

County of Kenosha, Wisconsin
HIPAA COMPLIANCE POLICY AND PROCEDURES

P-14.01 STATEMENT OF PURPOSE

As a hybrid entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) the County of Kenosha, Wisconsin shall comply with all legal requirements of the act.

The County of Kenosha, both as a provider of health services and the custodian of health information shall enact policies and procedures to protect the privacy and security of health information.

The County of Kenosha shall designate a HIPAA privacy official responsible for the development, implementation and compliance of HIPAA policies and procedures.

The County of Kenosha shall take all necessary measures to assure that protected health information (PHI), both of its clients and employees, remain confidential as mandated by HIPAA.

The County of Kenosha shall enact procedures to notify its clients and other appropriate parties of their rights to privacy as mandated by HIPAA.

The County of Kenosha shall enact procedures to permit its clients and other appropriate parties to review and correct or amend PHI, authorize release of PHI to third parties, and maintain an accurate record of PHI disclosure.

With respect to PHI, The County of Kenosha shall adhere to a policy of releasing the minimum necessary to perform the function for which the release is intended.

The County of Kenosha shall establish procedures to respond to complaints of unauthorized release of PHI by its clients and employees and determine appropriate sanctions for the unauthorized and/or inappropriate disclosure of PHI.

The County of Kenosha shall enact procedures to assure that all entities that conduct business with the county comply with the legal mandates of HIPAA.

The County of Kenosha shall establish safety procedures to protect PHI through all channels of communication

The County of Kenosha shall train all employees regarding the use and disclosure of protected health information as it relates to the individual's job and personal responsibilities as required by HIPAA.

P-14.02 GENERAL PROVISIONS

1. The County of Kenosha acknowledges its legal responsibility to keep medical records private. As such, the county shall use and/or share the minimum PHI necessary when release of medical information is required as permitted by HIPAA.
2. The County of Kenosha will secure authorization (*KC HIPAA form 1*) to use and/or release PHI, except under the following conditions:
 - a. Treatment
The county may share medical information with a physician or other healthcare provider.
 - b. Payment
The county may submit health information to Medical Assistance and/or the State of Wisconsin for reimbursement.
 - c. Health Care Operations
The county may use PHI to review its operations including, but not limited to, evaluating the performance of healthcare professionals and examining the effectiveness of treatment.
 - d. The county's use and/or release of PHI will be limited to the information necessary to achieve the purpose of use and disclosure.
 - e. The county reserves its right under HIPAA to refuse care to individuals who refuse consent.
3. The County of Kenosha will exercise its privilege under HIPAA to share PHI without authorization under the following conditions:
 - a. As required by law
The county may release PHI if it becomes the interest of a legal proceedings or administrative actions.
 - b. For public health purposes
The county may release PHI gathered for statistical purposes
 - c. Health oversight activities
The county may release PHI to monitor the activities of its benefit system.
 - d. Death Records
The county may release PHI about death, recorded by authorized offices.
 - e. Organ Donation
The county may release PHI to assure an organ match
 - f. Research
The county may release PHI, with authorization, for the purpose of medical research.
 - g. Health and Safety Threat
The county may release PHI, to the necessary authorities, to avoid or reduce a threat to the health and safety of an individual or the general public.
 - h. Military, National Security, Incarceration, Law Enforcement, Custody

The county may release PHI to authorities involved in any of these circumstances.

- i. Worker's Compensation
The county may release PHI as provided under the State of Wisconsin Worker's Compensation Act.
 - j. To those involved with an individual's care or payment for care
The county may release PHI to family members and/or other responsible parties to provide for an individual's care or payment for care.
4. All disclosures of PHI, except as provided in 14.02-2 and 14.02-3 above, shall require authorization.
5. Employees of Kenosha County authorized to manage PHI as an essential function of their job shall comply with the following:
- a. Management of PHI shall be conducted in locations and under circumstances which minimizes the ability of any unauthorized individual to access such information. This includes but is not limited to:
 - 1) Conducting conversations, personal or telephonic, regarding an individual's PHI in an office or environment where it can not be heard by anyone other than authorized parties.
 - 2) Managing PHI in an office or work station which is not accessible to any individual unauthorized to access such information.
 - 3) Communicating PHI through confidential means including electronically secured transmissions.
 - 4) Securing all PHI by locking file cabinets and offices, using confidential fax and electronic mail transmissions, closing computer applications which contain PHI when leaving the work station, and any other means to assure unauthorized access.
 - 5) Complying with policies and procedures governing notification, authorization, minimization, and disclosure of PHI.
 - 6) De-identifying PHI whenever possible.
6. All employees of Kenosha County shall refrain from any conversation, communication and/or action which compromises the county's legal obligations under HIPAA.

