

## HIPAA APPLICABILITY POLICY

### 1. Introduction

- a. Clark County has adopted this HIPAA Applicability Policy to comply with our duties under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Department Health and Human Services (“DHHS”) security and privacy regulations, the Joint Commission on Accreditation of Healthcare Organizations (“JCAHO”) accreditation standards, as well as our duty to protect the confidentiality and integrity of confidential medical information as required by law, professional ethics, and accreditation requirements.
- b. This policy governs to how to determine what departments of Clark County are governed by HIPAA.

### 2. Definitions

- a. Covered entities are any (1) health plans, (2) health care clearinghouses, and (3) health care providers who electronically transmit any health information in connection with transactions for which DHHS has adopted standards. Generally, these transactions concern billing and payment for services or insurance coverage.
  - i. Health plan is an individual or group plan that provides or pays the cost of medical care (as defined in section 2791(a)(2) of the PHS Act, 42 U.S.C. 300gg-91(a)(2)).
  - ii. Health care clearinghouse is a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and “valueadded” networks and switches that either process or facilitate the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction, or receive a standard transaction from another entity and process or facilitate the processing of health information into a nonstandard format or nonstandard data content for the receiving entity.
  - iii. Health care provider is a provider of services (as defined in section 1861(u) of the Act, 42 U.S.C. 1395x(u)), a provider of medical or health services (as defined in section 1861(s) of the Act, 42 U.S.C. 1395x(s)), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.
  - iv. Health care is care, services, or supplies related to the health of an individual, including (1) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual that affects the structure or function of the body; and (2) sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.
- b. Business associate is a person or entity, who is not a member of the workforce and performs or assists in performing, for or on behalf of a covered entity, a function or activity regulated by the HIPAA Administrative Simplification Rules, including the

- Privacy Rule, involving the use or disclosure of individually identifiable health information, or that provides certain services to a covered entity that involve the use or disclosure of individually identifiable health information.
- c. Hybrid entity is a single legal entity that is a covered entity, performs business activities that include both covered and noncovered functions, and designates its health care components as provided in the Privacy Rule. If a covered entity is a hybrid entity, the Privacy Rule generally applies only to its designated health care components.

### 3. Process

- a. In determining whether Clark County is a covered entity and what department and/or functions are governed by HIPAA and the Privacy Rule, the following process shall be utilized:
  - i. Identify departments in Clark County that perform covered and uncovered functions as part of its normal departmental operations.
    1. A covered function is any function that the performance of which makes the performer a health plan, health care provider, or health care clearinghouse as defined above.
    2. If there is even a single department with a covered function, Clark County, as a whole, is a covered entity.
  - ii. Identify the specific components within the departments that perform covered functions.
    1. These components will be identified as specific health care components within Clark County.
  - iii. Identify the specific components within the departments that performed functions on behalf of covered entities outside of Clark County's control.
    1. Such components may be deemed business associates and be governed by HIPAA Privacy Rule.

### 4. Determination

- a. The following Clark County departments have been identified to carry out covered function (as well as uncovered functions) as part of the department's normal operations:
  - i. Community Services
  - ii. Social Services
  - iii. Public Health
  - iv. Health Care Center
  - v. Law Enforcement
  - vi. Personnel
  - vii. Aging
- b. Based on Clark County carrying out covered functions, Clark County, as a whole, is a covered entity. However, due to limited number of departments that carry out covered functions, Clark County is a hybrid entity. The aforementioned departments provide specific programs or services that are health care components.

- c. When looking at each department specifically and the various programs/services that are provided by each department, the following components of each department are a covered entity:
  - i. Community Services
    - 1. Outpatient mental health and substance abuse therapy
    - 2. Case management/Community Support Program (CSP)
    - 3. Birth-to-Three Program
    - 4. Family Support Program
    - 5. 24-hour Crisis Services
    - 6. Children's Waiver
    - 7. Psychological consultations
  - ii. Social Services
    - 1. Case management through Coordinated Services Team (CST)
  - iii. Public Health
    - 1. Immunization
    - 2. Lead blood testing
    - 3. Dental services
    - 4. Prenatal care coordination
    - 5. Reproductive health
    - 6. Tuberculosis and Hepatitis testing
  - iv. Health Care Center
    - 1. Skilled nursing
    - 2. Rehabilitation/therapy
    - 3. Facility for developmentally disabled
    - 4. Outreach/prevocational
    - 5. Adult day care
    - 6. Community based residential facility
  - v. Law Enforcement
    - 1. In-house nursing
    - 2. Medication administration/management
    - 3. Tuberculosis testing
  - vi. Personnel
    - 1. Self-funded health insurance
  - vii. Finance
    - 1. Self-funded health insurance
  - viii. Aging
    - 1. Elder care services
- d. Clark County acknowledges that other programs/services not listed above may be governed by HIPAA as applicable departments may be classified as a business associate on a case-by-case basis.