

<p align="center">CITY OF APPLETON PERSONNEL POLICY</p>	<p align="center">TITLE: HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) (PRIVACY SECTION)</p>	
<p>ISSUE DATE: April 2003</p>	<p>LAST UPDATE: February 2014</p>	<p>SECTION: Human Resources</p>
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I. PURPOSE

The City of Appleton recognizes that its Self Insured Health Plans will be “covered entities” within the meaning of the privacy regulations issued under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). See 45 C.F.R. § 160.103.

II. POLICY

It shall be the Policy of the City of Appleton to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

III. DISCUSSION

In response to the HIPAA privacy regulations, the City of Appleton has adopted this Policy that shall apply to the Health, Dental and contracted Employee Assistance Program Plans. This Policy shall also apply to City of Appleton employees, agents and service providers, to the extent required under applicable HIPAA privacy regulations.

IV. DEFINITIONS

Business Associate: An individual who helps a covered entity with a function or activity involving the use or disclosure of individually identifiable health information including claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management, practice management and re-pricing, legal, actuarial, accounting, consulting, data aggregation management, administrative, accreditation or financial services.

Breach: Unauthorized use, disclosure, acquisition or access of PHI in violation of HIPAA, which compromises the PHI’s security. Exceptions to a breach include: 1) unintentional acquisition, access or use of PHI by an individual acting under the authority of the covered entity, 2) inadvertent disclosure of PHI to another person authorized to access PHI within the same covered entity or their business associates, and 3) disclosures of PHI to an unauthorized recipient who reasonably could not have retained the PHI.

Covered entity: A health plan, health care provider or health care clearinghouse.

Designated record sets: Information maintained by a covered entity, to include medical records, billing records, enrollment, payment, claims adjudication and case or medical management record systems maintained by or for a health plan; or records used by or for the covered entity to make decisions about individuals.

Electronic Health Record (EHI): An electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

Employment records: Records held by an employer in its capacity as an employer rather than as a plan sponsor. Such records are **not** considered Protected Health Information (PHI).

Genetic Information: Any information about an individual's genetic tests; genetic tests of the individual's family members; or the "manifestation of a disease or disorder" in these family members that is family medical history.

Genetic Tests: Analysis of human DNA, RNA, chromosomes, proteins or metabolites or chromosomal changes (for example, a test to determine whether an individual has a gene variant associated with breast cancer BRCA1 or BRCA2).

Group Health Plan: Any plan of, or contributed to by, an employer (including a self-funded plan) or employee organization to provide health care to the employer's employees, former employees or their families.

HIPAA: Health Insurance Portability and Accountability Act.

Hybrid entity: A voluntary designation for a single covered entity that performs both covered and non-covered functions. A covered entity may designate itself a hybrid entity to avoid the imposition of the privacy rules on its non-health care related functions.

PHI: Individually identifiable health information, whether it is in electronic, paper or oral form that is created or received by or on behalf of a covered entity or its health care component.

Minimum Necessary: Under this standard, a group health plan must make reasonable efforts to limit Personal Health Information (PHI) to the minimum necessary to accomplish the intended purpose when using or disclosing PHI or requesting PHI from another covered entity. The Minimum Necessary requirements do not apply to:

- Disclosures by a health care provider for treatment;
- Uses and disclosures based upon a valid consent to use and disclose (PHI) for treatment, payment and health care operations or a valid authorization to use and disclose PHI;
- Disclosures made to the Secretary of Health and Human Services;
- Uses and disclosures required by law; and
- Uses and disclosures required by other sections of the HIPAA privacy regulations.

Payment: The activities of a health plan or a business associate relating to payment under the plan, policy or contract, and the activities of a health care provider or its business associate that obtains reimbursement for the provision of health care.

Self-insured plan: A plan in which an employer acts as its own insurance provider, paying claims and monitoring the provision of health services. This is done in place of buying insurance coverage through a traditional arrangement with an insurance carrier.

Treatment: The provision, coordination, or management of health care related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party, consultation between health care providers relating to a patient, or the referral of a patient for health care from one health care provider to another.

V. PROCEDURES

The City of Appleton shall appoint a Privacy Officer pursuant to the HIPAA regulations. The City of Appleton's Privacy Officer shall be the Deputy Director of Human Resources for purposes of the Self-funded Plans and the Employee Assistance Program.

