



Book	Policy Manual
Section	4000 Support Staff
Title	Copy of PRIVACY PROTECTIONS OF FULLY INSURED GROUP HEALTH PLANS
Number	po4419.02
Status	draft
Adopted	September 20, 2016

4419.02 - **PRIVACY PROTECTIONS OF FULLY INSURED GROUP HEALTH PLANS**

The School Board has adopted the *Standards for Privacy of Individually Identifiable Health Information* ("privacy rule") established by the U.S. Department of Health and Human Services ("HHS") issued to implement the requirement of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

The Board will protect all "*individually identifiable health information*", including demographic data, that relates to:

- A. the individual's past, present, or future physical or mental health or condition;
- B. the provision of health care to the individual; or
- C. the past, present, or future payment for the provision of health care to the individual; and
- D. that identifies the individual or for which there is a reasonable basis to believe can be used to identify the individual. Individually identifiable health information includes many common identifiers (e.g., name, address, birth date, Social Security Number).

The Board will not use or disclose protected health information, except either:

- A. as the privacy rule permits or requires; or
- B. as the individual who is the subject of the information (or the individual's personal representative) authorizes in writing.

The Board may use and disclose protected health information, without an individual's authorization, for the following purposes or situations:

- A. to the individual (unless required for access or accounting of disclosures);
- B. treatment, payment, and health care operations;
- C. opportunity to agree or object;
- D. incident to an otherwise permitted use and disclosure;
- E. public interest and benefit activities; and
- F. limited data set for the purposes of research, public health, or health care operations.

The Board may rely on an individual's informal permission to disclose to the individual's family, relatives, or friends, or to other persons whom the individual identifies, protected health information directly relevant to that person's involvement in the individual's care or payment for care. This provision, for example, allows a pharmacist to dispense filled prescriptions to a person acting on behalf of the patient. Similarly, a covered entity may rely on an individual's informal permission to use or disclose protected health information for the purpose of notifying (including identifying or locating) family members, personal representatives, or others responsible for the individual's care of the individual's location, general condition, or death. In addition, protected health information may be disclosed for notification purposes to public or private entities authorized by law or charter to assist in disaster relief efforts.

In addition, the Board may disclose protected health information to:

- A. public health authorities authorized by law to collect or receive such information for preventing or controlling disease, injury, or disability and to public health or other government authorities authorized to receive reports of child abuse and neglect;
- B. entities subject to FDA regulation regarding FDA regulated products or activities for purposes such as adverse event reporting, tracking of products, product recalls, and post marketing surveillance;
- C. individuals who may have contracted or been exposed to a communicable disease when notification is authorized by law;
- D. employers, regarding employees, when requested by employers, for information concerning a work-related illness or injury or workplace related medical surveillance, because such information is needed by the employer to comply with the Occupational Safety and Health Administration (OHSA), the Mine Safety and Health Administration (MSHA), or similar State law;
- E. in certain circumstances, to appropriate government authorities regarding victims of abuse, neglect, or domestic violence;
- F. to health oversight agencies for purposes of legally authorized health oversight activities, such as audits and investigations necessary for oversight of the health care system and government benefits programs;
- G. a judicial or administrative proceeding if the request for the information is through an order from a court or administrative tribunal;

Such information may also be disclosed in response to a subpoena or other lawful process if certain assurances regarding notice to the individual or a protective order are provided.

