



# HIPPA Privacy Rule Policies

<b>Policies and Procedures</b> <b>USES AND DISCLOSURES FOR HEALTH CARE</b> <b>OPERATIONS</b>	Policy # 20	
APPROVED BY:	ADOPTED:	
	REVISED: 07122017	
SUPERCEDES POLICY: NEW	REVIEWED: 07122017	

## Purpose

To describe the circumstances under which LifeMed ID workforce members may use and disclose an individual’s Protected Health Information (PHI) for health care operations in accordance with state and federal privacy laws, HIPAA Regulations and LifeMed ID’s contracts with its customers.

## Policy

It is the policy of LifeMed ID to protect PHI and to use and disclose PHI for health care operations in accordance with state and federal privacy laws, HIPAA Regulations and LifeMed ID’s contracts with its customers.

All workforce members must comply with this policy. Violations of this policy will result in disciplinary action based on the seriousness of the offense or other factors. Disciplinary action may include written warning, suspension, or termination.

## Definitions

“Customer” is an entity from which LifeMed ID receives PHI subject to a Business Associate Agreement (or other written agreement with the entity) in compliance with the HIPAA Regulations and approved by LifeMed ID’s legal counsel.

“Health Care Operations” - See the definition of “Health Care Operations” in the *Regulatory Authority* section of this policy.

For definitions of other capitalized terms or phrases, please refer to: *HIPAA-HITECH Privacy and Security Glossary*.

## Procedures

An individual’s PHI may be used or disclosed for health care operations in accordance with this Policy.

1. Use or Disclosure for Health Care Operations. Subject to any requirement of federal or state law that requires individual consent, the PHI of individuals may be used or disclosed for the health care operations of LifeMed ID in accordance with this Policy and consistent with state and federal privacy laws and HIPAA Regulations. If not otherwise required by federal or state law, except in the





circumstances described below, it is not mandatory for LifeMed ID to obtain written consent to use or disclose an individual's PHI for health care operations. PHI may not be used or disclosed for health care operations:

- a. Except under very limited circumstances, if it is contained in Psychotherapy Notes (refer to: *Privacy Policy #12: Authorization to Use or Disclose Protected Health Information*),
  - b. If it relates to health care services that the individual has fully paid for out-of-pocket (refer to: *Privacy Policy #12: Authorization to Use or Disclose Protected Health Information*), or
  - c. If it is genetic information intended for use for underwriting purposes (refer to *Privacy Policy #23: Uses and Disclosures for Underwriting Purposes*).
2. Restriction Request. An individual may request a restriction on the uses or disclosures of PHI for health care operations, A Covered Entity is not required to agree to a requested restriction, unless the request is to restrict disclosure of PHI about the individual to a Health Plan and:
- a. The disclosure is for the purpose of carrying out payment or health care operations and is not otherwise required by law, and
  - b. The PHI pertains solely to a Health Care item or service for which the individual (or a person other than the Health Plan on behalf of the individual), has paid the Covered Entity for the item or service in full.

Under the terms of LifeMed ID's contract with its customer, LifeMed ID will assist the customer in responding to an individual's request to restrict the uses or disclosures of the individual's PHI for health care operations. Refer to: *Privacy Policy #7: Requests for Restrictions on Uses and Disclosures*.

3. Disclosures to Subcontractors for Health Care Operations.
- a. LifeMed ID's vendors or Subcontractors or other third parties (such as auditors, management companies, attorneys, accountants, and others) may assist in carrying out LifeMed ID's health care operations. If these parties use or disclose PHI when assisting LifeMed ID with health care operations, they will be considered Subcontractors and will be required to sign a Business Associate Agreement. PHI is only shared with those Subcontractors or other third parties, as needed for specific operations. Refer to: *Privacy Policy #15: Uses By and Disclosures to Subcontractors and Third Parties*.
  - b. LifeMed ID's Privacy Office will confirm the categories of PHI reasonably needed for routine and non-routine requests in accordance with *Privacy Policy #5: Minimum Necessary: Uses, Disclosures and Requests*.
4. Minimum Necessary. PHI that is used and disclosed for health care operations is subject to the minimum necessary rules. Only LifeMed ID workforce members who have been granted appropriate authority are allowed to use or disclose PHI for health care operations, and may access only the PHI needed to carry out their duties. Refer to: *Privacy Policy #5: Minimum Necessary: Uses, Disclosure, and Requests*.
5. Accounting of Disclosures. Disclosures for health care operations are not required to be included in the Accounting of Disclosures. Refer to: *Privacy Policy #11: Accounting of Disclosures*.

## Documentation

This version of the policy, together with any forms and other documentation created or obtained in accordance with the policy, will be retained by LifeMed ID for a period of at least 6 years plus the current year from the date of creation or the date when last in effect, whichever is later





## Regulatory Authority

### 45 C.F.R. §164.501 Definitions.

*Health care operations - any of the following activities of the covered entity to the extent that the activities are related to covered functions:*

*(1) Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; patient safety activities (as defined in 42CFR 3.20); population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;*

*(2) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;*

*(3) Except as prohibited under §164.502(a)(5)(i), underwriting, enrollment, premium rating, and other activities related to the creation, renewal or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance), provided that the requirements of §164.514(g) are met, if applicable;*

*(4) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;*

*(5) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and*

*(6) Business management and general administrative activities of the entity, including, but not limited to:*

*(i) Management activities relating to implementation of and compliance with the requirements of this subchapter;*

*(ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that protected health information is not disclosed to such policy holder, plan sponsor, or customer.*

*(iii) Resolution of internal grievances;*

*(iv) The sale, transfer, merger, or consolidation of all or part of the covered entity with another covered entity, or an entity that following such activity will become a covered entity and due diligence related to such activity; and*



(v) Consistent with the applicable requirements of §164.514, creating de-identified health information or a limited data set, and fundraising for the benefit of the covered entity.

