

**Lincoln, Lyon, Murray and Pipestone
Public Health Services**

**Health Insurance Portability and Accountability Act (HIPAA)
Privacy Policies**

1. Appointment And Duties Of Data Privacy Officer

The Director of Nursing is the designated Privacy Officer for HIPAA purposes for Lincoln, Lyon, Murray and Pipestone Public Health Services (LLMP PHS). This person is responsible for the development and implementation of the policies and procedures required by HIPAA Standards for Privacy of Protected Health Information (PHI), hereafter referred to as the “privacy regulation”. The Privacy Officer also serves as the person to receive complaints and who should provide further information about matters covered by the privacy notice. The Privacy Officer needs to be familiar with the privacy regulation. Delegation of some of these duties may be given to the Administrative Assistant.

2. Minimum Necessary Policies

LLMP PHS will make reasonable efforts to limit the use and disclosure of PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request. In general, release policies do not apply in the following circumstances:

- Disclosures for treatment.
- Use or disclosures made to the individual subject of the data.
- Disclosures made to the Office of Civil Rights.
- Use or disclosure as required by law or court order.
- Use or disclosure required for compliance with the privacy regulation.

a. Uses - For appropriate uses, LLMP PHS will provide access to PHI only to those employees on a “need to know” basis. Employees will only be given information that the employee needs to have in order to accomplish a given function and only for proper administration of an appropriate health-related program and HIPAA.

b. Routine Disclosures - For appropriate uses, LLMP PHS will limit the amount of PHI disclosed to the amount reasonably necessary to achieve the purpose of the disclosure on a case-by-case basis.

c. Non-routine Disclosures - For appropriate uses, LLMP PHS will release PHI when it is determined that the request constitutes a valid request and the PHI to be disclosed will be limited to the amount reasonably necessary to accomplish the purpose of the disclosure.

d. Limit Request to Minimum Necessary – LLMP PHS will limit its requests for disclosure of PHI to the amount necessary to accomplish the purpose for which the request is made.

e. Ability to Rely On Request For Minimum Necessary – LLMP PHS may rely on a reasonable request as the minimum necessary for the stated purpose(s) when:

- The disclosure is to a public official as allowed in the social responsibility report found in section 45 CFR 164.512.

- The information is requested by another covered entity.
- The information is requested by an employee or business associate of LLMP PHS.
- The disclosure is for research purposes and the HIPAA Privacy Board has documented a waiver approval as required by 45 CFR 164.512 (1).

3. Access To Designated Record Set

a. Individual Rights - Individuals have a right to access any PHI that is used to make decisions about the individual subject of the data, including information used to make health care decisions or information used to determine whether a claim will be paid. The individual has a right to access their “designated record set”. The right of access also applies to health care clearinghouses, health care providers that create or receive PHI other than as a business associate of LLMP PHS.

b. Designated Record Set - For LLMP PHS’s purposes, the following is defined as a “designated record set”:

- A group of records maintained by LLMP PHS that is; a) the medical records and billing records about individuals, b) the enrollment, payment, claims adjudication, and case management record systems maintained by LLMP PHS, c) used, in whole or in part, by or for LLMP PHS to make decisions about individuals.
- The term “record” means any item, collection, or grouping of information that includes PHI data and is maintained, collected, used or disseminated by LLMP PHS.

c. Access Limitation Exceptions – LLMP PHS will permit any individual to request access to inspect or copy the designated record set for as long as it is maintained by LLMP PHS, with the following exceptions:

- Psychotherapy notes.
- Information compiled in reasonable anticipation of a civil, criminal or administrative action or proceeding.
- Information held by clinical laboratories if access is prohibited by the Clinical Laboratory Improvements Amendment of 1988 (42 USC 263a).
- Any data determined by Minnesota State Law to be determined to be “confidential”.

d. Written Request Required – LLMP PHS will require that any individual requesting access to their PHI must provide the request in writing. This is in conformity with LLMP PHS’s basic data practices protocol. A **Request For Access or Disclosure Of A Designated Record Set** document should be completed.