Telephone: 920-832-6455
Fax: 920-832-5845

The City of Appleton Health Department will be covered under a separate policy. To obtain information related to Public Health contact the City of Appleton Nursing Supervisor at:

Telephone: 920-832-6429

Privacy Team

A Privacy Team will be formed to address requests and issues that may evolve through this policy. The Privacy Officer may not involve the Privacy Team with each request. The Privacy Team will consist of the Privacy Officer from Human Resources, the Privacy Officer from the Health Department, the Human Resources Benefits Coordinator and a representative from the City Attorney's Office. The Privacy Officers will make a determination on whether to involve the Privacy Team based on the request.

Privacy Team members can be reached by calling one of the following three offices:

Human Resources	920-832-6455
Health Department	920-832-6429
Attorney Office	920-832-6423

Individual Health Plan participants and other interested parties shall be directed to contact HIPAA Privacy Officer to: (1) file any internal or external complaint about HIPAA privacy related issues; (2) file a request for access or amendment to PHI; or (3) inquire about any denial of access to PHI.

Use and Disclosure of Personal Health Information (PHI)

The City of Appleton will, to the extent required by law, protect PHI it receives about employees and members in a confidential manner. Generally only those with the need to know such information will have access to it. The City of Appleton shall comply with such other policies as it

shall maintain from time to time with respect to the maintenance of such records. Only information that is created or received from a “covered entity” will be considered PHI. The Plan will not disclose or use genetic information for underwriting purposes.

The amount of information to be used or disclosed will be restricted to the Minimum Necessary, to accomplish the intended purpose.

In accordance with the HIPAA privacy regulations, the City of Appleton has designated the City as a Hybrid Entity. Given this designation, employment records and other City records other than those related to the covered Health Plans or Health Department will not be considered to be PHI, subject to HIPAA requirements, unless specifically required by law. The Hybrid Election Form states the following records are not subject to the HIPAA privacy regulations: information obtained to determine an individual’s suitability to perform his/her job duties (such as physical examination reports) fit for duty exams, drug and alcohol tests obtained in the course of employment, doctor’s excuses provided in accordance with the City of Appleton’s attendance policy, work-related injury and occupational exposures reports and medical and laboratory reports related to such injuries or exposures, including information necessary to determine worker’s compensation coverage. Notwithstanding the fact that the preceding records are not subject to the HIPAA privacy regulations, it is the policy of the City of Appleton to limit the use and disclosure of non-covered medical records only to those individuals who have a need to access them.

The City of Appleton will provide Health Plan participants with a one-time Notice of Privacy Practices sent to the last known address as reported to the City of Appleton Human Resources Department. The City of Appleton will maintain a record to document its distribution of the Notice of Privacy Practices, but need not forward that document via certified or registered mail or obtain any signed consent from individual recipients.

An individual employee who has a question about how his/her medical information is used and disclosed should contact the HIPAA Privacy Officer. Upon a request to the HIPAA Privacy Officer, the City of Appleton shall provide a health plan participant or beneficiary with any or all of the following forms:

- Individual Request to Inspect Health Information
- Individual Request to Correct or Amend a Record
- Individual Request Not to Use or Disclose Health Information
- Internal Log of Medical Record Disclosures
- Authorization for Release of Health Information

Access to Personal Health Information (PHI)

Under the HIPAA privacy regulations, individuals have the right to access and to request amendment or restriction on the use of their own PHI that is contained in a “designated record set” for as long as the Plan maintains the PHI. To ensure that the City of Appleton only releases the PHI that is covered under these privacy regulations, this Policy outlines procedures that interested individuals must follow to access, amend and restrict the use of their own PHI.

Participant/Beneficiary Access

- Upon any verbal or written request to the HIPAA Privacy Officer, an interested individual will receive an Individual Request to Inspect Health Information.
- Upon receipt of a completed Individual Request to Inspect Health Information, the Privacy Officer must verify the individual's identity (the use of driver's license, social security card or another identification method may be acceptable for this identification). A copy of such documentation or a note regarding such documentation should be included with the file copy of the Individual Request to Inspect Health Information.
- The HIPAA Privacy Officer will act upon a verified Individual Request to Inspect Health Information within thirty (30) days. If the Privacy Officer cannot respond within thirty (30) days, the Privacy Officer will provide a notice to the requestor within that thirty (30) day period explaining why the HIPAA Privacy Officer could not respond at that time and advising the individual that an additional thirty (30) days to respond to the request is needed.
- The HIPAA Privacy Officer may deny an interested party access to PHI for any legally permissible reason, including, but not limited to the following:
 - if the information that the individual requested was compiled in reasonable anticipation of or for use in a civil, criminal or investigative administrative proceeding involving that individual;
 - if the information in the request was obtained from someone other than a health care provider and under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information;
 - if 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 other person;
 - if the protected health information makes reference to another person (other than 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 that person;
 - if the request for access has been made by a requester as a personal representative of the individual about whom the requestor is requesting the information and a licensed health care professional has determined, under the exercise of professional judgment, that access by the individual is reasonably likely to cause harm to the other person.
- If the HIPAA Privacy Officer denies an Individual Request to Inspect Health Information, the requesting party shall be provided with a written notice stating the specific reason(s) for such denial. If an individual is denied access to PHI for any of the last three reasons listed above, then the individual may request a review of that denial by sending a written appeal request to the Privacy Officer. The City of Appleton will designate a licensed health care professional who was not directly involved in the denial, to review the decision to deny access.
- Access to actual files or computers that contain PHI will not be permitted. Rather, copies of such records will be provided to the individual requestor to view in a confidential area

