

 HAWAII HEALTH SYSTEMS CORPORATION "Quality Healthcare For All" POLICY	Department: Quality Through Compliance	Policy No.: CMP 033A
	Issued by: Audit and Compliance Committee	Revision No.:
Subject: HIPAA De-Identification and Limited Data Use Disclosure	Approved by:  HHSC Board of Directors By: Carol A. VanCamp Its: Secretary/Treasurer	Effective Date: September 19, 2013
		Supersedes Policy: Page: 1 of 5

Last Reviewed: August 19, 2013. Next Review: August 19, 2016

I. **PURPOSE:** To define the permitted uses and disclosures of De-Identified Health Information and Limited Data Sets.

II. **DEFINITIONS:**

PHI — Protected Health Information— Health information, including demographic information collected from an individual, created or received by HHSC that:

1. Identifies the individual or for which there is reasonable basis to believe the information can be used to identify an individual.
2. 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.
3. Is stored or transmitted in any medium.
4. Are not federally funded educational or employment records (FRPA-Family Educational Right and Privacy Act).

Compliance Officer: Chief Compliance and Privacy Officer, Regional Compliance Officer for one of HHSC's regions, and/or facility compliance officer.

De-identified Health Information: PHI that has been stripped of the following identifiers of a patient and the patient's relatives, employers, or household members:

1. Names
2. All geographic subdivisions smaller than a State including street address, city, county, precinct, zip code and their equivalent geocodes, except for the initial three digits of a zip code if according to the current publicly available data from the bureau of the Census:
 - a. The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people and;
 - b. The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000
3. All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older.
4. Telephone numbers
5. Fax numbers
6. Electronic mail addresses
7. Social security numbers

8. Medical record numbers
9. Health plan beneficiary numbers
10. Account numbers
11. Certificate/license numbers
12. Vehicle identifiers and serial numbers including license plate numbers
13. Device identifiers and serial numbers
14. Web Universal Resource Locators (URLs)
15. Internet Protocol (IP) address numbers
16. Biometric identifiers including finger and voice prints
17. Full face photographic images and any comparable images
18. Any other unique identifying number, characteristic, or code except that the HHSC may assign a code or other means of record re-identification provided that:
 - a. The code is not derived from or related to other information about the individual and is not otherwise capable of being translated so as to identify the individual and
 - b. The HHSC does not use or disclose the code or mechanism for re-identification.

Limited Data Set: PHI that has been stripped of the same direct identifiers of a patient and the patient's relatives, employers or household members as in the de-identified information definition except that information may:

1. Include admission, discharge and service dates, dates of death, age and birth date (should only be released for research where the researcher and the HHSC agree that it is needed for the purposes of the research) and;
2. Geographic information other than the postal address.

Identifiable Health Information: Health information including demographic information collected from an individual that:

1. Is created or received by a health care provider, health plan, employer or health care clearinghouse.
2. Relates to the past, present, or future physical or mental health or condition of the individual, the provision of healthcare to the individual, or the past, present or future payment for the provision of health care to the individual and:
 - a. Identifies the individual, or
 - b. With respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

III. **POLICY:**

A. De-identified Health Information:

1. Hawaii Health Systems Corporation (HHSC) may determine that health information is not individually identifiable using one of the two following methods:
 - a) "Safe harbor" method - All 18 identifiers as determined by federal privacy regulations (see definition) are removed, or
 - b) Analysis by a qualified expert:
 - i. Disclosure analysis using generally accepted statistical and scientific principles and methods has been conducted and a determination has been made that the risk is very small that the information could be used alone or in combination with other reasonably available information by the recipient to identify an individual who is the subject of the information.
 - ii. The disclosure analysis was performed by persons deemed "qualified" to conduct such analysis by Health Information Management Department (HIM) or its designees, and

