbally with no subsequent written request.

7. Complaints [45 CFR § 164.530(d)]

   a. Clients have the right to submit a complaint if they believe El Dorado County has improperly used or disclosed protected health information, or if they have concerns about the privacy policies of the County, or concerns about El Dorado County compliance with such policies.

   b. The County shall document all complaints received and their disposition, if any.

PROCEDURE:

1. Notice of Privacy Practices [45 CFR § 164.520]

   The County will use "El Dorado County Notice of Privacy Practices" to inform clients how El Dorado County may use and/or disclose medical information, how clients may access their information, and the actions a client may take, or request El Dorado County to take with regard to the use and/or disclosure of their information.

   a. Health Plan Requirements:

      i. Health plans sponsored by El Dorado County must provide "El Dorado County Notice of Privacy Practices":

         A. No later than the compliance date for the health plan to individuals then covered by the plan;

         B. Thereafter, at the time of enrollment to individuals enrolling in the plan;

         C. Within 60 days of a material revision to the notice to individuals covered by the plan.

ii. No less frequently than once every three (3) years, the health plan must notify individuals covered by the plan the availability of the notice and how to obtain the notice.

iii. The health plan notice shall be provided to the named insured of a policy under which coverage is provided and one or more dependents.

iv. If the County maintains a web site that provides information regarding the County's services or benefits, it must prominently post the notice of privacy practices on the web site and make the notice available electronically.

b. Health Care Provider Requirements: A health care provider that has a direct treatment relationship with an individual must provide El Dorado County Notice of Privacy Practices:

i. No later than the date of the first service delivery, including service delivered electronically after the compliance date for the covered health care provider, or

ii. In an emergency treatment situation, as soon as reasonably practical after the emergency situation;

iii. Except in an emergency treatment situation, make a good faith effort to obtain a written acknowledgment of receipt of the notice and if not obtained, document good faith efforts and the reason why the acknowledgement was not obtained.

iv. If the covered health care provider maintains a physical service delivery site, the notice of privacy practices will be available for individuals and will be posted in a clear and prominent location where it is reasonable to expect individuals to be able to read the notice.

v. El Dorado County will prominently post its notice on its website and make the notice available electronically.

c. Electronic Notice of Privacy Practices Requirements:

i. The individual must agree to electronic notice;

ii. In the event of email failure, a paper notice will be provided;

iii. Electronic notice will be provided automatically in response to an individual's first request for service if that request is made electronically;

iv. The individual who is the recipient of the electronic notice retains the right to obtain a paper copy of the notice upon request.

2. Restriction of Uses and Disclosures Request [45 CFR §164.522]

a. Clients may request El Dorado County to restrict the use and/or disclosure of his/her confidential information to:

i. Carry out treatment, payment, or health care operations;

ii. A relative or other person involved in the client's care.

b. Clients will submit a request to restrict a use or disclosure in writing. El Dorado County will verify the client's identity and authority to make the request.

c. El Dorado County is not required to agree to a restriction requested by the client.

i. El Dorado County will not agree to restrict a use or disclosure of confidential information if the restriction would adversely affect the quality of the client's care or service;

ii. El Dorado County cannot agree to a restriction that would limit or prevent El Dorado County from making or obtaining payment for services;

iii. Emergency treatment should be provided even with an agreed upon restriction;

Exception: For alcohol and drug participants, federal regulations (42 CFR Part 2 and 34 CFR) prohibit El Dorado County from denying client requests for restrictions on uses and disclosures of their confidential information regarding treatment or rehabilitation.

d. El Dorado County will document the client's request and the reasons for granting or denying the request in the client's hard copy or electronic record file.

i. Prior to any use or disclosure of client information, staff must confirm such use or disclosure has not been granted a restriction by reviewing the case file.

e. If El Dorado County agrees to a client's restriction request, the County will not use or disclose information that violates the restriction.

