

POLICY

No. 4730

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HIPAA COMPLIANCE POLICY

Capital Region BOCES (the "BOCES"), as a sponsor of a self-insured group health plan (the "Plan"), is required under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") to implement policies and procedures relating to the privacy of individually identifiable health information of Plan enrollees.

This Policy applies to all BOCES personnel who have access to Protected Health Information ("PHI") in the course of their duties relating to BOCES' group health plans, including flexible spending plans for medical reimbursement, regardless of whether the employee is directly involved in the administration of health plan benefits or services.

This Policy does not pertain to information that the BOCES may receive, create, or transmit in relation to Workers' Compensation, Family Medical Leave Act (FMLA), fitness for duty, Americans with Disabilities Act (ADA), Occupational Safety and Health Administration (OSHA), employee drug screening, life insurance, or disability insurance rules and regulations.

Protected Health Information

For purposes of this Policy, PHI is defined as individually identifiable health information, including demographic information, that is created, received, transmitted or maintained by the BOCES in relation to a group health plan, regardless of form (oral, written, or electronic), if the information relates to:

- the past, present or future physical or mental health or condition of an individual;
- the provision of health care services to an individual; or
- the past, present, or future payment for the provision of health care to an individual.

PHI includes but is not limited to treatment records, billing records, consultant reports, and laboratory or other diagnostic testing results.

Confidentiality of PHI

Employees shall not divulge, copy, transfer, alter, or destroy any PHI, or remove any PHI from the premises, except as authorized by the BOCES or by the individual who is the subject of the information. Employees must strictly comply with all applicable federal and state laws and

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Amended:

regulations and all policies and procedures established by the BOCES relating to the confidentiality and protection of PHI. An employee's responsibility to safeguard the confidentiality of PHI continues after termination of his or her employment with the BOCES.

Administrative Safeguards

The BOCES has implemented appropriate administrative, technical, and physical safeguards to protect the privacy of PHI and to safeguard PHI from any uses and disclosures that would be in violation of HIPAA. Applicable Notice(s) of Privacy Practices reflect the BOCES' procedures in relation to use and disclosure of PHI.

Files containing PHI, on paper or in electronic media, must be maintained in a manner which guards against unauthorized access and disclosure. Employees must hold in strictest confidence any and all access codes, passwords, and other authorizations that enable access to computer systems in which PHI is maintained by the BOCES.

Minimum Necessary Disclosure

Employees shall use PHI only as necessary to perform their duties in relation to the Plan, and for no other purpose whatsoever. When using, disclosing, or accessing PHI, employees shall only use, disclose or access the minimum PHI necessary to perform their duties. When PHI must be shared with others, it must be shared in a manner consistent with the intended purpose, taking precautions to minimize the risk of disclosure beyond the minimum necessary for the intended recipient or purpose. All employees whose duties involve access to PHI are required to undergo training in safeguards concerning use and disclosure of PHI.

Mitigation of Harmful Effects

In the event of disclosure of PHI in violation of HIPAA, the BOCES has a duty to mitigate any known harmful effect of that violation, to the extent practicable. Any employee who becomes aware of an activity that may jeopardize the confidentiality of PHI should promptly report that activity to the BOCES' Privacy Official.

Individual Rights

Under HIPAA, an individual is entitled to certain rights concerning his or her Protected Health Information. Those individual rights are described in and administered in accordance with a Notice of Privacy Practices. The Notice of Privacy Practices is applicable for Plan enrollees as of April 14, 2003, and thereafter to new enrollees upon initial enrollment. No less frequently than once every three years, enrollees then covered by the Plan will be informed that the Notice is available and how to obtain it.

Non-Retaliation and Non-Waiver of Rights

The BOCES shall not discriminate against, intimidate, threaten, coerce, or take any other retaliatory action against any employee or retiree for exercising the right to file a complaint with the Privacy Official, or with the United States Secretary of the Department of Health and Human Services, or for testifying, assisting or participating in an investigation, compliance review, proceeding, or hearing regarding an alleged violation under HIPAA. In addition, the BOCES shall not require an employee or retiree to waive his or her rights under HIPAA as a condition of the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits.

Administrative Sanctions

Any violation of this policy or violation of any applicable federal or state law relating to the protection of PHI may subject an employee to disciplinary action, in accordance with the applicable policies and procedures and agreements with employee bargaining units of the BOCES.

Complaint Process

The BOCES has a process by which individuals may make complaints concerning the policies and procedures of the Plan in relation to the confidentiality of PHI. Complaints regarding the inappropriate use or disclosure of PHI may be made in writing to the Privacy Official of the BOCES. Complaints may also be made to the United States Secretary of the Department of Health and Human Services.

Privacy Official

The Privacy Official may be contacted at the following office address:

Office of Human Resources
Capital Region BOCES
1031 Watervliet-Shaker Road
Albany, New York 12205