Board of County Commissioners
Leon County, Florida

Policy No. 04-XX

Title:	Leon County Flexible Benefits Plan HIPAA Privacy Policy
Date Adopted:	December 14, 2004
Effective Date:	January 1, 2005
Reference:	N/A
Policy Superseded:	N/A

It shall be the policy of the Board of County Commissioners of Leon County, Florida, that a new policy, Policy No. 04-XX, entitled "Leon County Flexible Benefits Plan HIPAA Privacy Policy" is hereby adopted, to wit:

It is the policy of the Leon County Human Resources Division that:

Purpose: *The following privacy policy is adopted to ensure that the Leon County Human Resources Division complies fully with all federal and state privacy protection laws and regulations. Persons' Protected Health Information (PHI) is of paramount importance to Leon County Government. Violations of any of these provisions may result in disciplinary action up to and including termination of employment and possible referral for criminal prosecution.*

Effective Date: This policy is in effect as of January 1, 2005.

Expiration Date: This policy remains in effect until superceded or cancelled.

Definitions:

Business Associate (BA): A person or organization that performs a function or activity on behalf of a covered entity, but is not part of the covered entity's workforce. A business associate can also be a covered entity in its own right. Also see Part II, 45 CFR 160.103.

Covered Entity (CE): Under HIPAA, this is a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a HIPAA transaction. Also see Part II, 45 CFR 160.103.

Disclosure: Release or divulgence of information by an entity to persons or organizations outside of that entity. Also see Part II, 45 CFR 164.501.

Health and Human Services (HHS): The federal government department that has overall responsibility for implementing HIPAA.

Health Insurance Portability and Accountability Act of 1996 (HIPAA): A Federal law that allows persons to qualify immediately for comparable health insurance coverage when they change their employment relationships. Title II, Subtitle F, of HIPAA gives HHS the authority to

mandate the use of standards for the electronic exchange of health care data; to specify what medical and administrative code sets should be used within those standards; to require the use of national identification systems for health care patients, providers, payers (or plans), and employers (or sponsors); and to specify the types of measures required to protect the security and privacy of personally identifiable health care information. Also known as the Kennedy-Kassebaum Bill, the Kassebaum-Kennedy Bill, K2, or Public Law 104-191.

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.

Office for Civil Rights: The HHS entity responsible for enforcing the HIPAA privacy rules.

Plan Sponsor: An entity that sponsors a health plan. This can be an employer, a union, or some other entity. Also see Part II, 45 CFR 164.501.

Privacy Officer: The individual who is responsible for maintaining, and revising when necessary, the privacy policies and procedures of the covered entity, or covered components of a hybrid entity.

Protected Health Information (PHI): Individually identifiable 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.

Workforce: Under HIPAA, this means persons, volunteers, trainees, and other persons under the direct control of a covered entity, whether or not they are paid by the covered entity. Also see Part II, 45 CFR 160.103.

Uses and Disclosures of Protected Health Information

It is the policy of Leon County Human Resources Division that protected health information (PHI) may not be used or disclosed except when at least one of the following conditions is true:

1. The use or disclosure is for treatment, payment or health care operations.
2. The individual who is the subject of the information (i.e. the "subject individual") has authorized the use or disclosure.
3. The individual who is the subject of the information has consented to the use or disclosure.
4. The individual who is the subject of the information does not object to the disclosure and the disclosure is to persons involved in the health care of the individual.
5. The disclosure is to the individual who is the subject of the information or to the Department of Health and Human Services for compliance-related purposes.
6. The use or disclosure is for one of the HIPAA "public purposes" (i.e. required by law, etc.).

Deceased Individuals

It is the policy of Leon County Human Resources Division that privacy protections extend to information concerning deceased individuals.

Notice of Privacy Practices

It is the policy of Leon County Human Resources Division that a notice of privacy practices must be published. This notice and any revisions to it will be provided to all subject individuals at the earliest practicable time, and all uses and disclosures of protected health information will be done in accord with this organization's notice of privacy practices.