Exception: If the client needs emergency treatment and restricted confidential information is needed to provide emergency treatment, the County may use or disclose such confidential information to the extent needed. However, once the emergency situation subsides, El Dorado County must inform the provider that further use or disclose the information is restricted.

f. El Dorado County may terminate the restriction agreement if:

   i. The client agrees to or requests termination in writing;

   ii. The client orally agrees to or requests termination of the restriction. El Dorado County will document the oral agreement or request in the client's file;

   iii. El Dorado County informs the client that it is terminating the restriction agreement. Such termination is only effective with respect to PHI created or received after it has so informed the individual.

3. Confidential Communication Request [45 CFR § 164.522 (b)]

   a. Clients may request El Dorado County as a health care provider to accommodate all reasonable written requests to receive communications by an alternative means or at an alternative location;

   b. El Dorado County, as a health plan sponsor, must permit individuals to request and must accommodate reasonable requests by individuals to receive communications of PHI from the health plan by alternative means or location if, the individual clearly states in writing the disclosure could endanger the individual;

   c. Clients must specify in writing the preferred means or location;

   d. El Dorado County may terminate the agreement to an alternative location or method of communication if the:

      i. Client agrees to or requests termination of the alternative location or method of communication in writing;

      ii. Alternative means or method of communication is not effective and the County is unable to contact the client at the location or in the manner requested;

iii. Client fails to respond to payment requests if applicable.

4. Access to Protected Health Information Request [45 CFR § 164.524]

a. Clients have the right to request access to their PHI subject to certain limitations as outlined in Section 4 of this policy.

i. Clients will submit a written request for access and El Dorado County will verify the identity and authority of the client.

ii. El Dorado County may discuss the scope, format, and other aspects of the request for access with the individual as necessary to facilitate a timely provision of access.

b. El Dorado County may deny a client's request to access without an opportunity to review the denial for the following:

i. Psychotherapy notes;

ii. Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative proceeding, and;

iii. PHI maintained by a covered entity that is:

A. Subject to the Clinical Laboratory Improvements Amendments of 1988, [42 U.S.C. 263a] to the extent the provision of access to the individual would be prohibited by law, or;

B. Exempt from the Clinical Laboratory Improvements Amendments of 1988, pursuant to [42 CFR 493.3(a) (2)].

iv. Access would reasonably reveal the source of the information from someone other than a health care provider which was obtained under a promise of confidentiality.

v. A covered entity that is a correctional institution or a covered health care provider acting under direction of the correctional institution may deny, in whole or in part, an inmate's request to obtain a copy of PHI, if obtaining such a copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or of other inmates, or the safety of any officer,

employee, or other person at the correctional institution or responsible for the transporting of the inmate;

vi. An individual's access to PHI created or obtained by a covered health care provider in the course of research that includes treatment may be temporarily suspended for as long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to participate in the research that includes treatment, and the covered health care provider has informed the individual that the right of access will be reinstated upon completion of the research;

vii. An individual's access to PHI that is contained in records that are subject to the Privacy Act, 5 U.S.C. 52a, may be denied, if the denial of access under the Privacy Act would meet the requirements of that law.

c. El Dorado County may deny a client access to their PHI provided the County gives the client an opportunity to review the denial in the following circumstances:

i. A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person, or

ii. The PHI makes reference to another person, and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or

iii. The request for access is made by the client's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to the personal representative is reasonably likely to cause substantial harm to the individual or another person.

d. If El Dorado County denies access under Section 4 of this procedure, the client has the right to have the decision reviewed by a licensed health care professional who is designated to act as a reviewing official and who did not participate in the original denial determination. The County must then:

i. Provide or deny access in accordance with the determination of the reviewing official;

ii. Promptly notify the individual in writing the outcome of the determination.

e. El Dorado County must act on a client's written request for access no later than 30 days after receipt of the request, except for records under CA Health & Safety Code §123110 where access must be permitted within five (5) working days or copies transmitted within 15 days after receipt of the written request.

