

SUBJECT: HEALTH INSURANCE PORTABILITY AND  
ACCOUNTABILITY ACT OF 1996 (HIPAA)  
POLICY ON PRIVACY PRACTICES

NO.: 3-32

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PURPOSE:

To set forth City policy and to establish procedures for compliance with HIPAA standards for security and privacy of covered Personal Health Information (PHI) received, held or transmitted by the City and its designated agents; to describe how PHI can be used and disclosed; and how an individual may obtain access, modify or limit access to PHI.

POLICY:

The City of Mountain View ("City"), in its role as employer and provider of emergency services, is a covered entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 Code of Federal Regulations, Parts 160 and 164. HIPAA addresses the security and privacy of health information under the Privacy Rule which protects all individually identifiable health information subject to HIPAA held or transmitted by a covered entity or its business associate in any form or media whether electronic, paper or oral.

As the City's business activities include both covered and, primarily, noncovered functions, it has designated itself a "hybrid entity" under HIPAA. As a hybrid entity, the City is divided into covered and noncovered components. The City hereby designates the following as covered components within the hybrid entity.

- Fire Department's Fire Suppression Division (which includes emergency medical response)
- City Self-Funded Health Plans

The following departments, divisions and positions are also designated as covered components of the hybrid entity to the extent that they perform activities that would make them business associates of one of the above health-care components if they were separate entities:

- Employee Services Department
- City Attorney's Office

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- Information Technology Division
- Fire Suppression Division's Administrative Support Staff
- Fire Chief
- FASD Risk Management Division
- FASD Accounting and Payroll Sections
- Safety and Training Administrator
- City Manager
- Assistant City Manager

Whenever City policies, procedures or guidelines refer to the City as a covered entity under HIPAA, they are referring to the components listed above. **The requirements of HIPAA apply only to the above-listed components of the City included within the hybrid entity.**

The City must limit access to any Protected Health Information ("PHI") held or transmitted by a covered component with the rest of the organization in the same way it limits disclosures to other entities. Information held or shared by a noncovered component will not be subject to the privacy and security regulations of HIPAA.

This Policy describes your legal rights, advises you of the City's privacy practices and explains the circumstances under which the City is permitted to use and disclose PHI about you.

The City will treat all HIPAA-covered health-care information about employees/patients with care, following policies of confidentiality required under HIPAA and this Policy.

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**USES AND DISCLOSURES OF PHI:** The City may use PHI for the purposes of treatment, payment and health-care operations, in most cases without your written permission.

- Treatment: This includes verbal and written information we have about you pertaining to your medical condition and treatment provided to you by us and other medical personnel (including doctors, nurses and nurse practitioners, emergency medical personnel and other health-care personnel). It includes information we give to other health-care personnel to whom we transfer your care and treatment, and includes transfer or communication of PHI to the hospital, private medical office, medical transport provider, dispatch center or other entities authorized to receive PHI. This also includes providing the hospital or other health-care providers with a copy of the written record we create in the course of providing you with treatment and/or transport.
- Payment: This includes any activities we undertake in order to be paid or reimbursed for services provided to you, including organizing your PHI and submitting claims information to insurance companies (either directly or through a third-party billing company), management of billed claims for services rendered, medical necessity determinations and reviews, utilization review, collection of outstanding accounts and related activities.
- Health-care operations: This includes quality assurance activities, licensing and training programs to ensure that our personnel meet our standards of care and follow established policies and procedures, obtaining health care, legal and financial services, conducting business planning, benefit administration, personnel evaluation and administration, processing grievances and complaints, creating reports that do not individually identify you for data collection purposes and related activities.

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**USE AND DISCLOSURE OF PHI WITHOUT YOUR AUTHORIZATION:** The City is permitted to use PHI *without your written authorization or opportunity to object* in certain situations, including the following:

Disclosures for Treatment, Payment and Operation Activities:

- For use by the City in treating you or in obtaining payment for services provided to you or in other health-care operations.
- For use by the City in the provision, coordination, administration and payment of employee benefits subject to HIPAA.
- For the treatment, payment or health-care operation activities of the City or another health-care provider or business associate covered under HIPAA.
- For employee and/or patient health-care compliance activities.

