

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE

SECTION: GENERAL POLICIES AND PROCEDURES/DIRECTIVES	REFERENCE NUMBER: 406.09
SUBJECT: HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996	INITIAL EFFECTIVE DATE: 4/14/03
TITLE: HIPAA DIRECTIVE	LAST REVISION DATE:

ADMINISTRATIVE DIRECTIVE:

It is the intention of the City of Denton to establish procedures for complying with new federal regulations under the Health Insurance Portability and Accountability Act of 1996, which ensures the privacy of all protected health information (PHI) and that such information be kept confidential and shall not be released to any party without the consent of the employee, (or citizen, where applicable) except where otherwise outlined by law.

The Department of Health and Human Services (DHHS) has outlined regulations, which set both monetary and civil penalties for the wrongful disclosure of PHI. These penalties may apply to both the organization and/or the individual wrongfully disclosing information that falls under the definition of PHI. The DHHS has also outlined covered entities that must comply with the new regulations. These entities include health plans (self-insured, fully-insured and sponsoring employers), healthcare providers, clearing houses, insurance carriers and business associates with access to PHI. Privacy regulations set forth by the DHHS supersede existing state law, except where state laws are stricter than federal regulations.

The City will set administrative procedures that will allow for the minimum access necessary of PHI in order to allow for treatment, payment and healthcare operations, as outlined by the regulations.

Employees will be required to comply with the procedures set forth in this directive. The Risk Management department will be responsible for advising departments and supervisors on the disclosure of any and all health related information. Additionally, Risk Management will be responsible for the education of employees regarding new procedures set forth in this directive.

ADMINISTRATIVE PROCEDURES:

A. Scope

This directive establishes six key expectations for the City of Denton:

1. Procedures for preventing the wrongful disclosure of PHI, as well as audit procedures for those departments that have access to PHI.

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2. Procedures for the review of any business contracts where the business associate may have access to PHI.
3. A training and education plan to inform all existing and new employees about these procedures and how they will be affected.
4. The rights of employees and citizens regarding their PHI.
5. Guidelines for amending these procedures as the DHHS hands down additional regulations or changes to existing regulations.
6. No employee shall disclose the nature of a medical condition of an employee, his or her dependents, or a citizen through formal means (i.e. meetings, newsletters) without the written consent of the person to whom the information pertains.

B. Definitions

Protected Health Information (PHI) is defined as any information that identifies the individual or individuals the PHI pertains to, could be used to identify the individual or individuals the PHI pertains to, is created, received or transmitted by a health plan, provider, clearing house or business associate, and/or in any way relates to the past, present or future physical or mental health of the individual.

Business Associates includes anyone the City enters into a contract with that may have access to PHI. This may include, but is not limited to business associates, vendors, consultants, and contractors. Business associates also include internal committees and programs.

Qualified Recipients are defined as any recipients of PHI who meet the guidelines set forth by the DHHS. In order for a recipient to be considered a qualified recipient, they must have adopted administrative procedures for the protection of PHI as outlined by the DHHS and meet the guidelines of a covered entity as outlined by the DHHS.

C. Procedures

1. The Risk Management Department will identify any department that has access to or may have access to PHI. In conjunction with that department, Risk Management will identify who may be allowed to have access to that information and under what circumstances, if any, that information may be disclosed and to whom that information may be disclosed.