under direct supervision. *Original PHI documents shall not leave the City of Appleton's premises.*

Request to Amend Personal Health Information (PHI)

- An interested party may request to modify his or her PHI records by filing an Individual Request to Correct or Amend a Record.
- The HIPAA Privacy Officer must act upon an Individual Request to Correct or Amend a Record within sixty (60) days of receipt of such request. If the HIPAA Privacy Officer is unable to act upon the request within sixty days, then he/she must provide the requestor with a statement of the reasons for the delay and provide the individual with a new response deadline (which cannot exceed an additional thirty (30) days).
- The HIPAA Privacy Officer may deny a request to amend PHI for any legally permissible reason, including, but not limited to the following:
 - (1) the City of Appleton or any Health Plan did not create the PHI at issue or;
 - (2) the information is accurate.
- If the HIPAA Privacy Officer grants the request for amendment, a letter will be sent to the requester indicating that the appropriate amendment to the PHI or record has been made.
- The individual requestor may be required to sign an authorization form in order for the City to notify affected parties that amendments have been made.
- If the HIPAA Privacy Officer denies a request to amend a PHI record, the Privacy Officer must provide the requestor with a written denial which must:
 - be written in plain language and state the reason for the denial;
 - identify the individual's right to submit a statement disagreeing with the denial and how the individual may file such a statement;
 - include a statement that, if the individual does not submit a statement of disagreement, the individual may request that the provider include the request for amendment and the denial with any future disclosure of PHI;
 - include a description of how the individual may file a complaint with the covered entity, including the name and telephone number of an appropriate contact person, or with the Secretary of Health and Human Services.
- If an individual submits a "statement of disagreement," the HIPAA Privacy Officer may prepare a written rebuttal statement to the requestor's statement of disagreement. The individual's statement of disagreement will be appended to the PHI along with the rebuttal statement from the HIPAA Privacy Officer or, if elected by the covered entity, a summary of the above.
- If the City of Appleton receives a notice from another covered entity that said entity has amended its own PHI in relation to a particular individual, then the City of Appleton must amend any of its own PHI that may be affected by such amendments.

Requests for Restriction

- An interested individual may request restrictions on the use or disclosure of his/her individual PHI by providing the HIPAA Privacy Officer with an individual Request to Not Use or Disclose Health Information.
- The City of Appleton is not required to agree to any request for restriction, unless the disclosure is to a health plan for purposes of carrying out payment or health care operations (not treatment) and the PHI pertains solely to a health care item or service for which the health care provider has been paid in full.
- If the City of Appleton agrees to a restriction, it may not use or disclose PHI in violation of the agreed upon restriction unless the individual who requested that restriction is in need of emergency service and the restricted PHI is needed to provide such emergency services. Proper documentation will be noted in the file.
- If the Plan maintains PHI in an electronic record of health related information, a covered individual may make a request to receive the information in an electronic format. Any costs will be charged based on labor costs.

Security Issues

Verbal Security

- When transmitting PHI verbally, all employees of the City of Appleton shall do so in a secure or screened area (such as an empty conference room or closed office).
- All City of Appleton Staff members shall be instructed to not disclose or discuss PHI in any open area (e.g., hallway, break room, waiting room, etc.).
- All City of Appleton Staff members shall be instructed to be sensitive to the level of their voice and to the fact that others may be in a position to overhear some or all of their conversation.

Physical Security

- PHI reports and records shall be stored in safe and secure areas.
- To the extent practical, all PHI records and reports will be placed in a locked security file or box, out of common view. Individuals with a need to have access to that information for the completion of their job duties shall have access, following a determination of such need.
- PHI records and data being transferred will be secured and marked confidential with instructions regarding the appropriate individuals who shall have access to that information.
- PHI records, including all notes, remittance advices, charge slips, claims forms or enrollment material, or any reports that include PHI must not be left out in the open. This information shall be stored in secure files or boxes that are in an area where access is limited to those who need access for the completion of their job duties.