Disclosures for Public Safety or As Required by Law:

- To avert a serious threat or potential threat to the health and safety of any person or the public at large.
- To provide information to a public health or public safety authority in certain situations (such as reporting a birth, death, disease or certain types of wounds or physical injuries as required by law) or as part of a public health/public safety investigation; or to notify a person about exposure to a possible communicable disease as required by law.
- To report child or adult abuse, neglect or domestic violence; to report adverse events such as product defects.
- For health-care fraud and abuse detection or for activities related to compliance with the law.

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- For health oversight activities, including audits or governmental investigations, inspections, disciplinary proceedings and other administrative or judicial actions undertaken by the City, the government or their contractors.
- For judicial and administrative proceedings as required by a court or administrative order or, in some cases, in response to a subpoena, summons, warrant or other legal process.
- For law enforcement activities in limited situations such as when there is an administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand or similar process authorized by law, such as a criminal investigation, when the information is needed to locate a suspect or stop a crime.
- For military, national defense and security and other special governmental functions.

Disclosures to Others:

- To the patient's legal guardian.
- To the spouse or patient's personal representative in emergency situations where that patient is not able to make decisions and direct his or her own health care.
- To a family member, other relative or close personal friend or other individual involved in your care if we obtain your verbal agreement to do so or if we give you an opportunity to object to such disclosures and you do not raise an objection. We may also disclose health information to your family, relatives or friends if we infer from the circumstances that you would not object. In addition, we may disclose health information about you to an entity assisting in a disaster relief effort so your family can be notified about your condition, status and location.
- To an executor, administrator or other person who has authority to act on behalf of an impaired individual or a decedent.
- To the beneficiary or personal representative of a deceased patient or employee.

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Disclosures for Employment Purposes:

- For use by the City in evaluating and determining an employee's ability to perform the essential functions of his/her job, fitness for duty and medical clearances and certifications.
- For Workers' Compensation purposes and in compliance with Workers' Compensation laws.
- Certain disclosures for employment purposes which are not subject to HIPAA such as the provision, coordination, administration and payment of employee benefits such as Workers' Compensation, Family Medical Leave Act, Americans with Disabilities Act, Pregnancy Disability Leave, disability and other similar programs.

Other Disclosures:

- For disclosure of health information that has been deidentified in a way that does not personally identify an individual who is the subject of the information.
- To provide certain limited information which is subject to the California Public Records Act or other applicable laws.
- Disclosures for which an authorization is not required as provided under HIPAA at 45 Code of Federal Regulations, Part 164, Section 164.512 as outlined below:
  - A. Disclosures required by law;
  - B. Disclosures for public health activities;
  - C. Disclosures for victims of abuse, neglect or domestic violence;
  - D. Disclosures for health oversight activities;
  - E. Disclosures for judicial and administrative proceedings;

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- F. Disclosures for law enforcement purposes;
- G. Disclosures about decedents;
- H. Disclosures for cadaveric organ, eye or tissue donation purposes;
- I. Disclosures for research purposes;
- J. Disclosures to avert a serious threat to health or safety;
- K. Disclosures for specialized government functions; and
- L. Disclosures for Workers' Compensation.

**WRITTEN AUTHORIZATION REQUIRED:** Any other use or disclosure of your PHI subject to the City's HIPAA Policy (other than those listed above) shall only be made with your written authorization. The authorization must specifically identify the information we seek to use or disclose and the manner in which we seek to use or disclose it. **You may revoke your written authorization at any time, in writing. This revocation will not apply to PHI information already used or disclosed in reliance on the original written authorization, or PHI which is otherwise exempt from the accounting requirement.**

**YOUR RIGHTS:** As an employee or patient, you have a number of rights regarding protection of your PHI, including:

- The right to access, inspect or copy your PHI: This means you may request to come to our offices and inspect or obtain a copy of most of the health-care information about you that we maintain. We will normally provide you with access to this information within 30 days of your request. We may also charge you a reasonable fee for copies of any medical information you request. To inspect and obtain a copy of your medical information, please contact the Employee Services Department or the Privacy Officer listed at the end of this Policy. In limited circumstances, we may deny you access to your medical information and you may appeal certain types of denials.

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*NOTE:* You have the right to appeal certain types of denials of access to your medical information. You are required to complete a form to request access to your PHI. The City will provide you a written response if your request for access is denied, including your appeal rights.

- The right to amend your PHI: You have the right to request that the City amend written health-care information that we may have about you. We will generally amend the information within 60 days of receipt of your request and will notify you when we have amended the information. To request that we amend the medical information that we have about you, please contact the Privacy Officer listed at the end of this Policy.

