

SAN DIEGO COUNTY EMPLOYEES RETIREMENT ASSOCIATION
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT PRIVACY POLICY
AND PRIVACY CERTIFICATION

I. PURPOSE

To affirm and document the San Diego County Employees Retirement Association Retiree Health Program's (the "Health Plan's") compliance with the privacy rules set forth in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and its implementing regulations (45 CFR Parts 160 and 164 Subpart E) (the "Privacy Rule").

The Health Plan is a fully insured group health plan sponsored by SDCERA (the "Plan Sponsor"). The Health Plan provides benefits solely through several insurance contracts with health insurance issuers or health maintenance organizations (collectively, the "Insurers"). The Health Plan and the Plan Sponsor intend to comply with the requirements of 45 CFR § 164.530(k), so that the Health Plan is not subject to most of HIPAA's Privacy Rule requirements. The Insurers, however, are subject to HIPAA's privacy and security rules as covered entities. This Policy is intended to comply with the requirements of HIPAA, and may be changed or terminated at any time. The Health Plan is not subject to the Employee Retirement Income Security Act of 1974 ("ERISA"). The Health Plan shall be construed and enforced according to the laws of the State of California.

II. POLICY

A. No Access to Protected Health Information Except for Summary Health Information for Limited Purposes and Enrollment/Disenrollment Information

The Health Plan will not create or receive protected health information ("PHI"), as defined by 45 CFR §160.103, except for the following:

1. "Summary health information," as defined by the Privacy Rule (45 CFR § 164.504(a)), for purposes of (a) obtaining premium bids, or (b) modifying, amending, or terminating the Health Plan; and/or
2. Information on whether an individual is participating in the Health Plan, or is enrolled or has disenrolled from an insurer offered by the Health Plan.

B. Insurers for Health Plan Will Provide Privacy Notices

1. The Insurers will create and provide the Notice of Privacy Practices required by the Privacy Rule, and will satisfy all other Privacy Rule requirements related to Notice of Privacy Practices.

C. Breach Notification Requirements

The Health Plan shall comply with the requirements of the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act") and its

implementing regulations to provide notification to affected individuals, the U. S. Department of Health and Human Services ("HHS"), and the media, when required, if the Health Plan or one of its business associates discovers a breach of unsecured PHI at the Health Plan or one of its business associates discovers a breach of unsecured PHI at the Health Plan or business associate. In some cases, the Health Plan's insurance contracts with its Insurers state that the Insurers will provide necessary analysis and breach notification in the event of a potential breach of unsecured PHI.

D. No Intimidating or Retaliatory Acts

The Health Plan shall not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against an individual for:

1. Exercising his or her rights under the HIPAA rules;
2. Participating in any process provided for by the HIPAA rules, including filing a complaint with HHS;
3. Testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing provided for under the HIPAA rules; or
4. Opposing any act or practice that is prohibited by HIPAA, if such individual has a good faith belief that the practice opposed is unlawful, and the manner of opposition is reasonable and does not involve a disclosure of PHI in violation of the Privacy Rule.

E. No Waiver of HIPAA Privacy Rights

The Plan shall not require an individual to waive his or her right to file a complaint with the Secretary of HHS, or his or her rights under the Privacy Rule, as a condition of treatment, payment, enrollment or eligibility for benefits.

F. Disclosures of PHI to the Plan Sponsor

The Health Plan does not provide for or permit Insurers to disclose protected health information ("PHI") to the Plan Sponsor, except for (1) "summary health information" as defined by the Privacy Rule (45 CFR § 164.504(a)), for the limited purposes of obtaining premium bids or modifying, amending, or terminating the Health Plan; (2) information on whether an individual is participating in the Health Plan, or is enrolled or has disenrolled from an Insurer offered by the Health Plan; and/or (3) pursuant to a signed authorization that complies with the Privacy Rule requirements (45 CFR § 164.508).

Because PHI disclosed to the Sponsor is limited as above, the Health Plan need not ensure that the Health Plan documents are amended to restrict uses and disclosures of PHI by the Plan Sponsor.

G. Documentation and Recordkeeping

Because the Health Plan provides health benefits solely through insurance contracts with

health insurance issuers or HMOs, and because the Health Plan does not create or receive PHI except for summary health information and/or participation, enrollment, and disenrollment information, the Privacy Rule documentation requirements apply only to the extent of any amendments made to Health Plan documents for the sharing of PHI with the Plan Sponsor. The Health Plan will not provide for or permit the Insurers to disclose PHI to the Plan Sponsor, except for summary health information and/or participation, enrollment, and disenrollment information, and information subject to the individual's HIPAA-compliant authorization. Therefore, no amendments to the Health Plan documents are required, and the documentation requirements of 45 CFR § 164.530(j) do not apply to the Health Plan.

H. Business Associates

To the extent required by law, SDCERA will enter into HIPAA-compliant business associate agreements with business associates of the Health Plan to whom the Health Plan discloses PHI.

I. Other Matters

No third-party rights (including but not limited to rights of Health Plan participants, beneficiaries, and covered dependents) are intended to be created by this Policy. The Health Plan reserves the right to amend or change this Policy, and its internal procedures, at any time (and retroactively) without notice. This Policy does not address privacy or other requirements under state law, or federal law apart from the Privacy Rule.

SAN DIEGO COUNTY EMPLOYEES RETIREMENT ASSOCIATION

By: _____

Date signed: _____

III. EFFECTIVE DATE

This Policy and Certification is effective as of the date on which HIPAA's privacy rules first applied to the Health Plan, and shall continue in force except as modified in writing.

REVIEW

The Board will review this policy at least every three (3) years to ensure it remains relevant and appropriate.

HISTORY

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| January 6, 2011 | Adopted, effective immediately |
| June 5, 2014 | Reviewed, no changes |
| August 17, 2017 | Revised |