P – 14.03 PRIVACY OFFICER

1. Kenosha County shall designate one individual to serve as the Privacy Officer for the organization.
 - a. The Privacy Officer is responsible for ensuring the confidentiality of all PHI.
 - b. The Privacy Officer is responsible for developing and implementing all policies and procedures effecting PHI.
 - c. The Privacy Officer is responsible for limiting the incidental use of PHI.

- d. The name, location and telephone number of the Privacy Officer is to be made available to clients and employees of Kenosha County.
- e. The Privacy Officer is responsible for documenting, investigating and responding to all complaints regarding PHI.

P – 14.04 PROVIDER PRIVACY PRACTICES

The County of Kenosha acknowledges its legal responsibilities under HIPAA as a provider of health care services through: the Brookside Care Center; the Divisions of Aging, Disability Services, Health under the Department of Human Services and the Kenosha County Sheriff's Department.

The County of Kenosha acknowledges its legal responsibilities under HIPAA as a custodian of PHI through: the Division of Personnel Services; the Corporation Counsel; the County Clerk; the Register of Deeds; Court-related services; the Medical Examiner; and the Kenosha County Board of Supervisors.

P- 14.04 – 1 NOTIFICATION

1. Except as provided in 14.02-2 and 14.02-3 above, Kenosha County shall notify its clients in writing (*KC HIPAA form 02*) of their privacy rights under HIPAA and the privacy practices of Kenosha County. Notification shall include information regarding:
 - a. The specific circumstances under which Kenosha County uses and shares PHI (14.02-2 and 14.02-3)
 - b. The client's right to access, restrict, and amend PHI.
 - c. The client's right to request disclosure information and specify the manner in which PHI is communicated.
2. Kenosha County will request all clients who receive notification of their privacy rights under HIPAA to acknowledge that the county has met its obligation by signing the *Acknowledgement of Receipt of Notice of Privacy Practices Regarding Health Information (KC HIPAA form 03)*.
2. In the event a client refuses to acknowledge receipt of privacy information, an agent of Kenosha County shall document the refusal and the client's reason for refusal on the acknowledgement form.
4. The acknowledgement form is to be kept in the client's file for six years.

P- 14.04 - 2 REQUESTS TO PROVIDE HEALTHCARE INFORMATION

1. Kenosha County shall provide an employee or client with copies of their PHI upon request, except as otherwise prohibited by law.

- a. Requests must be made in writing to the custodian of the PHI.
- a. The employee of Kenosha County releasing the information to the employee or client must complete a disclosure form (*KC HIPAA form 4*)
- a. The request, authorization and disclosure forms must be kept in the client's file for six years.

P – 14.04 – 3 AUTHORIZATION

1. Except as provided in 14.02-2 and 14.02-3 above, any release of a client's or employee's PHI requires authorization.
2. The authorization form is to be kept in the client's file.
3. Kenosha County may refuse treatment and/or other service to client's who refuse to sign the authorization form.

P – 14.04 – 4 DISCLOSURE

1. Except as provided in 14.02-2 and 14.02-3 above, employees of Kenosha County who, in the performance of their job responsibilities, disclose PHI must document the disclosure by completing the *Disclosure Log (KC HIPAA form 4)*.
2. The disclosure form is to be kept in the client's file.
3. A separate log of disclosure information is to be forwarded to the HIPAA compliance officer for the division/department disclosing the PHI.
4. An employee or client of Kenosha County may request a list of disclosures made over the past six years.

P – 14.04 - 5 AMENDING PHI

1. The County of Kenosha acknowledges a client's right to amend or correct PHI if the client feels the information is inaccurate or incomplete as provided by HIPAA.
2. To amend PHI the client is required to complete an *Amendment Request (KC HIPAA form 5)*.
 - a. The request must specify the information to be amended and the reason for the amendment.
 - b. The request must be kept in the client's file until the file is corrected or until the client asks that the request be removed.