i. If the requested records are not maintained or accessible on-site, and do fall under CA Health & Safety Code § 123110 the County must act no later than 60 days from receipt of the request;

ii. If the County is unable to act within the 30 days or 60 days limit, El Dorado County may extend the time by an additional 30 days, provided:

A. A written statement is sent to the individual stating the reasons for the delay and the date by which the County will complete its action on the request, and

B. The County may have only one such extension of time for action on a request for access.

f. If El Dorado County grants the client's request, in whole or in part, the County will notify client.

i. El Dorado County must provide access as requested in a timely manner, which may include arranging a convenient time and place to inspect, obtain, or mail a copy of the PHI as requested.

ii. A County staff person will accompany the client to inspect the record (s).

iii. If El Dorado County maintains the same information in more than one (1) format (e.g., electronic, hard-copy) or at more than one (1) location, the County need only provide the requested PHI once.

iv. El Dorado County must provide the requested information in a form or format requested by the client, if readily producible in that form or format. If not readily producible, the County will provide the information in a readable hard-copy format or another format as agreed to by the client and El Dorado County.

v. If El Dorado County does not maintain the requested PHI and knows where the information is maintained, the County will inform the client where to request access.

vi. El Dorado County may provide the client with a summary of the requested information, in lieu of providing access, or may provide an explanation of the PHI to which access has been provided, if:

A. The client agrees in advance, and

B. The client agrees in advance to any fees El Dorado County may impose to provide access.

vii. Fees: El Dorado County may impose a reasonable cost-based fee provided the fee includes only the cost of:

A. Copying, including the cost of supplies and labor to copy the requested PHI;

B. Postage, when the client requested or agreed to have the information mailed;

C. Preparing an explanation or summary of the requested information if agreed to in advance by the client.

g. If El Dorado County denies the request in whole or in part, the County must:

i. Give the client access to any other requested client information, after excluding PHI to which access was denied;

ii. Provide a timely written denial to the client and state:

A. The reason for the denial;

B. If applicable, a statement regarding the client's right to a review of the denial including how to exercise those rights;

C. Provide a description how the client may file a complaint with El Dorado County or to the Office of Civil Rights/Department of Health and Human Services.

iii. El Dorado County will document the client's request and the reasons for granting or denying the access in the client's hard copy or electronic record file.

5. Amendment of Protected Health Information Request [45 CFR §164.526]
   a. Clients will submit in writing a request to amend his/her PHI. The County will verify the identity and the authority to make the amendment request.
   b. All requests to amend a health or medical record shall be reviewed by the program's medical director or a licensed health care professional.
   c. All requests to amend any other confidential information that is not a health or medical record shall be reviewed by the staff person designated by the Program Administrator.
   d. El Dorado County must act on the client's request no later than 60 days of receiving the request. If the County is unable to act on the request within 60 days, the County may extend the time period up to an additional 30 days, provided:
      i. The County notifies the client in writing the reasons for the delay and the date by which the County will complete its action;
      ii. The County will use only one (1) 30-day extension.
   e. If El Dorado County grants the request, in whole or in part, the County must:
      i. Make the appropriate amendments to the PHI and document the amendment in the client's file or record;
      ii. Identify the records that are affected by the amendment and appending or otherwise providing a link to the location of the amendment;
      iii. Provide the client notice the request was granted.
      iv. Obtain the client's identification and agreement to notify the relevant person or entities with which the amendment needs to be shared;
      v. Make reasonable efforts to inform and provide the amendment within a reasonable time to:
         A. Persons named by the client as having received the PHI and needing the amendment, and

B. Persons, including business associates of the County which may have or could have relied on such information to the client's detriment.

vi. El Dorado County may deny the client's request for amendment if:

A. The PHI is accurate and complete;

B. The PHI was not created by the County, unless the client provides a reasonable basis to believe that the originator of PHI is no longer available to act on the request;

C. The PHI is not part of the designated record set;

D. The PHI would not be available for inspection or access pursuant to Section 4 of this policy.

f. If El Dorado County denies the requested amendment, in whole or in part, El Dorado County must:

i. Provide the client with a timely written denial which is sent or provided within the time limits specified in the Procedure Section (5) (d);

ii. In plain language, state the basis for the denial;

iii. Explain the client's right to submit a written statement disagreeing with the denial in whole or in part, the basis of such disagreement, and how the client may file such a statement. The County may reasonably limit the length of a statement of disagreement.

