


City of Lawrence
Administrative Policy

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| SUBJECT HIPAA Privacy Policy | | APPLIES TO Employees involved in administering Group Health Plans | |
| EFFECTIVE DATE April 14, 2004 | REVISED DATE | NEXT REVIEW DATE As needed | |
| APPROVED BY  | TOTAL PAGES | POLICY NUMBER 94 | |

1.0 **Purpose and Policy**

The Health Insurance Portability and Accountability Act of 1996 *Standards for the Privacy of Individually Identifiable Health Information* (the Privacy Rule) provide the first comprehensive Federal protection for the privacy of medical records and other personal health information. The purpose of the City of Lawrence Privacy Policy shall be to provide procedures consistent with the requirements of the Privacy Rule. The Department of Health and Human Services published the Privacy Rule on December 28, 2000, and adopted modifications of the Rule on August 14, 2002. Small health plans must comply with Privacy Rule requirements on or before April 14, 2004.

As the City of Lawrence sponsors at least one Group Health Plan (GHP) that provides, or pays the cost of, medical care to its employees and their eligible dependents and is, therefore, considered a "covered entity" under the Privacy Rule, the policy of the City of Lawrence shall be to comply with all activities required by the Privacy Rule, including:

- A. Notifying covered participants in the GHP about their privacy rights and how their information can be used
- B. Adopting and implementing privacy procedures for its GHP
- C. Training certain employees so that they understand the privacy procedures
- D. Designating an individual to be responsible for seeing that the privacy procedures are adopted and followed
- E. Securing employee records containing individually identifiable health information to provide access only on a need to know basis

2.0 Coverage and Definitions

- A. Group Health Plans sponsored by the City of Lawrence and covered by this Privacy Policy include the Health and Dental Benefit Plan and Health Care Flexible Spending Plan. This Privacy Policy does not apply to any medical services provided to the community by the City of Lawrence.
- B. This Privacy Policy applies to (1) the Group Health Plans; and (2) all employees involved in the administration of the GHPs, including the Plan Sponsor, Health Care Committee members, and Privacy Board.
- C. For the purpose of this Privacy Policy, the term “**Covered Participants**” means City of Lawrence employees and their eligible dependents enrolled in the Health and Dental Benefit Plan and/or the Health Care Flexible Spending Plan.
- D. For the purpose of this Privacy Policy, the term “**Individually Identifiable Health Information**” means information, including demographic information collected from an individual, that (1) is created or received by a health plan, health care provider, employer, or health care clearinghouse, (2) relates to the past, present, or future physical or mental health or condition of an individual, the provision of the health care to an individual, or the past, present or future payment for the provision of health care to an individual, and (3) either identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.
- E. For the purpose of this Privacy Policy, the term “**Protected Health Information**” means individually identifiable health information that is transmitted or maintained electronically, on paper, orally or in any other form or medium.

3.0 Notice of Privacy Practices

The City of Lawrence recognizes the right of covered participants to be informed of the privacy practices of any group health plan it administers, as well as to be informed of their privacy rights with respect to their personal health information.

The City will provide the Notice of Privacy Practices for Protected Health Information to participants currently covered by the GHP no later than April 14, 2004 and to new employees and their eligible dependents, if applicable, at the time of enrollment. Every three years after April 14, 2004, the City will notify each covered participant then enrolled in the GHP of the availability of the GHP's Notice of Privacy Practices upon request.

The City will prominently display the Notice of Privacy Practices outside of the Personnel Office in City Hall and make available copies to individuals upon request. The City will post the Notice of Privacy Practices on its web site page that provides information about customer services or benefits.

The City will distribute revisions to the Notice of Privacy Practices within 60 days by mailing via first-class mail to the covered participants' home address. The City will keep copies of outdated notices for 6 years following the date of their creation or date of last effect, whichever is later.

4.0 **Designation of Privacy Officer**

The Administrative Services Director shall serve as the City's Group Health Plan Privacy Officer. The Privacy Officer is responsible for the development and implementation of the City's privacy policies and procedures.