e. Receiving and Processing Requests - Requests for access to PHI will be handled by the LLMP PHS Director of Nursing, 607 West Main Street, Marshall, Minnesota 56258-3099. Written requests may be also directed to the attention of the LLMP PHS Director of Nursing via fax at 507/537-6719. The Director of Nursing will maintain an **Accounting of Disclosure Log** indicating requests for access or disclosure of PHI data.

f. Providing Access - If LLMP PHS provides access to PHI, it will act on the request within 30 calendar days. One 30-day extension will be allowed. LLMP PHS will charge a reasonable, cost-based fee that will only include the cost of copying, postage and preparation of an agreed-upon summary or explanation of the PHI. Charges will be limited, where applicable, by M.S. 144.335, subd. 5 and 13.03 subd. 3.

g. Denying Access - If LLMP PHS denies access to PHI, LLMP PHS will provide a timely, written denial that states the basis for the denial and the procedures for making a complaint to the Director of Nursing. The individual has a right to a review of the denial of access by an Agency-designated licensed health professional who did not participate in the original decision to deny access. Reviewable reasons for denial include but are not limited to the following:

- A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person.
- The PHI makes reference to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person.
- The request for access is made by the individual's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

h. Access To Management Information System Data - Some information maintained by LLMP PHS is not used to make health care decisions such as management information systems that are used for quality control or peer review analysis. In accordance with the privacy regulations, LLMP PHS is not required to grant an individual access to PHI maintained in these types of information systems.

4. Accounting of Disclosures

LLMP PHS will provide, upon request, a 6-year accounting of disclosures made of the individual's PHI, except for disclosures:

- To carry out treatment, payment or health care operations.
- To the individual data subject.
- To facility directories or to persons involved in the individual's care or other notification purposes (45 CFR 164.510 (b)).
- For national security or intelligence purposes.
- To corrections officials or law enforcement personnel when the individual is in custody (45 CFR 164.512 (k)(5)).
- Which were made before the compliance date.

In certain circumstances involving health oversight agencies or law enforcement agencies, LLMP PHS may temporarily suspend the individual's right to receive an accounting of disclosures.

5. Amendment Requests

LLMP PHS will permit an individual to request that LLMP PHS amend PHI. LLMP PHS will require that the request be in writing and that a reason be stated for the amendment. LLMP PHS will so inform any individual of this expectation. All requests to amend PHI data should be sent to the LLMP PHS Director of Nursing. LLMP PHS will have up to 60 calendar days to act on the request. One 30-day extension is allowed. The subject of the data's written request will become a part of any case file maintained on the subject. The document will be retained in accordance with the LLMP PHS's General Record Retention Schedule.

a. Accepting An Amendment - If LLMP PHS decides to accept an amendment, LLMP PHS will:

- Make the appropriate amendment to the PHI or record that is the subject of the request for amendment by, at a minimum, identifying the records in the designated record set that are affected by the amendment and appending or otherwise providing a link to the location of the amendment.
- Timely informing the individual that the amendment is accepted. LLMP PHS will obtain agreement from the individual to allow LLMP PHS to share the amendment with individuals or entities identified by the individual and LLMP PHS.
- Make reasonable efforts to inform and provide the amendment within a reasonable time to; a) persons identified by the individual as having received PHI about the individual and needing the amendment, and b) persons, including business associates, that LLMP PHS knows have the PHI that is the subject of the amendment and that may have relied, or could foreseeably rely, on such information to the detriment of the individual.

b. Denying An Amendment - If LLMP PHS denies all or a part of the requested amendment, LLMP PHS will:

- Provide the individual with a timely, written denial. The denial will use plain language and contain; a) the basis for the denial, b) the individual's right to submit a written statement disagreeing with the denial and how the individual may file such a statement, c) a statement that, if the individual does not submit a statement of disagreement, the individual may request that LLMP PHS provide the individual's request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment; and d) a description of how the individual may complain to LLMP PHS or to the DHHS, Office of Civil Rights.
- Permit the individual to submit a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement.
- Prepare a written rebuttal to the individual's statement of disagreement.
- Identify the record or PHI in the designated record set that is the subject of the disputed amendment and append or otherwise link the individual's request for an amendment, LLMP PHS's denial of the request, the individual's statement of disagreement, if any, and LLMP PHS's rebuttal, if any, to the designated record set.