A. The County will enter the written disagreement statement into the client's case file;

B. The County may also enter a written rebuttal to the client's statement of disagreement into the client's case record. The County will send or provide a copy of any such written rebuttal to the client;

C. The County will include a copy of the client's disagreement statement and the written rebuttal by the County, if any, with any future disclosures of the relevant information;

D. If the individual has not submitted a written statement of disagreement, the County must include the client's request for an amendment and its denial, or an accurate summary of such information, with any subsequent disclosures of PHI;

E. Explain if the client does not submit a written statement of disagreement, the client may ask the County to include a copy of the client's original request for amendment and a copy of the written denial if the County makes any future disclosures of relevant information;

F. Provide information how the client may file a complaint with El Dorado County, or with the U.S Department of Health and Human Services, Office for Civil Rights, subject to Section (7) of this procedure, below.

iv. El Dorado County will document the client's request, whether the County granted or denied the request, the client's statement of disagreement, and the rebuttal statement in the client's hard copy or electronic case record file.

6. Accounting of Disclosures [45 CFR §164.528]

a. Clients are permitted to request an accounting of certain disclosures of his/her PHI made by a covered entity.

b. The client's request for an accounting of disclosures will be made in writing to a specific department.

c. The client is required to present or provide a copy of valid picture identification to verify they have the authority to make the request.

d. The client will specify the time period of the request, not to exceed six (6) years and excluding dates prior to April 14, 2003.

e. Disclosures of PHI that are required to be listed in the accounting (assuming that the disclosure is permitted by other confidentiality laws applicable to the individual's information and the purpose for which it was collected or maintained) include:

i. Victims of abuse (other than child abuse), neglect, or domestic violence reports unless the County in exercising professional judgment believes informing the individual may cause serious harm or if the County believes the individual is responsible for the abuse, neglect, or injury;

ii. Public Health activities such as reporting of disease, injury, or investigation;

iii. Required by law;

iv. Health oversight activities;

v. Research purposes conducted without an authorization, using a waiver of authorization approved by an Institutional Review Board (IRB) or Privacy Board;

vi. Law enforcement purposes or pursuant to a court order;

vii. Decedents, coroners, medical examiners, funeral directors;

viii. Judicial and administrative proceedings;

ix. Any government entity, unless otherwise exempted;

x. Claims investigation;

xi. Disclosures to avert a serious threat to health and safety.

f. Disclosures that are **not** required to be tracked and accounted for include:

i. To carry out treatment, payment, and health care operations;

ii. To individuals of PHI about themselves;

iii. Pursuant to an authorization;

iv. Made to persons involved in the client's health care;

v. For national security or intelligence purposes;

vi. To correctional institutions or law enforcement agencies that have lawful custody of an inmate;

vii. As part of a limited data set;

viii. Disclosures for a facility's directory, to persons involved in the individual's care or for disaster relief purposes where the individual has had an opportunity to agree or object to the disclosure;

ix. To correctional institutions or law enforcement officials as provided in 45 CFR § 164.512(k)(5) for the provision of health and safety of individuals, inmates, or the officers and employees at the correctional institution or responsible for transporting inmates.

x. Disclosures prior to the compliance date of April 14,2003;

xi. Incident to a use or disclosure otherwise permitted or required.