- H. law enforcement officials for law enforcement purposes under the following circumstances, and subject to specified conditions: (a) as required by law (including court orders, court-ordered warrants, subpoenas) and administrative requests; (b) to identify or locate a suspect, fugitive, material witness, or missing person; (c) in response to law enforcement official's request for information about a victim or suspected victim of a crime; (d) to alert law enforcement of a person's death, if the covered entity suspects that criminal activity caused the death; (e) when a covered entity believes that protected health information is evidence of a crime that occurred on its premises; and (f) by a covered health care provider in a medical emergency not occurring on its premises, when necessary to inform law enforcement about the commission and nature of a crime, the location of the crime or crime victims, and the perpetrator of the crime;
- I. to funeral directors as needed and to coroners or medical examiners to identify a deceased person, determine the cause of death, and perform other functions authorized by law;
- J. to facilitate the donation and transplantation of cadaveric organs, eyes, and tissue;
- K. to prevent or lessen a serious and imminent threat to a person or the public, when such disclosure is made to someone they believe can prevent or lessen the threat (including the target of the threat);
- L. to law enforcement if the information is needed to identify or apprehend an escapee or violent criminal.

In addition, the Board understands that an authorization is not required to use or disclose protected health information for:

1. certain essential government functions;

Such functions include: assuring proper execution of a military mission, conducting intelligence and national security activities that are authorized by law, providing protective services to the President, making medical suitability determinations for U.S. State Department employees, protecting the health and safety of inmates or employees in a correctional institution, and determining eligibility for or conducting enrollment in certain government benefit programs.

2. to comply with, workers' compensation laws and other similar programs providing benefits for work-related injuries or illnesses.

The Board will obtain the individual's written authorization for any use or disclosure of protected health information that is not for treatment, payment, or health care operations or otherwise permitted or required by the privacy rule. The Board will not condition treatment, payment, enrollment, or benefits eligibility on an individual granting an authorization, except in limited circumstances.

The Board will obtain an individual's authorization to use or disclose psychotherapy notes with the following exceptions:

- A. The covered entity who originated the notes may use them for treatment.
- B. A covered entity may use or disclose, without an individual's authorization, the psychotherapy notes, for its own training, and to defend itself in legal proceedings brought by the individual, for HHS to investigate or determine the covered entity's compliance with the privacy rules, to avert a serious and imminent threat to public health or safety, to a health oversight agency for lawful oversight of the originator of the psychotherapy notes, for the lawful activities of a coroner or medical examiner or as required by law. Marketing is any communication about a product or service that encourages recipients to purchase or use the product or service. The privacy rule carves out the following health-related activities from this definition of marketing:
 1. Communications to describe health-related products or services, or payment for them, provided by or included in a benefit plan of the covered entity making the communication.
 2. Communications about participating providers in a provider or health plan network, replacement of or enhancements to a health plan, and health-related products or services available only to a health plan's enrollees that add value to, but are not part of, the benefits plan.
 3. Communications for treatment of the individual.
 4. Communications for case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or care settings to the individual.

The Board will make reasonable efforts to use, disclose, and request only the minimum amount of protected health information needed to accomplish the intended purpose of the use, disclosure, or request.

The Superintendent shall designate a privacy official responsible for developing and implementing its privacy policies and procedures, and a contact person or contact office responsible for receiving complaints and providing individuals with information on the covered entity's privacy practices. In addition, the District will maintain reasonable and appropriate administrative, technical, and physical safeguards to prevent intentional or unintentional use or disclosure of protected health information in violation of the privacy rule and to limit its incidental use and disclosure pursuant to otherwise permitted or required use or disclosure.

The Superintendent shall develop procedures for individuals to complain about compliance with it is the District's privacy policies and procedures and the privacy rule.

It is the intent of the Board that any and all data related to individuals employed by the District and students attending the District shall be held in strict compliance with the HIPAA privacy rule.

Legal

29 C.F.R. Part 1635

F.S. 1002.02

20 U.S.C. 1232g

42 U.S.C. 1320d-2

Health Insurance Portability and Accountability Act (HIPAA)

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

45 C.F.R. 160.102(a), 164.302, 164.308 (a)(2), 164.404, 164.406, 164.408

45 C.F.R. 164.502, 164.502(a), 164.530(g), 164.530(h), 164.530(j)

45 C.F.R. 164.530(k)

Last Modified by Tammy R Shroyer on August 4, 2017