- If the individual has submitted a statement of disagreement, LLMP PHS must include the material appended, or an accurate summary of any such information, with any subsequent disclosure of the PHI to which the disagreement relates.

c. Actions On Notice Of An Amendment - If LLMP PHS is informed by another covered entity of an amendment to an individual's PHI, LLMP PHS will amend the PHI in designated record sets. Amendments will be made in a reasonable time period, as expeditiously as possible.

d. Documentation - All requests to amend PHI data should be sent to the LLMP PHS Director of Nursing, 607 West Main Street, Marshall, Minnesota 56258-3099. All requests to amend documentation will be retained in accordance with the Agency's approved **General Records Retention Schedule**.

6. Business Associate Relationships and Amending Business Associate Contracts or Agreements

A "business associate" is a person or entity who is not a member of the LLMP PHS workforce and who performs a function for LLMP PHS which requires it to use, disclose, create or receive PHI. LLMP PHS may disclose PHI to another entity if it receives satisfactory assurances, provided in a written contract, that the business associate will appropriately safeguard the PHI. If LLMP PHS and the business associate are both governmental entities, a memorandum of agreement will provide satisfactory assurances. The requirement for business associates does not apply to:

- Disclosures made to a provider for treatment.
- Disclosures made to a health plan sponsor.
- Use or disclosures by a health plan that is a government program providing public benefits, if eligibility for, or enrollment in, the health plan, or if the PHI used to determine enrollment or eligibility in the health plan, and such activity is authorized by law, with respect to the collection and sharing of PHI for the performance of such functions by the health plan and the agency other than the agency administering the health plan.

a. Obtaining Satisfactory Assurances In Contracts - The contract or other written arrangement will provide satisfactory assurances to LLMP PHS that the business associate will comply with HIPAA requirements necessary to protect the PHI shared by LLMP PHS. The contract or other written arrangement will establish permitted and required uses and disclosures and will also require the business associate to:

- Appropriately safeguard the PHI.
- Report any misuse of PHI.
- Secure satisfactory assurances from any subcontractor.
- Grant individuals access and ability to amend their PHI.
- Make available an accounting of disclosures.
- Release applicable records to LLMP PHS.
- Upon termination, return or destroy all PHI.

b. Documenting Sanctions For Non-Compliance - The contract or other written arrangement will authorize termination if the business associate violates its terms. If

LLMP PHS knows of a pattern of non-compliance with HIPAA by the business associates, LLMP PHS realizes it will be found to be non-compliant unless LLMP PHS took reasonable steps to cure the breach or end the violation, as applicable, and, if such steps were unsuccessful:

- Terminated the contract or arrangement, if feasible, or
- If termination is not feasible, reported the problem to the Director of Public Health.

7. Verification Policies

Before disclosing PHI, LLMP PHS will verify the identity of the person requesting the PHI and the authority of that person to have access. LLMP PHS may rely on written statements, if such reliance is reasonable. For public officials, LLMP PHS may rely on an identification badge or a letter written on government letterhead. LLMP PHS will treat a personal representative as the individual for purposes of the privacy regulations:

- A personal representative is someone who has, under applicable law, the authority to act on behalf of an individual in making decisions related to health care.
- LLMP PHS will abide by special provisions for unemancipated minors, deceased individuals, and abuse-neglect and endangerment situations.

8. Alternative Means of Communication Request

LLMP PHS will accommodate all reasonable requests from individuals to receive communication of PHI by alternative means or at an alternative location, provided the individual clearly states that disclosure of all or part of that information could endanger the individual.