- iii. The methods and results of the analysis that justifies the determination have been documented on the "Disclosure Analysis for Rendering Information Not Individually Identifiable". (Attachment A)
 2. Health information that has been de-identified is not subject to federal privacy regulations and may be used or disclosed for any purpose as long as no means of re-identification is provided
 3. HHSC is not required to provide an accounting of any use or disclosure of de-identified health information. (*see HHSC CMP 0040A Accounting of Disclosures of PHI*)
 4. HHSC may use PHI to create de-identified information or may disclose PHI to a business associate for the purpose of creating de-identified information whether or not the de-identified information is to be used by HHSC
- B. Limited Data Set
 1. HHSC may determine that PHI may be considered a limited data set where the PHI has been stripped of **all** 16 identifiers as determined by federal privacy regulations (see definition). *Note: Limited data set is the same as de-identified except that it may include admission, discharge and service dates; date of death; age; and birth date (released for research only where the researcher and the HHSC agree it is needed for the research) geographic information (except postal address).*
 2. HHSC may use/disclose health information in a limited data set for health care operations, research or public health purposes if it enters into a Data Use Agreement with the recipient of the data.
 3. Breach and/or termination of a Data Use Agreement:
 - a) Should HHSC become aware of a pattern of activity or practice of the limited data set recipient that constitutes a material breach or violation of the agreement, HHSC will take reasonable steps to cure the breach or end the violation.
 - b) If such steps are unsuccessful, the HHSC will:
 - i. Discontinue disclosure of the health information to the recipient, and
 - ii. Report the problem to the Secretary of Department of Health and Human Services.
 4. HHSC is not required to provide an accounting of any use or disclosure of health information pursuant to a Data Use Agreement.
 5. HHSC may use PHI to create a limited data set or may disclose PHI to a business associate for the purpose of creating a limited data set whether or not the de-identified information is to be used by the HHSC.
- C. Identifiable Health Information: HHSC may use/disclose identifiable health information as permitted or required by policies of HHSC that govern the use and disclosure of protected health information or in accordance with established laws, rules and regulations.
- D. Re-identification of de-identified or limited data set health information:
 1. HHSC may assign a code or other means of record identification to allow information that is de-identified in accordance with this policy to be re-identified by HHSC provided that:
 - a) Derivation – The code or other means of record identification is not derived from or related to information about the individual and is not otherwise capable of being translated so as to identify the individual; and
 - b) Security – HHSC:
 - i. Safeguards the code or other means of record identification, treating it as protected health information
 - ii. Does not use or disclose the code or other means of record identification for any other purpose and

- iii. Does not disclose the mechanism for re-identification
- 2. If de-identified information is re-identified, HHSC may use or disclose such re-identified information only as permitted or required by policies of HHSC that govern the use and disclosure of PHI.
- E. HHSC Department/staff using or disclosing de-identified health information shall determine that health information is not individually identifiable using one of the following methods:
 - 1. "Safe harbor" method:
 - a) Strip the health information of all 18 identifiers (see definition of De-identified Health Information).
 - b) Contact the compliance officer or the Health Information Management Department (HIM) for more information and guidance in using this method
 - 2. Disclosure analysis by a qualified expert
 - a) Request disclosure analysis by qualified expert. Contact the HIM Department for a list of persons deemed "qualified" to conduct the analysis.
 - b) Qualified expert will perform analysis and complete written analysis form, "Disclosure Analysis for Rendering Information Not Individually Identifiable (Attachment A). Maintain this documentation in your files.
- F. Department/staff using or disclosing health information in Limited Data Set:
 - 1. Strip the health information of all 16 identifiers (see definition of Limited Data Set).
 - 2. Execute a HHSC Data Use Agreement with the recipient of the information as an addendum to either an existing contract or approved research proposal.
 - 3. The formal specifics of the HHSC Data Use Agreement will be developed and approved by the HHSC Legal Department. Both the Legal Department and the HHSC Privacy Officer or designee must approve any deviations from the approved agreement.
- G. Department/staff using or disclosing identifiable health information: Identifiable health information will be used/disclosed in accordance with Authorization for Use and Disclosure of Protected Health Information CMP 0029A or in accordance with established laws, rules and regulations.
- H. Department/staff maintaining re-identification codes for de-identified or limited data set health information comply with requirements for re-identification as stated in Section IV of this policy.
- I. HHSC Facilities shall develop operational procedures to implement this Policy.
- IV. **APPLICABILITY:** This Policy will apply to all HHSC facilities.
- V. **AUTHORITY:** Standards for Privacy of Individually Identifiable Health Information (HIPAA), 45 CFR §164.514.
- VI. **ATTACHMENTS:** Attachment A: "Disclosure Analysis for Rendering Information Not Individually Identifiable."

Attachment A

**Hawaii Health Systems Corporation
Disclosure Analysis
For Rendering Information Not Individually Identifiable**

Analysis of:

Requestor:

Method of analysis:

Result of analysis:

Using generally accepted statistical and scientific principles and methods, I have determined that the risk is very small that the information could be used alone or in combination with other reasonably available information by an anticipated recipient to identify an individual who is subject of the information.

☐ Agree

☐ Disagree

Comments:

Completed by:*

Name (print) Title

Signature Date

NOTES:

**Only persons deemed "qualified" by Hawaii Health Systems Corporation for Best Health Care Practices may complete this analysis using acceptable method(s) for conducting such analysis.*

Documented analysis is required by CMP 0033A on De-identification of Protected Health Information.

For more information, contact The Center for Best Health Care Practices or Compliance Officer.