Restriction Requests

It is the policy of Leon County Human Resources Division that serious consideration must be given to all requests for restrictions on uses and disclosures of protected health information as published in this organization's notice of privacy practices. It is furthermore the policy of this organization that if a particular restriction is agreed to, then this organization is bound by that restriction.

Minimum Necessary Disclosure of Protected Health Information

It is the policy of Leon County Human Resources Division that all disclosures of protected health information must be limited to the minimum amount of information needed to accomplish the purpose of the disclosure. It is also the policy of this organization that all requests for protected health information must be limited to the minimum amount of information needed to accomplish the purpose of the request.

Access to Protected Health Information

It is the policy of Leon County Human Resources Division that access to protected health information must be granted to each person, contractor or business associate based on the assigned job functions of the person, contractor or business associate. It is also the policy of this organization that such access privileges should not exceed that necessary to accomplish the assigned job function.

Access to Protected Health Information by the Subject Individual

It is the policy of Leon County Human Resources Division that access to protected health information may be granted to the person who is the subject of such information when such access is requested. The Privacy Officer may deny access in certain limited instances.

Amendment of Incomplete or Incorrect Protected Health Information

It is the policy of Leon County Human Resources Division that incorrect protected health information maintained by this organization be corrected in a timely fashion. It is also the policy of this organization that notice of such corrections will be given to any organization with which the incorrect information has been shared. There are certain limited instances in which information may not be amended by this organization.

Access by Personal Representatives

It is the policy of Leon County Human Resources Division that access to protected health information shall be granted to personal representatives of subject individuals as specified by subject individuals.

Confidential Communications Channels

It is the policy of Leon County Human Resources Division that confidential communications channels be used, as requested by subject individuals, to the extent possible.

Disclosure Accounting

It is the policy of Leon County Human Resources Division that an accounting of all disclosures of protected health information, with the exception of disclosures for treatment, payment and Leon County Human Resources Division operations, be given to subject individuals whenever such an accounting is requested.

Complaints

It is the policy of Leon County Human Resources Division that all complaints relating to the protection of health information be investigated and resolved in a timely fashion. Complaints shall be directed to the Privacy Officer.

Prohibited Activities

It is the policy of Leon County Human Resources Division that no person, contractor or business associate may engage in any intimidating or retaliatory acts against persons who file complaints or otherwise exercise their rights under HIPAA regulations. It is also the policy of this organization that no person, contractor or business associate may condition treatment, payment, enrollment or eligibility for benefits on the provision of an authorization to disclose protected health information.

Responsibility

It is the policy of Leon County Human Resources Division that the responsibility for designing, implementing, maintaining and revising when necessary procedures to execute this policy lies with the Privacy Officer.

Verification of Identity

It is the policy of Leon County Human Resources Division that the identity of all persons who request access to protected health information is verified before such access is granted.

Mitigation

It is the policy of Leon County Human Resources Division that the effects of any unauthorized use or disclosure of protected health information be mitigated to the extent possible.

Business Associates

It is the policy of Leon County Human Resources Division that business associates must be contractually bound to protect health information to the same degree as set forth in 45 CFR 160 and 164 and in this policy.

Cooperation with Privacy Oversight Authorities

It is the policy of Leon County Human Resources Division that oversight agencies such as the Office for Civil Rights of the Department of Health and Human Services be given full support and cooperation in their efforts to ensure the protection of health information within this organization. It is also the policy of this organization that all personnel must cooperate fully with all privacy compliance reviews and investigations.

Employment Purposes

It is the policy of Leon County Human Resources Division that PHI will not be used for any employment-related purpose other than those related to treatment, payment or health care operations.

PRIVACY PROCEDURES

Effective Date: These procedures are in effect as of January 1, 2005.

Expiration Date: These procedures remain in effect until superceded or cancelled.