9. Restricted Use Request

LLMP PHS will allow an individual to request that LLMP PHS restricts its use and disclosure of PHI for treatment, payment or health care operations. LLMP PHS is not required to agree to the restriction. However, if LLMP PHS agrees to the restriction, it will not violate that agreement, except for emergency treatment.

a. Limit Use Disclosures To Those Authorized By the Client - PHI will be provided to the individual and to the Office of Civil Rights. Disclosure of PHI will be allowed under the following circumstances; 1) if the client has authorized a use or disclosure, 2) if the disclosure is for health care operations, payment or treatment and the client has signed a consent form for the provider, or a consent form is not required, 3) if the client has agreed to the disclosure for a facility directory or to an individual necessary for the care of the individual, or 4) if the disclosure is one of the social responsibility disclosures and all conditions for such disclosure are met. Social responsibility disclosures include; a) uses and disclosures required by law, b) use and disclosures for public health activities, c) disclosures about victims of abuse, neglect or domestic violence, d) uses and disclosures for health oversight activities, e) disclosures for judicial and administrative hearings, f) disclosures for law enforcement purposes, g) uses and disclosures about decedents, h) uses and disclosures for cadaver organ, eye or tissue donation purposes, i) uses and disclosures for research purposes, j) uses and disclosures to avert a serious threat to health or safety, k) uses and disclosures for specialized government functions, and l) disclosures for workers' compensation.

10. Complaints Policy

LLMP PHS will provide a process for individuals to make complaints to LLMP PHS concerning its HIPAA privacy regulations policies and procedures, its compliance with those policies or procedures or its compliance with the privacy regulations itself. The notice provided to individuals will include a brief description of how individuals may file a complaint, including the title, phone number and address to contact for further information on the policies for filing a complaint. For purposes of satisfying this component, LLMP PHS will use its current **Complaint Intake Log**. LLMP PHS will document all complaints received and their disposition. At least annually, the LLMP PHS Community Health Board will be informed of all complaints and their disposition.

11. Anti-Retaliation Policy

LLMP PHS will not retaliate against any person for exercising a right under the HIPAA privacy regulations, or for filing a complaint, participating in an investigation, or opposing any lawful act in relation to the privacy regulations.

12. Appropriate Administrative, Technical And Physical Safeguards

LLMP PHS will reasonably safeguard PHI from any intentional or unintentional use or disclosure that is in violation of the HIPAA privacy standards. Records stored in LLMP PHS will be kept secure at all times. Employees who are handling PHI information during the course of the day will protect the privacy of the material. This will be done by putting working documents away at the end of the day, the fax machine will be in a secure area and information about clients will not be left sitting in the fax machine, staff will not e-mail PHI data unless it is over a secure, encrypted line, and the like. On an annual basis, all LLMP PHS employees will receive training on proper data practices procedures.

13. Training

LLMP PHS will train all members of its workforce in the policies and procedures adopted by LLMP PHS necessary to comply with the HIPAA privacy regulations. Agency staff will receive initial training at the time of implementation of the privacy regulations. Additional training will be provided to each new member of LLMP PHS's workforce at the time of hire, and each member of the workforce whose functions are affected by a material change in the required policies or procedures. LLMP PHS will apply appropriate disciplinary sanctions to employees who fail to comply with LLMP PHS's privacy policies or procedures or who fail to comply with the HIPAA privacy regulations. Such disciplinary actions shall be consistent with the progressive discipline policy of LLMP PHS's union contract.

14. Disciplinary Actions for Non-Compliance

Unauthorized use or disclosure of PHI by LLMP PHS staff shall result in a disciplinary response up to and including termination of employment.

A person convicted of an offense under HIPAA Public Law 104-191 may be required to pay a fine up to \$25,000 plus jail time for a civil offense or up to \$250,000 plus jail time for a criminal offense. A confirmed breach of confidentiality may be reported to the individual's professional regulatory body.

15. Dissemination of HIPAA Policies and Procedures – LLMP PHS will place a copy of its HIPAA Policies and Procedures for public information on the county website.