

HUMAN RESOURCES DEPARTMENT
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Date: March 12, 2018
To: Mahesh Sharma, County Administrator
From: Mary J. Thee, Human Resources Director/Asst. County Administrator
Subject: Policy Updates

The Risk Manager has updated Policy 39, Protected Health Information, based on changes in the federal law proposed. The revised policy was presented and reviewed by the Department Heads/Elected Officials and any recommendations were incorporated. Please find attached the policy for the Board's consideration.

39. PROTECTED HEALTH INFORMATION POLICY

POLICY

Scott County employs a "minimum necessary" standard that prohibits the use or disclosure of more than the minimum amount of protected health information (PHI) necessary to accomplish the intended purpose of the use or disclosure. Scott County shall use and disclose PHI only as permitted under HIPAA.

SCOPE

Protected Health Information (PHI) is individually identifiable health information that is transmitted or maintained by electronic media or any other form or medium, excluding information in educational records and inmate records. PHI will be used and disclosed in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Standards and other applicable law; de-identified information is not subject to these regulations.

ADMINISTRATIVE PROCEEDURES

- A. Use and Disclosure of PHI is Restricted. Scott County workforce may use or disclose PHI only as permitted by HIPAA.

- B. Use and Disclosure for Treatment, Payment, or Health Care Operations. Scott County may Use PHI for Treatment, Payment or Health Care Operations, without an Authorization, as follows:
 - 1) Scott County may use or disclose PHI for its own Treatment, Payment or Health Care Operations;

 - 2) Scott County may disclose PHI to another Covered Entity or Health Care Provider for the Payment activities of the entity that receives the information;

 - 3) Scott County may disclose PHI to another Covered Entity for Health Care Operations of the entity that receives the PHI if (a) Scott County and the other Covered Entity had or have a relationship with the subject of the PHI; (b) the PHI pertains to that relationship; and (c) the disclosure is for one of the following purposes:

- i. Conducting quality assessment and improvement activities (including outcomes evaluation and development of clinical guidelines);
- ii. Population based activities relating to improving health or reducing health care costs;
- iii. Protocol development;
- iv. Case management and care coordination;
- v. Contacting of Health Care Providers and Individuals with information about Treatment alternatives;
- vi. Related functions that do not include Treatment;
- vii. Conducting training programs in which students, trainees or practitioners in areas of health care learn under supervision to Scott County or improve their skills as health care providers;
- viii. Training of non-health care professionals;
- ix. Accreditation, certification, licensing or credentialing activities;
- x. Health care fraud and abuse detection or compliance.

4) If Scott County participates in an organized health care arrangement, it may Disclose PHI to another participant in the organized health care arrangement for any Health Care Operations of the organized health care arrangement.

C. Use and Disclosure With Authorization. Scott County must obtain an Authorization from the Individual who is the subject of PHI before using that PHI for any use or disclosure not otherwise provided for under the Privacy Rule.

D. Uses and Disclosures That Do Not Require An Opportunity For the Individual To Agree or Object. Scott County may use an Individual's PHI without authorization, and without giving the Individual an opportunity to agree or prohibit or restrict the disclosure in certain situations specified by the Privacy Rule. These situations are where use or disclosure is:

- 1) Required by law - Scott County may use or disclose PHI to the extent that the use or disclosure is required by law. Scott County will notify an Individual, as required by law, of any such uses or disclosures.
- 2) Public Health - Consistent with applicable federal and state laws, Scott County may disclose PHI, if in good

faith, it believes that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.

