

Sherburne County

Health Insurance Portability and Accountability Act (HIPAA) Privacy Policies

1. Appointment and Duties of Data Privacy Officer

The Public Health Director is the designated Privacy Officer for HIPAA purposes for Sherburne County. 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 other members of the Sherburne County staff.

2. Minimum Necessary Policies

Sherburne County will make reasonable efforts to limit the use and disclosure of PHI to a minimum. Release will be to accomplish the intended purpose of the use or disclosure. 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 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, Sherburne County 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, Sherburne County 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, Sherburne County will release non-routine PHI when it is determined that the request constitutes a valid request and 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 - Sherburne County 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 - Sherburne County 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 reporting 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 Sherburne County.
- 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 protected health information 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 protected PHI other than as a business associate of Sherburne County.

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b. Designated Record Set - For Sherburne County's purposes, the following is defined as a "designated record set".

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

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

- 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 - Sherburne County will require that any individual requesting access to put that request in writing. This is in conformity with Sherburne County's basic data practices protocol. An Access Request Form should be completed.

e. Receiving and Processing Requests - Requests for access to PHI will be handled by the Sherburne County Privacy Officer. Written requests may be also directed to the attention of the Privacy Officer. The Privacy Officer will maintain a Master Disclosures of Protected Health Information Log indicating requests for PHI data.

e. Providing Access - If Sherburne County provides access to PHI, it will act on the request within 30 calendar days. One 30-day extension will be allowed. Sherburne County 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 MN Stat. § 144.335, subd. 5 and 13.03 subd. 3.

f. Denying Access - If Sherburne County denies access to PHI, Sherburne County will provide a timely, written denial that states the basis for the denial and the procedures for making a complaint to the Privacy Officer. The individual has a right to a review of the denial of access by a Department-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 protected 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.

g. Access To Management Information System Data - Some information maintained by Sherburne County 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, Sherburne County is not required to grant an individual access to protected PHI maintained in these types of information systems.

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4. De-identification and Use of Limited Data Sets

De-identified information is client information from which Sherburne County or another entity has deleted, redacted, or blocked identifiers, so that the remaining information cannot reasonably be used to identify a person. Unless otherwise restricted or prohibited by other federal or state laws, Sherburne County can use and share information as appropriate for the work of Sherburne County, without further restriction, if Sherburne County or another entity has taken steps to de-identify the information.

- Sherburne County may use or disclose a limited data set, if Sherburne County enters into a data use agreement with the limited data set recipient (or with the data source, if Sherburne County will be the recipient of the limited data set). Sherburne County may disclose a limited data set only for purposes of research, or non-governmental public health purposes.
- Sherburne County may disclose a limited data set only if the entity receiving the limited data set enters into a written agreement with Sherburne County, that such entity will use or disclose the protected health information only as specified in written agreement.

5. Accounting of Disclosures

Sherburne County 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 person's 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, Sherburne County may temporarily suspend the individual's right to receive an accounting of disclosures.

6. Amendment Requests

Sherburne County will permit an individual to request that Sherburne County amend PHI. Sherburne County will require that the request be in writing and that a reason be stated for the amendment. Sherburne County will so inform any individual of this expectation. All requests to amend PHI data should be sent to the Sherburne County Privacy Officer. Sherburne County 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 County's General Record Retention Schedule.

a. Accepting An Amendment - If Sherburne County decides to accept an amendment, Sherburne County will:

- Make the appropriate amendment to the protected 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. Sherburne County will obtain agreement from the individual to allow Sherburne County to share the amendment with individuals or entities identified by the individual and Sherburne County.
- Make reasonable efforts to inform and provide the amendment within a reasonable time to:
 - a) Persons identified by the individual as having received protected PHI about the individual and needing the amendment; and
 - b) Persons, including business associates, that Sherburne County knows have the protected PHI that is the subject of the amendment and that may have relied, or could foreseeable rely, on such information to the detriment of the individual.