g. The accounting must include for each disclosure:

i. The date of the disclosure;

ii. The name, and address if known, of the person or entity who received the disclosure;

iii. A brief description of the PHI disclosed;

iv. A brief statement of the purpose of the disclosure that reasonable informs the individual the basis for the disclosure, or in lieu of such a statement, a copy of a written request for a disclosure.

h. If during the period covered by the accounting, the County has made multiple disclosures of PHI to the same person or entity for a single purpose, the accounting may provide:

i. All the information listed in Section 6(e) above, and

ii. The frequency, periodicity, or number of disclosures; and

iii. The date of the last such disclosure during the accounting period.

i. The County must act on the client's request for an accounting no later than 60 days after receipt of the request, subject to the following:

i. If the County is unable to provide the accounting within 60 days, the County may extend the time to provide the accounting by no more than 30 days, provided that:

A. Within 60 days after receipt of the request, the County provides the client with a written statement of the reasons for the delay and the date by which the accounting will be provided, and

B. The County may have only one (1) such extension.

j. Fees: El Dorado County must provide the first requested accounting in any 12-month period without charge. The County may charge the client a reasonable cost-based fee for each subsequent request for an accounting within the 12 month period, provided that the County:

i. Informs the client in advance of the fee, and

ii. The client is given an opportunity to withdraw the request, or modifies the request to avoid or reduce the fee.

k. El Dorado County will temporarily suspend a client's right to receive an accounting of disclosure of PHI that the County has made to a health oversight agency or law enforcement official for the length of time specified by such agency, if:

i. The agency or official provides a written statement to the County that such an accounting would reasonably be likely to impede the agency's activities;

ii. However, if such agency or official makes an oral request, the County will:

A. Document the statement including the identity of the agency or official making the statement;

B. Temporarily suspend the client's right to an accounting of disclosure subject to the statement; and

C. Limit the temporary suspension to no longer than 30 days from the date of the oral statement, unless a written statement providing a time limit is submitted during the 30 days.

l. If the accounting of disclosure cannot be provided, El Dorado County will provide a written statement to the client outlining the reason(s) the accounting can not be made:

i. The County has temporarily suspended the client's right to receive an accounting of disclosures;

ii. The request is prior to April 14, 2003;

iii. The individual making the request is not authorized to receive the Accounting of Disclosures, or

iv. The individual did not send or provide a copy of valid photo identification with the request.

m. Accounting of disclosures documentation must be retained for a period of six (6) years from the date of its creation or the date when it was last in effect whichever is later. Documentation should

also include the titles of the person or office responsible for receiving and processing requests for an accounting by individuals.

7. Complaints [45 CFR § 164.530(d)]
   a. Clients, workforce members, or whistleblowers may file complaints concerning:
      i. Disagreements with the County's privacy policies and procedures;
      ii. Suspected violation in the use, disclosure, or disposal of the PHI;
      iii. Denials of access to their PHI;
      iv. Denial of amendments to their PHI.
   b. Complaints must be filed in writing, either on paper or electronically.
   c. Complaints may be filed with El Dorado County's Privacy/Compliance Officer or sent to the Secretary of the Department of Health and Human Services in accordance with El Dorado County Notice of Privacy Practices.
   d. The complaint must name the person that is the subject of the complaint and describe the acts or omissions believed to be in violation.
   e. El Dorado County will not intimidate, threaten, coerce, discriminate against or take other retaliatory action against any person filing a complaint or inquiring how to file a complaint.
   f. El Dorado County may not require clients to waive their rights to file a complaint as a condition of providing treatment, payment, and enrollment in a health plan, or eligibility for benefits.
   g. All complaints must be forwarded to the Privacy/Compliance Officer for documentation, investigation, disposition, and to mitigate any harmful effects due to inappropriate use or disclosure of PHI. Documentation will include any sanctions that were applied, if any, in accordance with El Dorado County's established personnel policies.

Primary Department: Privacy Compliance Office

References: 45 CFR § 160 - 164