Procedures to accomplish the Privacy Policy

- All forms, policies and procedures will be available on the Leon County Government intranet site, through Human Resources Division representatives or the Privacy Officer.

- Reasonable safeguards must be used to protect the security of written, electronic and oral PHI. To that end, employees should:

  - Use password protected screensavers;
  - Do not leave written PHI in plain view of those who do not need access;
  - Do not discuss PHI in the presence of those who are not authorized to possess the PHI
  - Store PHI in locked cabinets or other secure areas when not in use;
  - Use cross-cut shredder to destroy PHI when necessary;
  - Maintain a secure facsimile location;
  - Email and facsimile communications containing PHI should contain a confidentiality statement

Access, Inspection and Copying of Protected Health Information (PHI)

1. A Human Resources Division representative or Privacy Officer will provide an original form for a person to complete when a person desires to access, inspect or copy his or her PHI.

2. A Human Resources Division representative or Privacy Officer will respond to persons' requests and questions concerning access, inspection and copying PHI. In addition, a Human Resources Division representative or Privacy Officer will distribute the form to the person upon request. At any point a Human Resources Division representative may refer the person to the Privacy Officer for additional information.
3. Once the person has submitted the request in writing (using the County's form is optional), a Human Resources Division representative must verify that the person's signature matches the signature on file. Alternatively, the person may sign the request in the presence of a Human Resources Division representative.

4. Upon receipt of the verified written request, a Human Resources Division representative should forward the request to the Privacy Officer for review.

5. The Privacy Officer must review the person's request and respond to the person within thirty (30) days from the date of the request. The Privacy Officer can request an additional thirty (30)-day extension as long as the request is made to the person in writing with the reason for the delay clearly explained.

6. The Privacy Officer shall agree to all reasonable requests. If access is denied, the Privacy Officer must provide the person with a written explanation for the denial as well as a description of the person's right to appeal.

7. When the person has requested to access, inspect or copy his or her PHI and the request has

been accepted, the Privacy Officer or other authorized County representative should accompany the person to a private area to inspect the records. After the person inspects the records, the Privacy Officer, or other authorized County representative, will note in the record the date and time of the inspection, and whether the person made any requests for amendments or changes to the record.

8. When the person's request to copy his or her PHI has been accepted, a Human Resources Division representative should copy his or her record within fourteen (14) days. The person shall be responsible for reasonable copy charges, which will be communicated to the person prior to any charges being incurred.

Requesting a Restriction of Protected Health Information (PHI)

1. A Human Resources Division representative or Privacy Officer will provide an original form for an person to complete when an person desires to request a restriction on certain uses and disclosures of his or her PHI.

2. Once the person has submitted the request in writing (using the County's form is optional), a Human Resources Division representative must verify that the person's signature matches the signature on file. Alternatively, the person may sign the request in the presence of a Human Resources Division representative.

3. Upon receipt of the verified written request, a Human Resources Division representative should forward the request to the Privacy Officer for review.

4. The Privacy Officer must review the person's request and respond to the person within thirty (30) days from the date of the request. The Privacy Officer can request an additional thirty (30)-day extension as long as the request is made to the person in writing with the reason for the delay clearly explained.

5. The Privacy Officer shall agree to all reasonable requests. If the restriction is denied, the Privacy Officer must provide the person with a written explanation for the denial as well as a description of the person's right to appeal.

Amendments to Protected Health Information (PHI)

1. A Human Resources Division representative or Privacy Officer will provide an original form for a person to complete when a person desires to amend his or her PHI.

2. Once the person has submitted the request in writing (using the County's form is optional), a Human Resources Division representative must verify that the person's signature matches the signature on file. Alternatively, the person may sign the request in the presence of a Human Resources Division representative. The person must supply a reason to support the request.

3. Upon receipt of the verified written request, a Human Resources Division representative should forward the request to the Privacy Officer for review.