- c. During review of the request, any release of PHI must include a copy of the *Amendment Request*.
3. The department/division compliance officer will review the request and recommend the PHI be corrected or that the amendment be noted based on a thorough examination of facts impacting the request. The recommendation will be made to the Kenosha County Privacy Officer.
3. Based on the review of the information:
 - a. The PHI will be corrected; or
 - a. The client/employees amendment will be attached to the PHI.

P – 14.04 – 6 RECOGNITION OF CLIENT’S PERSONAL REPRESENTATIVE

1. It is the policy of Kenosha County to recognize a client’s personal representative as the client with respect to the client’s private healthcare information.
2. Notice of recognition must be made in writing to Kenosha County.
2. Kenosha County shall verify that the client has another individual identified as a personal representative.
2. Kenosha County shall document the relationship in the client’s file and attach all documentation to support the relationship.

P – 14.04 – 7 DEPARTMENT/DIVISION COMPLIANCE PROCEDURES

Each division and/or department of Kenosha County identified as a provider or custodian in P-14.04-1 and P-14.04-2 above shall establish compliance standards specific to its needs.

Each division and/or department of Kenosha County identified as a provider or custodian in P-14.04-1 and P-14.04-2 above shall designate an individual to act as a compliance officer and manage HIPAA compliance at the division/department level. The individual compliance officers are accountable to the Kenosha County Privacy Officer. (*Appendix 1*).

P – 14.04 - 7(a) Brookside Care Center

1. The Brookside Care Center shall manage PHI in accordance with State and Federal laws governing Nursing Home administration and will integrate compliance with HIPAA, implementing the stricter of parallel standards.

P – 14.04– 7(b) Department of Human Services – Division of Aging

1. The Division of Aging administers the Community Options program-Waiver (COP-W), Community Integration Program 2 (CIP 2) and Community Options

Program (COP). The State of Wisconsin Department of Health and Family Services (DHFS) has determined that COP-W, CIP 2 and COP must comply with HIPAA as health plans. As such the Division of Aging is a business associate of DHFS and shall manage the health care services associated with the above-mentioned programs in compliance with HIPAA because they are reimbursable by Wisconsin Medicaid. The services identified as health care services are:

- Adaptive Aids, Durable Medical Equipment and Disposable Medical Supplies (HSRS 112.99)
- Counseling and Therapeutic Resources (HSRS 507.03)
- Communication Aids, Durable Medical Equipment and Disposable Medical Supplies (HSRS 112.47)
- Community Support Program (HSRS 509)
- Day Treatment – Medical (HSRS 704)
- Disposable Medical Supplies (HSRS 112.55)
- Skilled Nursing Services, Independent Private Duty Nursing (HSRS 710)

P – 14.04 – 7(c) Department of Human Services – Division of Disability Services

1. The Division of Disability Services shall manage PHI in accordance with State and Federal laws governing confidentiality with respect to mental health and will integrate compliance with HIPAA, implementing the stricter of parallel standards.

P – 14.04 – 7(d) Department of Human Services – Division of Health

1. The Division of Health shall comply with HIPAA in matters related to the management and maintenance of client medical files. Clients designated under HIPAA include programs and services for the Medicare and Medicaid insured population.
2. As custodians of client medical files, the Division of Health shall comply with the mandates of HIPAA as provided in 14.02 (1-6), 14.04 (1-6), 14.05 (1-8) 14.06 (1), and 14.07.

P – 14.04 – 7(e) Department of Human Services – Division of Children and Family Services

1. The Division of Children and Family Services shall comply with the mandates of HIPAA with regard to managing the PHI of children as follows:
 - a. Requests for health information regarding minor clients shall carry one or more of the following authorizations:
 - 1) Signed authorization by the minor client's parent or legal guardian
 - 2) Court order declaring custodianship of the minor client to the division

P – 14.04 – 7(f) Department of Human Services – Division of Workforce Development

1. As an agent of the State of Wisconsin Department of Workforce Development, the Division of Workforce Development acknowledges its identification by the State department as exempt under HIPAA as an income maintenance function of county government.

P – 14.04 - 7(g) Kenosha County Sheriff's Department

- 1, The Kenosha County Sheriff's Department acknowledges its exemption from the mandates of HIPAA, as provided in 14.02-3 which applies to law enforcement.
2. As a custodian of PHI and a health care provider to inmates of the Kenosha County Detention Center and the Kenosha County Jail, the Sheriff's Department shall comply with the provisions of 14.02 – 5 and 14.02 - 6 above.
3. Recognizing that reports written by Sheriff's Department personnel in the line of duty are a matter of public record, measures shall be taken to make specific reference to PHI unreadable before it becomes available to the general public. This action shall be waived in matters identified under 14.02 – 3.

