

**Subject:** CONFIDENTIALITY AND EMPLOYEE RECORDS

**Date:** March 26, 2003

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**Replaces Policy Dated:** October 1, 1997

**PURPOSE:** To establish guidelines for release of information and access to employee records which complies with the Health Insurance Portability and Accountability Act of 1996 and all other applicable federal and state statutes.

**POLICY:** It is the policy of Pinal County to fully comply with all applicable provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and to restrict employee's access to personal and/or confidential protected health information (PHI) to the minimum necessary to perform the designated job function.

**SCOPE:** For the purposes of compliance, Pinal County is a "Hybrid Entity" with certain specific departments responsible for compliance with all provisions of HIPAA (covered departments) and other departments not subject to the provisions of the act.

**Privacy Committee:**

To ensure covered departments are in compliance with applicable provisions of the act, Pinal County has established a Privacy Committee. The membership of the Committee will consist of the Department Directors for each covered Department, a representative from the Information Technology Department, and the Assistant County Manager for Health and Human Services. The County Attorney will designate an attorney to provide legal counsel to the Committee. The Chairman will serve as the Privacy Officer of the County.

The Privacy Committee is established for the purpose of:

- Coordinating County privacy activities, which include establishing, implementing and overseeing compliance with privacy policies of all covered departments.
- Conducting and/or coordinating privacy training within all covered departments.
- Conducting privacy risk assessments and internal privacy audits.
- Working with health information management and information technology staff to ensure the security of PHI.
- Receiving, researching and responding to HIPAA complaints and providing further information on all matters covered by the covered department privacy notices.
- Periodically reporting the status of the County privacy programs to the County Manager.

**Covered Departments include:**

Human Recourses  
Public Health  
Long Term Care  
Horizon Home Care  
Jail Health

Departments not listed above are not subject to the provisions of HIPAA.

Covered departments are responsible for appointing a responsible member of the department to the Privacy Committee and for developing specific procedures necessary to ensure all business activities fully comply with applicable provisions of the act.

**Business Associates:** Pinal County will execute Business Associate agreements with other covered business entities that perform any function on behalf of, or for the County that involves the use, disclosure, or creation of PHI. Examples

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of such business entities include the Pinal County Benefit Trust, the County's third party benefit administrator, the County Employee Assistance Provider, and agencies contracting with any of the covered County departments.

#### **Personal information:**

Personal information is collected by the County expressly for the purposes of administering to the business needs of both employees and the County and is exempt from the privacy provisions of HIPAA. Medical information pertaining to our employees which is needed to carry out our obligations under FMLA, ADA, workers compensation, disability insurance plans administration, sick leave policy administration, drug and alcohol testing, fitness-for-duty testing, and other related activities is not Protected Health Information for the purposes of HIPAA compliance.

Employees of Pinal County have a right to expect that their personal information will be held in strictest confidence and that only authorized persons will have access to the information. Regardless of the position for which an employee was hired, he or she is entrusted with the responsibility to maintain clients' and fellow workers' rights to confidentiality. The release of any information to unauthorized individuals is a breach of this policy and will be cause for disciplinary action up to and including discharge.

As a public entity, the County is the custodian of various public records to which citizens should have ready access. Directors of departments which maintain such public records are responsible for training their employees in providing the required public access. Further guidance regarding the release of Public Records may be found in Pinal County Policy 02.85.

Access to the personnel files of Pinal County employees are controlled as follows:

1. The employee may examine his or her personnel file in the Human Resources Department at reasonable times upon reasonable notice.
2. The immediate supervisor, department director, Assistant County Manager, or Elected Official may examine the personnel file in the Human Resources Department of any employee under their supervision or being considered for a position under their supervision.
3. Any member of the Board of Supervisors or the County Manager may examine any employee's personnel file at any time.
4. An attorney or investigator of the County Attorney's Office may examine any employee's personnel file at any time.
5. An employee's personnel file may be examined upon request by an investigator of the Pinal County Sheriff's Department, or of a state or federal law enforcement agency with a valid legal reason for such examination.
6. An employee's personnel file may be duly subpoenaed in a legal action.
7. The home addresses and telephone numbers of County employees are not public information and will not be released without the written consent of the employee.

#### **Protected Health information (PHI):**

Individually identifiable health information created, received or maintained by a hospital, healthcare practitioner, clinic, health plan, Public Health Department or other healthcare provider, in its health care capacity, is considered Protected Health Information and is subject to the privacy provisions of HIPAA.

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To the extent that Pinal County maintains PHI on any employee; we are required by the Federal Privacy Rules to:

- Maintain the privacy of that health information,
- Provide the employee with a notice as to our legal duties and privacy practices with respect to health information we collect and maintain,
- Abide by the terms of that notice, subject to specific reservation of rights listed on the notice.

Although the health record is the physical property of the healthcare practitioner or facility that compiled it, the information belongs to the patient. Under the Federal Privacy Rules, 45 CFR Part 164, the patient has the right to:

- Receive notice of the uses and disclosures the agency expects to make of the patient's health information, including a paper copy of the notice if requested, as provided in Rule 520.
- Request additional restrictions on uses and disclosures of the patient's health information (though the agency is not required to agree to any such request), or request that the agency send the patient confidential communications by alternative means or at alternative locations, as provided 45 CFR 164.522.
- Inspect and *obtain a* copy of the patient's health record as provided in Rule.524.
- Request that the patient's health record be amended as provided in Rule 526.
- Obtain an accounting of disclosures of the patient's health information made after April 13, 2003, for purposes other than treatment, payment, or health care operations, as provided in Rule.528.

Should an individual desire to exercise any of the rights noted above he/she should contact the designated Privacy Committee member of the health care provider that is maintaining these records.