

**County Of San Diego  
Health and Human Services Agency (HHSa)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)  
Key Words: privacy, non-retaliation**

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**SUBJECT: Non-Retaliation Against Patients or  
Workforce Members and Others Who  
Report Privacy Violations**

**NO: HHSa- L-19  
PAGE: 1 of 2  
DATE: April 14, 2003**

**REFERENCE: Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160  
and 164.**

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**PURPOSE:** To establish a policy prohibiting employees of the County of San Diego (hereinafter “the County”) from taking any intimidating, threatening, coercive, discriminatory or other retaliatory actions against individuals who file complaints in good faith.

**BACKGROUND:** County agencies designated as covered components must comply with privacy regulations promulgated under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). They must also comply with California laws and regulations pertaining to the use and disclosure of individually identifiable health information, unless such state laws and regulations are preempted by HIPAA.

HIPAA’s privacy regulations outline many detailed requirements protecting the confidentiality of health information and providing individuals significant rights with respect to their health information. Compliance with these regulations is addressed in a series of County policies and procedures.

**DEFINITIONS**

*Note: The definitions below are in compliance with HIPAA and the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule).*

*Protected Health Information (PHI):* Individually identifiable health information that is transmitted or maintained electronically or by any other medium. PHI does not include educational records of students maintained by federally funded educational agencies or institutions or persons acting for these agencies or institutions. PHI also does not include records of (1) students who are 18 years or older or are attending post-secondary educational institutions, (2) maintained by a physical or mental health care provider, (3) that are made, maintained, or used only in connection with the treatment of the student, and (4) that are not available to anyone, except a health care provider or appropriate professional reviewing the record as designated by the student.

**POLICY:** In compliance with state and federal laws and regulations, the County prohibits retaliatory actions against its workforce members and others who file a complaint, testify, assist or participate in an investigation, compliance review or other hearing, or oppose any act or practice that they believe in good faith is unlawful under the privacy regulations.

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**PROCEDURES:** The County will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against:

- *Individuals.* Any individual for the exercise by the individual of any right under, or for participation by the individual in any process established by the HIPAA policies and procedures relating to the HIPAA Privacy Rule, including the filing of a complaint with the County or the Secretary of the United States Department of Health and Human Services (Secretary);
- *Individuals and others.* Any individual or other person for:
  - o Filing of a complaint with the Secretary or with the County of San Diego;
  - o Testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing; or
  - o Opposing any act or practice made unlawful by the HIPAA policies and procedures, provided the individual or person has a good faith belief that the practice opposed is unlawful, and the manner of the opposition is reasonable and does not involve a disclosure of PHI in violation of the HIPAA policies and procedures.

**QUESTIONS/INFORMATION:** Privacy Officer of the County of San Diego

**SUNSET DATE:** This policy will be reviewed for continuance by April 14, 2006.

Approved: \_\_\_\_\_

Rodger G. Lum, Ph.D., Director  
Health and Human Services Agency