*NOTE:* We are permitted under the law to deny your request to amend your PHI only in certain circumstances, such as when we believe the information you have asked us to amend is correct as-is.

- The right to request an accounting of the City's use and disclosure of your PHI: You may request an accounting from us of certain disclosures of your PHI that we have made in the last six (6) years prior to the date of your request. To request an accounting of the medical information about you that we have used or disclosed that is not exempt from the accounting requirement, please contact the Privacy Officer listed at the end of this Policy.

*NOTE:* We are not required to give you an accounting of information we have used or disclosed for purposes of treatment, payment or health-care operations, or when we share your PHI with our business associates, such as insurance brokers, billing companies or a medical facility, from/to which we have transferred or transported you.

*NOTE:* We are also not required to give you an accounting of our uses of protected PHI for which you have already given us written authorization.

- The right to request that we restrict the uses and disclosures of your PHI: You have the right to request that we restrict the manner in which we use and disclose your PHI provided to family, friends and other individuals involved in your

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health care. If you request a restriction\* and the information you asked us to restrict is needed to provide you with emergency treatment, we may use the PHI or disclose the PHI to a health-care provider who is providing you emergency treatment. To request a restriction on any PHI about you that we may use or disclose, please contact the Privacy Officer listed at the end of this Policy.

\* *NOTE:* The City is not required to agree to any restrictions you request; however, any restrictions agreed to by the City are binding.

COMPLAINT PROCEDURES:

A. Reporting

Any employee who believes his or her Personal Health Information (PHI) has been used in violation of the above Policy can file a complaint with the City's Privacy Officer, the Employee Services Director (or designee) or the U.S. Department of Health and Human Services. The Privacy Officer will make every reasonable effort to investigate all complaints within 60 days of receipt.

B. Investigation

1. Upon notification of the complaint, the City's Privacy Officer will conduct an investigation. (In the event the complaint is within the Employee Services Department, the investigation will be supervised by the City Manager's Office and the process altered accordingly.) The investigation will include the following actions:
  - (a) Interview with the complainant and any other persons who have relevant knowledge concerning the complaint;
  - (b) Gather all relevant information;
  - (c) Review of processes that led to complaint;
  - (d) Review of documentation; and

- (e) Review of policies and applicable law.
- 2. Analyze factual information gathered through the investigation to determine whether the complaint constitutes a violation of the City's HIPAA Policy.
- 3. Report the results of the investigation and the determination as to whether a violation of the City's HIPAA Policy occurred to appropriate persons, including to the complainant.
- 4. If a violation of the City's HIPAA Policy occurred, take and/or recommend appropriate remedial action. If discipline is imposed, the discipline may or may not be communicated to the complainant.
- 5. Take reasonable steps to avoid future PHI disclosures in violation of the City's HIPAA Policy.

C. Retaliation

The City will take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

D. Confidentiality

The City will make reasonable efforts to maintain the confidentiality of all complaints of privacy violations and other information gathered during the investigative process, including correspondence, data, documents, tapes and testimony and will only disclose such information as necessary to make a complete investigation, provide an appropriate remedy, initiate and implement disciplinary action, and/or comply with applicable law.

E. Record Keeping

All materials related to a complaint of privacy violation, including reports, correspondence, data, documents, tapes and testimony gathered during the investigation, will be retained in the offices of the Employee Services Department (or City Manager as appropriate) for a minimum of six years. Relevant information or

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summaries of relevant information in support of a finding of a violation of the City's HIPAA Policy resulting in disciplinary action shall be retained in the personnel file of the employee disciplined.

REVISIONS OF THE HIPAA POLICY:

The City reserves the right to amend the terms of this Policy at any time, providing the Policy remains in compliance with State or Federal law, with changes becoming effective immediately and applying to all protected information pursuant to this Policy. Any material amendments to the City's HIPAA Policy shall be promptly posted in our facilities and made available on our City web site.

DISSEMINATION OF POLICY:

A copy of this Policy will be provided to each employee, including all newly hired employees, and all other individuals or vendors hired to perform services that involve the receiving, storing or transmitting of PHI. In addition, a copy of this Policy will be available on the City's web site and, upon request, will be sent electronically or in hard copy.

If you have any questions, or if you wish to file a complaint, or exercise any rights listed in this Policy, please contact the City's Privacy Officer at the telephone number listed below:

Employee Services Director  
Employee Services Department  
(650) 903-6309

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Kevin C. Duggan, City Manager

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Revision Date:

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