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2. In coordination with the affected departments, Risk Management will designate Privacy Officers, who will have the responsibility of monitoring the activities of all disclosures for their area.
3. PHI will be kept separate from any other files pertaining to the employee and his or her performance, payroll documents, work history or any other job related information. PHI may not be used for any personnel related decisions such as compensation, benefits, promotions, or disciplinary actions.
4. As outlined by the DHHS regulations, PHI will only be disclosed for the following reasons:
 - i. Treatment: PHI may be released to qualified recipients for the treatment of any condition related to a City of Denton benefit. These benefits include health, dental, vision, life, disability, employer assistance program and worker's compensation. The City of Denton will not release information for any treatment outside of its benefits program (i.e. experimental treatments not covered by the health plan).
 - ii. Payment: PHI may be released to qualified recipients for the payment of any services related to a treatment provided under a City of Denton benefit.
 - iii. Healthcare Operations: PHI may be released to qualified recipients that will allow the City of Denton to complete healthcare operations. For example, information may be released during the City's request for proposal process or bid process for the purpose of acquiring healthcare services.
5. PHI will not be released to members of the individual's family unless they are covered by the benefit, or have the written consent of the employee. The exception to this will be the spouses of employees with dependent minor children covered by the benefit. PHI will not be released to the spouse of an employee (or the employee of a covered spouse) without the written consent of the person to whom the information pertains. Additionally, if a power of attorney designation has been made, information may be released to that individual. In the event of an emergency, the person designated as the emergency contact in Human Resources will be allowed access to PHI. The City will set procedures for positively identifying any dependents requesting PHI.
6. The City will not release any PHI through electronic means (i.e. fax, email) without the consent of the employee, unless it meets the DHHS guidelines regarding treatment, payment or healthcare operations. The City will not release information to a third party for any reason not related to treatment, payment or healthcare operations. In such instances, the information will only be released to the employee directly after giving written consent releasing the City of Denton from any liability.

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7. The City will set forth tracking and audit procedures for the disclosure of all PHI. The information will include the type of disclosure, information disclosed, reason for the disclosure, to whom the information was disclosed and the date of the disclosure.
8. The City will include disclaimers regarding the use of PHI in all disclosures.
9. Risk Management will be responsible for sending HIPAA compliance letters to all business associates with business related to the guidelines issued by DHHS.
10. All applicable correspondence, consent forms and acknowledgement forms will contain language stating the City's compliance with the DHHS regulations.
11. Detailed, written procedures regarding the afore mentioned requirements outlined by the DHHS will be kept in the Risk Management Department, Human Resources Department, Fire Department and Police Department as applicable to the services and/or benefits provided by those departments.

D. Contracts

Risk Management will review any contracts that may involve the use and/or disclosure of PHI. Proper verification will be made to ensure that the business associate with whom the contract is signed has taken appropriate action to protect any PHI, and that they are in compliance with DHHS regulations.

E. Training/Education

Risk Management will set up training and education guidelines to ensure that all City personnel, including supervisors and affected departments are aware of their responsibilities under the new regulations. All current employees will be educated on the procedures affecting the release of PHI and how they will give consent for the release of PHI. Additionally, guidelines will be set to educate new employees, and to update current employees regarding changes in regulations and amendments to current legislation. Employees will also be trained on tracking and audit procedures as well as the penalties for wrongful disclosure.

F. Rights of Employees

As outlined by the DHHS regulations, employees have the following rights under the HIPAA legislation:

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1. The right to review a copy of their own PHI.
2. The right to receive confidential communications containing PHI.
3. The right to request restrictions on the uses and disclosure of certain types of PHI.
4. The right to request amendments to their personal PHI.
5. The right to receive an accounting of any disclosures of PHI not used for the purposes of treatment, payment or healthcare operations.

G. Amendments to Directive

As part of the DHHS regulations, this directive may be amended at any time due to changes in corresponding City policy or by changes made by DHHS. If at any time, new state laws become stricter than the current federal legislation, this directive will be amended to reflect those laws. New procedures or amended procedures may be put into place as business associates and practices change. Risk Management will coordinate the training and education of any amendments to this directive.

H. Records Retention

Any documentation in the custody of the City of Denton related to PHI will be subject to the City's records retention schedule.

I. Compliance

All City employees are required to comply with this directive. In addition to all the individual requirements for compliance stated within, failure to comply with this HIPAA Directive may result in disciplinary action pursuant to the City of Denton Policy No. 109.01 ("Disciplinary Action") as determined necessary by the City Manager and the appropriate department director.