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

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- 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 Sherburne County provide the individual's request for amendment and the denial with any future disclosures of the protected PHI that is the subject of the amendment; and
 - d) A description of how the individual may complain to Sherburne County or to DHS, Office for 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 agreement.
- Prepare a written rebuttal to the individual's statement of disagreement.
- Identify the record or protected 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, Sherburne County's denial of the request, the individual's statement of disagreement, if any, and Sherburne County's rebuttal, if any, to the designated record set.
- If the individual has submitted a statement of disagreement, Sherburne County must include the material appended, or an accurate summary of any such information, with any subsequent disclosure of the protected PHI to which the disagreement relates.

c. Actions On Notice Of An Amendment - If Sherburne County is informed by another covered entity of an amendment to an individual's PHI, Sherburne County will amend the protected 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 Sherburne County Privacy Officer. All requests to amend documentation will be retained in accordance with Sherburne County's approved General Records Retention Schedule.

7. 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 Sherburne County workforce and who performs a function for Sherburne County which requires it to use, disclose, create or receive PHI. Sherburne County 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 Sherburne County and 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 is determined by an agency other than the agency administering the health plan, or if the protected PHI used to determine enrollment or eligibility in the health plan is collected by an agency other than the agency administering 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 Sherburne County that the business associate will comply with HIPAA requirements necessary to protect the protected PHI shared by Sherburne County. 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.

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- Make available an accounting of disclosures.
- Release applicable records to Sherburne County.
- 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 Sherburne County knows of a pattern of non-compliance with HIPAA by the business associates, Sherburne County realizes it will be found to be non-compliant unless Sherburne County 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 Privacy Official.

8. Verification Policies

Before disclosing PHI, Sherburne County will verify the identity of the person requesting the PHI and the authority of that person to have access. Sherburne County may rely on written statements, if such reliance is reasonable. For public officials, Sherburne County may rely on an identification badge or a letter written on government letterhead. Sherburne County 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.
- Sherburne County will abide by special provisions for un-emancipated minors, deceased individuals, and abuse-neglect and endangerment situations.

9. Alternative Means of Communication Request

Sherburne County 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.

10. Restricted Use Request

Sherburne County will allow an individual to request that Sherburne County restricts its use and disclosure of PHI for treatment, payment or health care operations. Sherburne County is not required to agree to the restriction. However, if Sherburne County 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 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.

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11. Complaints Policy

Sherburne County will provide a process for individuals to make complaints to Sherburne County 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, Sherburne County will use its current Complaint Filing Form.. Sherburne County will document all complaints received and their disposition. At least annually, the Sherburne County Board will be informed of all complaints and their disposition.

12. Anti-Retaliation Policy

Sherburne County 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 relation to the privacy regulations.

13. Appropriate Administrative, Technical and Physical Safeguards

Sherburne County will reasonably safeguard protected PHI from any intentional or unintentional use or disclosure that is in violation of the HIPAA privacy standards. Records stored in Sherburne County 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 Sherburne County employees will receive training on proper data practices procedures.

14. Training

Sherburne County will train all members of its workforce in the policies and procedures adopted by Sherburne County necessary to comply with the HIPAA privacy regulations. Sherburne County staff will receive initial training at the time of implementation of the privacy regulations. Additional training will be provided to each new member of Sherburne County's work force 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.

15. Enforcement for Violations of Individual Privacy

Sherburne County will apply appropriate disciplinary sanctions to employees who fail to comply with Sherburne County'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 Sherburne County's Personnel Rules and Policies.

16. Dissemination of HIPAA Policies and Procedures

Sherburne County will place a copy of its HIPAA Policies and Procedures for public information on the county website.

**Adapted from Swift County HIPAA Policies from Swift County Data Practices and Records Management Handbook and Oregon DHS.*

Arne Engstrom, Chairperson

Brian Bensen, Administrator

Date

Date