Electronic Personal Health Information (PHI)

Information that is stored electronically shall be stored and maintained in a secure environment, in compliance with City of Appleton's other policies regarding the use of computers and other electronic devices.

Breach Notification Requirements

Breach Notification Requirements: the employer shall provide affected individuals notice (no later than 60 days) when 1) an individual's protected health information (PHI) has been breached, 2) the PHI was unsecured, and 3) the breach poses significant financial, reputation or other risks to the individual.

Unsecured PHI: Is PHI that is not secured by using technology or methodology specified by Health and Human Services (HHS). Only those breaches that are unsecured will require notification.

Secured PHI: Is PHI secured by using technology or methodology specified by HHS. This shall include PHI that is encrypted or otherwise in a medium that renders it indecipherable via a technology or methodology approved by HHS.

Risk of Harm: Only those breaches that pose a significant risk to the affected individual requires the employer to perform and document a risk analysis following a breach.

The risk analysis requires the employer to consider factors such as: 1) who impermissibly used or received the PHI, 2) the type, amount and sensitivity of the PHI involved in the breach, 3) whether the covered entity was able to take immediate steps to mitigate the risks, and 4) whether the PHI was returned or recaptured before it could be improperly accessed.

The breach notification must be provided to each affected individual by first-class mail at the individual's last known address, or by e-mail if the individual agreed to it; to prominent media outlets in the state or other jurisdiction if the breach involves more than 500 residents of the state or jurisdiction; and to Health and Human Services immediately if the breach affected 500 or more individuals which in turn must post information about the breach on the City's web site.

Business Associates

Business Associates will be required to comply directly with the HIPAA security rules in compliance with the Health Information Technology for Economic and Clinical Health Act. (HITECH)

Privacy Training

To ensure that the City of Appleton's workforce, including all employees, volunteers, trainees, temporary employees, etc. (collectively, "Staff") who have access to PHI understand the City of Appleton's concern for the respect of privacy, the City of Appleton shall provide training regarding its privacy policies and procedures.

Policy

- All current Staff members who have access to PHI and others as determined by the Privacy Officer will be required to undergo privacy training in accordance with the HIPAA privacy regulation.
- All new Staff members who have access to PHI and others as determined by the Privacy Officer will be required to undergo privacy training in accordance with the HIPAA privacy regulation within a reasonable time following their association with the City of Appleton.
- All Staff members who have access to PHI and others as determined by the Privacy Officer will be required to undergo privacy training in accordance with the HIPAA privacy regulation within a reasonable time after there is any material change to City of Appleton's privacy policies and procedures.

Procedure

- Any privacy training conducted under this Policy will be conducted by the Privacy Officer or his/her designee.
- All attendees must attend the training in person and verify their attendance and agreement to adhere to this Policy.
- All attendees will receive a copy of the Policy in effect at that time.
- Topics of the training will include a complete review of the Policy in effect at that time and other information concerning the HIPAA privacy regulation, such as, but not limited to, the following topic areas:
 - An overview of the federal and state laws concerning privacy including the privacy regulations issued under HIPAA;
 - A description of PHI;
 - Participant/beneficiary rights under the HIPAA privacy regulation;
 - Staff member responsibilities under the HIPAA privacy regulation;
 - The role of the Privacy Officer and of individual participants and beneficiaries;
 - The importance and benefits of privacy compliance;
 - Consequences of failure to follow established privacy policies;
 - Use of the approved privacy forms.

Enforcement

All HIPAA Privacy Team members are responsible for ensuring the Policy is enforced.

All Staff members are responsible for adhering to this Policy. Individuals who violate this Policy, falsify records, or retaliate will be subject to discipline up to and including termination of employment.

Construction

This Policy is designed to comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) found at 45 Code of Federal Regulations Parts 160 and 164. The regulations will supercede any discrepancy between this Policy and the Regulations.

**CITY OF APPLETON
INDIVIDUAL REQUEST TO INSPECT HEALTH INFORMATION**

I request to review health information held about me in the City of Appleton group health plan's "designated record set" in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). A "designated record set" includes information such as medical management record systems; or records used to make decisions about individuals.

I understand that the group health plan has 30 days to respond to this request and that, if someone else holds the information or it is off-site, the response time is 60 days.