5.0 **Requests for Medical Records or Other Personal Health Information**

The City shall be responsible for receiving and responding to all requests for access, amendment, greater restrictions, confidential communications, and disclosure accounting. Any allowable fees associated with a request will be set at a level to compensate the City for the actual costs incurred in honoring that request.

6.0 **To File a Complaint**

The City will establish a Privacy Board to review, investigate, and respond to complaints received regarding its policies and procedures in relation to the privacy practices of a group health plan, its compliance with such policies and procedures, or its compliance with the HIPAA Privacy Rule regulations. The Privacy Board shall consist of the following three persons: the City of Lawrence Privacy Officer; a Health Care Committee member; and the City of Lawrence Staff Attorney.

If a covered participant believes that the City violated his or her (or someone else's) health information privacy rights, or committed another violation of the Privacy Rule, he or she may file a complaint with either (1) the Personnel Office, Second Floor - City Hall, 6 East Sixth Street, Lawrence, KS 66044 or (2) the Administrative Services Director.

Complaints must: (1) be filed in writing; (2) name the entity that is the subject of the complaint and describe the acts or omissions believed to be in violation of the applicable requirements of the Privacy Rule; and (3) be filed within 180 days of when you knew that the act or omission complained of occurred. Any alleged

violation must have occurred on or after April 14, 2004 for the Privacy Board to have the authority to investigate. The City will document all complaints received as well as their disposition.

Additionally, while we would encourage any complaint to be filed internally, a complaint may be filed with the Secretary of the U.S. Department of Health and Human Services (HHS) Office for Civil Rights (OCR). Complaints should be sent to the appropriate OCR Regional Office, based on the region where the alleged violation took place.

In Region VII – IA, KS, MO, NE
Office for Civil Rights
U.S. Department of Health & Human Services
601 East 12th Street – Room 248
Kansas City, MO 64106
(816) 426-7278; (816) 426-7065 (TDD); (816) 426-3686 (FAX)

The Privacy Rule prohibits the alleged violating party from taking retaliatory action against anyone for filing a complaint. OCR should be notified immediately in the event of any retaliatory action.

For information on how to file a health information privacy complaint with HHS OCR, call 1-800-368-1019 or visit
www.os.dhhs.gov/ocr/privacyhowtofile.htm.

7.0 **Employee Training**

On or before April 14, 2004, the City will provide initial training to employees and other members of its workforce concerning the City's policies and procedures regarding the privacy of protected health information, as necessary and appropriate for the workforce member to carry out his or her specific job functions. New employees will receive training within a reasonable period of time after hiring. Employees will be re-trained within a reasonable period of time if there is a significant change in the City's policies or procedures. The City will document the training that is given and keep the documentation for a period of 6 years.

8.0 **Sanctions for Failure to Comply**

Employees who fail to comply with and, therefore, violate the City's policies and procedures and/or the regulations relating to the Privacy Rule will be subject to disciplinary action according to the guidelines set forth by the City of Lawrence Employee Handbook. Additionally, violations may result in reports being made to law enforcement, HHS OCR, licensure agencies, etc. by the Privacy Officer.

9.0 **Business Associate Agreements**

The Group Health Plan may disclose Protected Health Information to a business associate and may allow a business associate to create or receive Protected Health Information on its behalf, if the Group Health Plan obtains satisfactory assurance (usually gained through the execution of a written business associate agreement) the business associate will appropriately safeguard the information. Where a covered entity knows of a material breach or violation by the business associate of the agreement, the covered entity is required to take reasonable steps to cure the breach or end the violation, and if such steps are unsuccessful, to terminate the contract or arrangement. If termination of the agreement is not feasible, a covered entity is required to report the problem to HHS OCR.

10.0 **Security Regulations**

The City must have in place appropriate administrative, technical, and physical safeguards that protect against uses and disclosures not permitted by the Privacy Rule, as well as that limit incidental uses or disclosures, on or before April 20, 2006.