#### 45 C.F.R. §164.502 Uses and disclosures of protected health information: general rules.

**(a) Standard.** A covered entity or business associate may not use or disclose protected health information, except as permitted or required by this subpart or by subpart C of part 160 of this subchapter.

(1) *Covered Entities: Permitted uses and disclosures.* A covered entity is permitted to use or disclose protected health information as follows:

(i) *To the individual;*

(ii) *For treatment, payment, or health care operations, as permitted by and in compliance with §164.506;*

*to investigate or determine the covered entity's compliance with this subchapter*

(3) *Business associates: Permitted uses and disclosures.* A business associate may use or disclose protected health information only as permitted or required by its business associate contract or other arrangement pursuant to § 164.504(e) or as required by law. The business associate may not use or disclose protected health information in a manner that would violate the requirements of this subpart, if done by the covered entity, except for the purposes specified under § 164.504(e)(2)(i)(A) or (B) if such uses or disclosures are permitted by its contract or other arrangement.

#### 45 C.F.R. §164.506 Uses and disclosures to carry out treatment, payment, or health care operations.

**(a) Standard:** *Permitted uses and disclosures.* Except with respect to uses or disclosures that require an authorization under §164.508(a)(2) through (4) or that are prohibited under §164.502(a)(5)(i), a covered entity may use or disclose protected health information for treatment, payment, or health care operations as set forth in paragraph (c) of this section, provided that such use or disclosure is consistent with other applicable requirements of this subpart.

**(b) Standard:** *Consent for uses and disclosures permitted.*

(1) *A covered entity may obtain consent of the individual to use or disclose protected health information to carry out treatment, payment, or health care operations.*

(2) *Consent, under paragraph (b) of this section, shall not be effective to permit a use or disclosure of protected health information when an authorization, under §164.508, is required or when another condition must be met for such use or disclosure to be permissible under this subpart.*

**(c) Implementation specifications:** *Treatment, payment, or health care operations.*

(1) *A covered entity may use or disclose protected health information for its own treatment, payment, or health care operations.*



- (2) A covered entity may disclose protected health information for treatment activities of a health care provider.
- (3) A covered entity may disclose protected health information to another covered entity or a health care provider for the payment activities of the entity that receives the information.
- (4) A covered entity may disclose protected health information to another covered entity for health care operations activities of the entity that receives the information, if each entity either has or had a relationship with the individual who is the subject of the protected health information being requested, the protected health information pertains to such relationship, and the disclosure is:
- (i) For a purpose listed in paragraph (1) or (2) of the definition of health care operations; or
  - (ii) For the purpose of health care fraud and abuse detection or compliance.
- (5) A covered entity that participates in an organized health care arrangement may disclose protected health information about an individual to other participants in the organized health care arrangement for any health care operations activities of the organized health care arrangement.

#### 45 C.F.R. §164.508 Uses and disclosures for which an authorization is required.

##### (a) Standard: Authorizations for uses and disclosures

- (1) Authorization required: General rule. Except as otherwise permitted or required by this subchapter, a covered entity may not use or disclose protected health information without an authorization that is valid under this section. When a covered entity obtains or receives a valid authorization for its use or disclosure of protected health information, such use or disclosure must be consistent with such authorization.
- (2) Authorization required: Psychotherapy notes. Notwithstanding any provision of this subpart, other than the transition provisions in §164.532, a covered entity must obtain an authorization for any use or disclosure of psychotherapy notes, except:
- (i) To carry out the following treatment, payment, or health care operations:
    - (A) Use by the originator of the psychotherapy notes for treatment;
    - (B) Use or disclosure by the covered entity for its own training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling; or
    - (C) Use or disclosure by the covered entity to defend itself in a legal action or other proceeding brought by the individual; and
  - (ii) A use or disclosure that is required by §164.502(a)(2)(ii) or permitted by §164.512(a); §164.512(d) with respect to the oversight of the originator of the psychotherapy notes; §164.512(g)(1); or §164.512(j)(1)(i).



45 C.F.R. §164.522 Rights to request privacy protection for protected health information.

(a) (1) **Standard:** *Right of an individual to request restriction of uses and disclosures.*

(i) *A covered entity must permit an individual to request that the covered entity restrict:*

(A) *Uses or disclosures of protected health information about the individual to carry out treatment, payment, or health care operations; and*

(B) *Disclosures permitted under §164.510(b).*

(ii) *Except as provided in paragraph (a)(1)(vi) of this section, a covered entity is not required to agree to a restriction.*

(vi) *A covered entity must agree to the request of an individual to restrict disclosure of protected health information about the individual to a health plan if:*

(A) *The disclosure is for the purpose of carrying out payment or health care operations and is not otherwise required by law; and*

(B) *The protected health information pertains solely to a health care item or service for which the individual, or person other than the health plan on behalf of the individual, has paid the covered entity in full.*



## References

### Internal

1. Privacy Policy #5, Minimum Necessary: Uses, Disclosures and Requests
2. Privacy Policy #7, Requests for Restrictions on Uses and Disclosures
3. Privacy Policy #11, Accounting of Disclosures
4. Privacy Policy #12, Authorization to Use or Disclose Protected Health Information
5. Privacy Policy #15, Uses By and Disclosures to Subcontractors and Third Parties
6. Privacy Policy #23, Uses and Disclosures for Underwriting Purposes

### External

1. Omnibus Final Rule: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=a1031c979126e6440b522063b7bba578&rgn=div5&view=text&node=45:1.0.1.3.78&idno=45%20>