P – 14.04 - 7(h) Kenosha County Division of Personnel Services

1. The Division of Personnel Services shall establish procedures to protect PHI under HIPAA as it relates to the management of the Kenosha County self-funded health benefit, maintenance of employee medical files, and management of the Accident and Sickness Pay Maintenance Plan, worker's compensation, and Family Medical Leave.
2. As manager of the Kenosha County self-funded employee health benefit the Division of Personnel Services shall comply with the mandates of HIPAA as provided in 14.02 - 5, 14.02 - 6 and 14.04, 1 – 6 above.
3. As custodians of employee medical files the Division of Personnel Services shall comply with the mandates of HIPAA as provided in 14.02 - 5, 14.02 - 6 and 14.04, 1 – 6 above.
3. As manager of the Kenosha County Accident and Sickness Pay Maintenance Plan (A&S), worker's compensation and Family Medical Leave (FML), the following procedure has been establish to comply with the mandates of HIPAA.
 - a. All claims for benefits under worker's compensation, A&S and FML are to be communicated directly to the manager of worker's compensation, A&S and FML in the Division of Personnel Services.
 - 1) Claim forms may be submitted directly to the division or by confidential fax.

- 2) Claim forms must include all information requested. Incomplete claim forms will result in a delay in benefits.
 - b. Employees must notify their supervisor of the intent to claim worker's compensation, A&S, or FML, but are not required to provide any medical information regarding their claim to their supervisor.
 - c. The manager of worker's compensation, A&S and/or FML will grant or deny the claim for benefits and report its status to the employee and the division/department in which the employee works.
 - d. Compliant with the Kenosha County Uniform Work Rules, employees must update their medical condition every 30 days by communicating with the manager of worker's compensation, A&S and/or FML.
5. Employees waive their rights under HIPAA if medical information becomes the subject of a grievance, arbitration, hearing or any other legal proceeding as provided in 14.02-3(a).

P – 14.04 - 7(i) Kenosha County Corporation Counsel

1. It shall be the function of the Corporation Counsel to verify and maintain contracts and business associate agreements between outside organizations and Kenosha County compliant with the mandates of HIPAA.

P – 14.04 - 7(j) Kenosha County Register of Deeds

- 1, The Kenosha County Register of Deeds acknowledges its exemption from the mandates of HIPAA, as provided in 14.02-3 (d) which applies to death records. In so doing, the Register of Deeds complies with the mandates of HIPAA by making available either the Fact of Death Certificate or the Extended Death Certificate as stipulated in the State of Wisconsin Vital Statistics Office Policies governing issuance of certified copies of death certificates. The procedure is as follows:
 - a. Notice of Removal of a Human Corpse from an Institution
 - 1) This document is filed with the local registrar for every body removed from a hospital or nursing home
 - b. Report for Final Disposition
 - 1) This document is either mailed or presented within 24 hours of notification of death. This document alerts the office to the fact that a death certificate should be filed within nine (9) days of the death.
 - 2) The following data is input into the computer system: name; date of death; age; date of birth; address at time of death; and birth surname (if female).
 - 3) The completed copy of death certificate is scanned into the system by the assigned volume and page given at the time of data entry. The Extended Death Certificate and the Fact of Death Certificate are both scanned.

P – 14.04 - 7(k) Circuit Court

- 1, The Office of the Clerk of Circuit Court acknowledges its exemption from the mandates of HIPAA, as provided in 14.02-3 (a) which applies to legal proceedings and administrative actions.

P – 14.04 - 7(l) Kenosha County Medical Examiner

- 1, The Kenosha County Register of Deeds acknowledges its exemption from the mandates of HIPAA, as provided in 14.02-3 (d) which applies to death records.

P – 14.04 - 7(m) Kenosha County Board of Supervisors

1. As the legislative branch of county government, the Kenosha County Board of Supervisors may have access to PHI in the course of their responsibilities. Board members are bound by HIPAA mandates as provided in 14.02 – 6. Any discussion, use or release of PHI outside of said responsibilities can result in legal prosecution.