4. The Privacy Officer must review the person's request and respond to the person within thirty (30) days from the date of the request. The Privacy Officer can request an additional thirty (30)-day extension as long as the request is made to the person in writing with the reason for the delay clearly explained.

5. If the Privacy Officer accepts the amendment request, the PHI correction shall be made and communicated to any parties to which the information was disclosed on or after January 1, 2005. The amendment shall not be communicated to any party to which the disclosure date was greater than six years prior to the amendment acceptance.

6. If the Privacy Officer denies the request, the person may submit a short statement of dispute, which shall be included in any future disclosure of PHI.

Accounting of Disclosures of Protected Health Information (PHI)

1. A person must request an accounting of disclosures in writing.

2. Once the person has submitted the request in writing, a Human Resources Division representative must verify that the person's signature matches the signature on file. Alternatively, the person may sign the request in the presence of a Human Resources Division representative.

3. Upon receipt of the verified written request, a Human Resources Division representative should forward the request to the Privacy Officer for review.

4. The Privacy Officer must review the person's request and respond to the person within thirty (30) days from the date of the request. The Privacy Officer can request an additional thirty (30)-day extension as long as the request is made to the person in writing with the reason for the delay clearly explained.

5. A person may request an accounting for disclosures made up to six years before the date of the request but not for disclosures made prior to January 1, 2005. The first accounting requested within a twelve-month period will be at no charge to the person. Any subsequent requests within the twelve-month period shall incur a reasonable charge for provision of the list. The person shall be notified of the charges before any costs are incurred.

Request for Confidential Communications of Protected Health Information (PHI)

1. A person may request receipt of communication of PHI in a certain time or manner. The request must be in writing and must specify how or where the person requests to be contacted.

2. Once the person has submitted the request in writing, a Human Resources Division representative must verify that the person's signature matches the signature on file.

Alternatively, the person may sign the request in the presence of a Human Resources Division representative.

3. Upon receipt of the verified written request, a Human Resources Division representative should forward the request to the Privacy Officer for review.

4. The Privacy Officer must review the person's request and respond to the person within thirty (30) days from the date of the request. The Privacy Officer can request an additional 30-day extension as long as the request is made to the person in writing with the reason for the delay clearly explained.

Complaints

1. If a person believes his or her privacy rights have been violated, the person must submit a complaint in writing to the Privacy Officer, either directly or through a Human Resources Division representative.

2. The Privacy Officer will evaluate the complaint and contact the person in writing within thirty (30) days with a response and suggested resolution of the complaint.

3. If the concern is not resolved to the person's satisfaction, the person should be advised of his or her right to file a written complaint with the Secretary of the United States Department of Health and Human Services.

Maintenance of Records of Protected Health Information (PHI)

1. All PHI shall be maintained for a minimum of six (6) years from the date of its creation or the date when it was last in effect, whichever is later, per HIPAA regulations.

2. Any statute or law which mandates more stringent records retention rules shall supercede HIPAA with regard to maintaining records.

Security Provisions

1. The Privacy Officer shall be responsible for the design and implementation of policies and procedures to comply with the HIPAA Security Rules by the compliance date set forth by the Department of Health and Human Services.

Training

1. The Privacy Officer shall be responsible for developing, maintaining and delivering training to achieve HIPAA compliance. Training shall be provided to all current and newly hired employees who handle or maintain PHI, including but not limited to all employees of the Human Resources Division.

2. Training shall be provided on an on-going basis, as needed, to provide relevant information

regarding HIPAA compliance rules and regulations.

Disclosure Tracking

1. The Privacy Officer shall be responsible for implementing and maintaining a PHI disclosure tracking mechanism to provide an accounting of all PHI disclosures. The Privacy Officer shall provide instruction to the Human Resources Division representatives regarding the process of documenting any PHI disclosures.

HIPAA Violations

1. Any employee who fails to comply with HIPAA polices or procedures shall be subject to disciplinary action as outlined in the Leon County Board of County Commissioners personnel policies and procedures in effect on the date of the violation.