- 3) Abuse or Neglect - Scott County may disclose PHI to the governmental entity or agency authorized to receive about victims of abuse, neglect or domestic violence, if Scott County believes an Individual has been a victim of abuse, neglect or domestic violence. The disclosure will be made consistent with the requirements of federal and state laws. Scott County will notify the Individual of the disclosure unless, in the exercise of professional judgment, Scott County believes informing the Individual would place them at risk of serious harm.
- 4) Health Oversight - Scott County may disclose PHI to a health oversight agency for activities authorized by law, such as audits, investigations and inspections.
- 5) Legal Proceedings- Scott County may disclose PHI in the course of any judicial or administrative proceeding, in response to an order of a court or administrative tribunal (to the extent such disclosure is expressly authorized), in certain conditions in response to a subpoena, discovery request or other lawful process.
- 6) Law Enforcement - Scott County may disclose PHI for law enforcement purposes, in the following situations:
 - a) If required by law (ex. reporting wounds or pursuant to a subpoena);
 - b) Limited information requests for identification and location purposes;
 - c) Pertaining to victims of a crime;
 - d) Suspicion that death has occurred as a result of criminal conduct;
 - e) In the event that a crime occurs on Scott County premises; and
 - f) Medical emergency if it is likely that a crime has occurred.

- 7) Correctional Institutions and Other Law Enforcement Custodial Situations. Scott County may disclose to a correctional institution or law enforcement official PHI for the purposes of providing health care; for the purpose of health and safety of an Individual, other inmates or correctional employees; for the purpose of law enforcement on the premises of the correctional institution or for the administration and maintenance of safety, security and other good order of the correctional institution.
- 8) Workers Compensation - PHI may be disclosed by Scott County as authorized to comply with workers' compensation laws and other similar legally established programs.

E. Disclosures That Require a Business Associate Contract. Whenever Scott County engages a third party to perform or assist in the performance of Scott County's activities which may involve the use or disclosure of PHI to such third party, Scott County will need to enter into a "Business Associates Agreement" with such party. Scott County may disclose PHI to a Business Associate, or allow the Business Associate to create or receive PHI on Scott County's behalf, if the Business Associate enters into a contact with Covered Entity assuring that the Business Associate will appropriately safeguard the PHI.

F. The Minimum Necessary Standard. The minimum necessary standard applies to all of Scott County's Uses and Disclosures of PHI except to (1) Disclosures to or requests by a health care provider when the PHI will be used for treatment purposes; (2) Disclosures to the Individual who is the subject of the PHI; or (3) Uses or Disclosures made pursuant to an Authorization requested by the Individual.

1) Minimum Necessary Disclosure of PHI.

- a) For Disclosures made on a routine and recurring basis, Scott County's standard protocol limits the Disclosure to PHI reasonably necessary to achieve the purpose of the Disclosure.
- b) For non-routine Disclosures, Scott County limits such Disclosure to the minimum necessary PHI to accomplish the purpose of the non-routine Disclosure.

2) Minimum Necessary Requests for PHI.

- a) For requests for PHI made on a routine and recurring basis, Scott County standard protocol will limit the Disclosure to PHI reasonably necessary to achieve the purpose of the Disclosure.
- b) For non-routine requests, Scott County standard protocol will limit the Disclosure to the minimum necessary PHI to accomplish the purpose of the non-routine Disclosure.

G. Mental Health Information and Other Situations in Which Iowa Law Provides Greater Protection for Data. Iowa's Mental Health Privacy Law at Iowa Code §228 provides greater protection for information than does HIPAA. Therefore, before disclosing Mental Health Information, Scott County employees must confirm with the Privacy Officer that such disclosure is permitted under Iowa's Mental Health Privacy Law. Mental Health Information is defined as oral, written, or recorded information which indicates the identity of an Individual receiving professional services and which relates to the diagnosis, course, or treatment of the Individual's mental or emotional condition. Scott County shall not disclose Mental Health Information except as set out in this policy and in compliance with Iowa law regarding the disclosure of Mental Health Information.

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES
THAT THIS RESOLUTION HAS BEEN FORMALLY
APPROVED BY THE BOARD OF SUPERVISORS ON

DATE

SCOTT COUNTY AUDITOR

R E S O L U T I O N

SCOTT COUNTY BOARD OF SUPERVISORS

March 22, 2018

APPROVING VARIOUS HUMAN RESOURCES AND GENERAL POLICIES

BE IT RESOLVED BY the Scott County Board of Supervisors as follows:

Section 1. That General Policy 39. "Protected Health Information" is hereby revised to comply with changes to federal law.

Section 2. This resolution shall take effect immediately.