P – 14.05 HIPAA RELATED COMPLAINTS

1. The County of Kenosha shall provide a process for individuals to make complaints regarding unauthorized use and/or disclosure of PHI by agents of Kenosha County.
2. Clients may call, write or present in person to the privacy officer of the affected division/department or to the Kenosha County Privacy Officer. The privacy officer shall document the complaint on the *HIPAA Complaint Form (KC HIPAA form 7)*.
3. The privacy officer shall conduct a thorough investigation into the complaint and provide a written response to the complainant and the Kenosha County Privacy Officer within 30 days.
4. In the event the complaint is credible, the response must include a summary of all action taken.
5. Complainants are entitled to have a representative of their choice in the complaint process.
6. Complaints which result in potential liability claims will be referred to the Corporation Counsel.
7. Kenosha County will accept complaints without intimidation, coercion, discrimination or retaliatory action against any individual filing a complaint or inquiring about the complaint process.

8. Kenosha County shall document all complaints and their resolutions and maintain them for six years.

P-14.06 BUSINESS ASSOCIATE AGREEMENTS

1. It shall be the policy of the County of Kenosha to assure HIPAA compliance by entering into Business Associate Agreements with all persons and organizations who provide a service involving the use or disclosure of PHI.
2. The Kenosha County Corporation Counsel shall manage Business Associate Agreements on behalf of the county.
 - a. It shall be the responsibility of the Corporation Counsel to determine whether a business relationship applies to the mandates of HIPAA.
 - b. For the purpose of compliance a business associate shall be defined as a person or organization which performs or assists in the performance of a function or activity which involves the use or disclosure of identifiable health information.
 - c. A business associate is not an employee of Kenosha County, a healthcare provider or a vendor whose employees perform a substantial portion of their activities at a location owned and/or leased by Kenosha County.
 - 1) Such employees are governed by the Kenosha County privacy rules as provided for in 14.02 - 6.
 - 2) The business associate shall be contractually bound to discipline any employee who violates privacy rules, to the satisfaction of the Kenosha County Privacy Officer. A business associate which fails to take appropriate action following a breach may have its contract with Kenosha County terminated.
 - d. A contract with a business associate must be in writing and provide:
 - 1) That the business associate may only use or disclose PHI as permitted or required by the contract or permitted or required by law.
 - 2) A business associate to use PHI for the proper management and administration of the business associate and to carry out the business associate's legal responsibilities.
 - 3) That if a business associate discloses PHI to a third party, the business associate must secure reasonable assurances from the third party that the third party will hold PHI confidentially and only use such information as required by law or for the purposes for which PHI was disclosed. The third party must also agree to report any breach of confidentiality to the business associate.
 - 4) That the business associate will provide appropriate safeguards to prevent disclosure of PHI other than as provided for in the contract.
 - 5) That the business associate will report to Kenosha County any use of PHI not provided for in the contract.
 - 6) That any third party to whom the business associate discloses PHI agrees to the same restrictions and conditions that apply to the business associate.

- 7) That the business associate will make available information required for documenting disclosures as provided in 14-04 - 4.
- 8) That the business associate will make internal practices, books and records relating to the use and disclosure of PHI available to the Office or Civil Rights of the U.S. Department of Health and Human Services for the purposes of determining Kenosha County's compliance with HIPAA.
- 9) That any breach of HIPAA will result in termination of the contract with the business associate.
- 10) That upon termination of its relationship with Kenosha County the business associate will return and/or destroy all PHI received and created on behalf of Kenosha County.

P – 14.07 SECURED ELECTRONIC TRANSMISSION OF PHI

It shall be the responsibility of the Kenosha County Division of Information Systems to safeguard computers and other electronic transmission devices from unauthorized access to PHI.

P-14.08 VIOLATIONS OF HIPAA

Any violation of HIPAA by an employee or agent of Kenosha County will result in discipline up to and including suspension and/or termination as provided for in the Kenosha County Discipline Policy.

P-14.09 TRAINING ON HIPAA POLICIES AND PROCEDURES

1. The County of Kenosha will provide training on HIPAA compliance to all employees no later than April 14, 2003.
2. It shall be the responsibility of the Division of Personnel Services to provide training to individuals hired for employment with Kenosha County after April 14, 2003.
3. The training shall be appropriate for each level of employee to carry out their function within county government.
4. Kenosha County shall document the time, date, place content of each training session and individuals attending the session.
5. Employees shall be required to sign a *Confidentiality Statement (HIPAA form 9)*.
6. Kenosha County shall train employees if and when the mandates of HIPAA change.