I request that the information be provided in the following format: (circle one)

paper electronic

Optional: I agree that the group health plan may provide a summary of the health information instead of allowing me to review the information. (circle one)

Yes No

I agree to pay any fees for copying or summarizing my health information. Fees will be reasonable and cost-based, and include only the cost of copying, postage, and preparation of a summary (if I agree to a summary).

I understand that this request does not apply to certain health information, including (1) information that is not held in the designated record set; (2) information compiled in reasonable anticipation of or for litigation; and (3) other information not subject to the right to access information under HIPAA.

Signature: _____

Date: _____

**CITY OF APPLETON
INDIVIDUAL REQUEST TO CORRECT OR AMEND A RECORD**

I request the group health plan to amend the protected health information in its designated record set.

Specific Statement of Amendment Request

Specific Reason for Amendment Request

I understand that if the protected health information was not created by the group health plan, the group health plan is not required to honor my request. For example, if the information I wish to amend is in a medical report created by my physician, I must ask the physician – not the plan – to amend the report. I also understand that if the information is not available for my inspection, is not part of the plan’s designated record set or is already accurate and complete, I cannot amend the information.

I understand that the group health plan will respond to my request within 60 days.

Signature: _____ Date: _____

CITY OF APPLETON
INDIVIDUAL REQUEST NOT TO USE OR DISCLOSE HEALTH INFORMATION

I understand that the City of Appleton group health plan may use and disclose protected health information about me for purposes of health care treatment, payment and health care operations without my consent. I request to restrict use and disclosure of protected health information concerning health care treatment, payment or health care operations about me by the City of Appleton group health plan in accordance with the Health Insurance Portability Act of 1996 (HIPAA).

Group Health Plan Not Required To Agree

I understand that the group plan is not required to agree to this restriction. However, the plan will agree to your request on a PHI disclosure to a health plan for payment or health care operation purposes (not treatment purposes), if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

Termination of Restriction

I understand that, if the group health plan agrees to this restriction, either the Plan or I may terminate this restriction at any time. The termination of the restriction is only effective for future uses and disclosures.

Emergency Treatment Exception

I understand that, if protected health information must be used or disclosed to provide emergency treatment for me, then this restriction is void.

Questionnaire

Requestor: Please complete all of the following questions. If the question is not applicable, mark N/A on the answer line.

- (1) I request the following information be restricted (description of information):

- (2) I request that use and disclosure of the above described information be restricted in the following manner (description of restriction):

- (3) I request that my protected health information not be disclosed to the following individuals or entities (list individuals or entities to which information would not be disclosed):

I understand that if a restriction is not specifically listed above and agreed to in writing by the group health plan, it will not be effective.

Signature: _____ Date: _____

INTERNAL LOG OF MEDICAL RECORD DISCLOSURES

City of Appleton Representative handling disclosure	Date	Name of Individual	Name of Party to Which Information Was Disclosed	Summary of Disclosed Information	Date of Authorization

**CITY OF APPLETON
AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION**

I _____ hereby authorize the use or disclosure of my health information as described in this authorization.

(1) Specific person/organization (or class of persons) authorized to provide information:

(2) Specific person/organization (or class of persons) authorized to receive and use the information:

(3) Specific and meaningful description of the information:

For example, medical examination report and conclusions related to a fitness-for-work exam, or results of drug testing for employment-related purposes.

(4) Purpose of the request:

(Please state the purpose of the request below. If you do not wish to state a purpose, please state, "At the request of the individual.")

Right to revoke: I understand that I have the right to revoke this authorization at any time by notifying the City of Appleton in writing at Human Resources, 100 N. Appleton Street, Appleton, WI 54911. I understand that the revocation is only effective after it is received and logged by the City of Appleton Human Resources Department. I understand that any use or disclosure made prior to the revocation under this authorization will not be affected by a revocation.

(5) I understand that after this information is disclosed, federal or state law might not protect it and the recipient might re-disclose it.

(6) I understand that my initial and continued employment and position are subject to my agreement to this authorization, and any additional authorization the City of Appleton requests.

(Employers must review their employment handbooks and any applicable collective bargaining or state-law restrictions to ensure that the authorization does not conflict with other employee rights or requirements [imposed either voluntarily or by law].)

(7) I understand that I am entitled to receive a copy of this authorization.

(8) I understand that this authorization will expire when my employment with the City of Appleton terminates.

Signature of Employee _____ Date _____

Personal Representative's Section

If a Personal Representative executes this form, that Representative warrants that he or she has authority to sign this form on the basis of: _____