

Subject: CONFIDENTIALITY OF EMPLOYEE RECORDS

Date: May 17, 2017

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Replaces Policy Dated: March 26, 2003

PURPOSE: To establish procedures for maintaining the privacy and security of personnel files in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all other applicable federal and state statutes.

STATEMENT OF POLICY: Pinal County maintains official personnel files for each employee upon hire. These files are kept in an electronic format and are the property of the County.

Employee personnel files include: job application forms, payroll files, performance evaluations, disciplinary actions or memoranda, benefit forms, training records, documents related to licenses and certifications and formal commendations. Tax forms and I-9 employment eligibility verification forms are maintained in a separate file within an employee's personnel file. Medical and dental membership records, benefit records and an employee's protected health information (PHI) are also maintained in a separate medical file within an employee's personnel file. PHI means identifying information about an employee that pertains to an employee's past, present or future physical or mental health, or condition, and related health care services.

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

1. Maintain the privacy of that health information.
2. Provide the employee with a notice as to our legal duties and privacy practices with respect to health information we collect and maintain.
3. 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:

1. 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.
2. 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.
3. Inspect and obtain a copy of the patient's health record as provided in Rule.524
4. Request that the patient's health record be amended as provided in Rule 526.
5. 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.

6. 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.

SCOPE: This policy applies to all Pinal County employees.

For purposes of HIPAA, Pinal County is a “Hybrid Entity” wherein certain Covered Departments are responsible for compliance with the requirements of the HIPAA Privacy Standards to maintain the privacy of PHI. Covered Departments that perform HIPAA covered functions include:

- Human Resources
- Public Health
- Correctional Health Services

Departments not listed above are not subject to HIPAA Privacy Standards.

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 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.

PROCEDURE: 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.

Pinal County may not disclose an employee’s personnel file except as outlined below or as required by law. Upon written notice, an employee may inspect their personnel file at reasonable times.

Except for an employee’s separate medical file containing an employee’s PHI, the following guidelines are established to control access to employees’ personnel files:

- Any member of the Board of Supervisors or the County Manager may examine any employee’s personnel file at any time.
- An employee’s immediate supervisor, Department Director, Assistant County Manager or Elected Official may examine an employee’s personnel file at any time if the employee is under their supervision or being considered for a position under their supervision.
- An attorney on behalf of the County may examine an employee’s personnel file as part of a personnel or disciplinary matter.
- An investigator of the Pinal County Sheriff’s Office may examine an employee’s personnel file after giving written notice to the employee and his/ her supervisor outlining the specific reasons for the request.
- An employee’s personnel file will be released in response to a subpoena.
- Personally identifying information of Employees is not public information and will not be released without the written consent of the employee

Access to an employee's separate medical file, including an employee's PHI:

Pinal County may use and disclose an employee's PHI without authorization if required by law or for the following reasons: preventing and controlling disease or injury, complying with state or federal health audits, investigations and inspections by government oversight agencies, reporting information about abuse, neglect or domestic violence, responding to a subpoena, and providing law enforcement with information about locating and identifying missing persons or crime victims.

Pinal County may also use an employee's PHI to provide, coordinate, or pay for health care treatment, or contract with the County to provide benefits and health care services and operations, or to carry out the County's obligations under FMLA, ADA, or workers' compensation guidelines.

All Pinal County employees have the right to:

- Request an accounting of disclosures made by Pinal County of their own PHI including requests made by insurance departments, law enforcement or in response to subpoena compliance.
- Request additional restrictions on uses and disclosures of their own PHI. Any request for additional restrictions should be made in writing and kept with the employee's separate medical file.
- Receive notice of any breaches of unsecured PHI or inadvertent disclosures of PHI.

Any request related to disclosing or amending information related to an employee's PHI must be made in writing to the health care provider or department in possession of, or maintaining an employee's PHI.