



CITY OF TRAVERSE CITY HIPAA PRIVACY POLICY

1. PURPOSE. The purpose of this policy is to provide a comprehensive framework for all departments in the City of Traverse City (“City”) that may use, disclose, or have access to Protected Health Information (“PHI”) in order to insure that PHI that is contained in any City record is only used or disclosed pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) and its applicable rules.
2. GENERAL STATEMENT OF POLICY. It is the policy of the City that PHI of any individual may only be used within the City or disclosed to others outside the City as permitted or required by law.
3. PROTECTED HEALTH INFORMATION. Information that is protected under HIPAA’s Privacy Rule and that is regulated by this policy is called Protected Health Information. PHI is Individually Identifiable Health Information (“IIHI”) that is transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium, but does not include IIHI in education records covered by the Family Educational Rights and Privacy Act or employment records maintained in the city’s capacity as an employer. IIHI is defined by HIPAA as information that (1) is created or received by a covered entity; (2) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (3) identifies the individual or there is a reasonable basis to believe the information can be used to identify the individual.
4. HYBRID ENTITY. The City conducts both covered and non-covered functions under HIPAA. The health care components of the City are as follows:
 1. The Traverse City Fire Department.
 2. The Traverse City Police Department to the extent that it engages in covered functions.
 3. The Department of Human Resources and the City Manager’s office to the extent that HIPAA applies or the City is obligated to follow HIPAA as a plan sponsor pursuant to the terms of its health care plans.
 4. Departments that perform functions that would make the department a business associate of a health care component of the City if the two departments were separate legal entities when the department is performing business associate functions.

Only the above listed components of the City shall be obligated to comply fully with the HIPAA Privacy Rule. All other components of the City shall comply with HIPAA to the

extent required by the Privacy Rule.

5. PERMITTED USE AND DISCLOSURES. PHI may be used or disclosed by the City as permitted by the HIPAA Privacy Rule. The City may use or disclose PHI without authorization in the following circumstances:

1. To the Individual.
2. To provide treatment, receive payment, or other routine health care operations.
3. Inadvertent disclosures during otherwise permitted disclosures.
4. Pursuant to an agreement regarding use and disclosure for facility directories and to family members, other relatives or close personal friend.
5. Information that does not include identifying information and for which the City does not have actual knowledge that the de-identified information alone or in combination with other information to identify the individual.
6. Disclosures to Business Associates.
7. For 12 national priority purposes, which are listed on attached Exhibit A.
8. To inform family members of an individual's status in the event of serious injury resulting in incapacity or death.

All other disclosures will be made only if authorized by the person or the personal representative of the person which is the subject of the PHI. Disclosure pursuant to an authorization will only be disclosed to the persons authorized and only the information authorized to be disclosed will be disclosed. No authorization shall be considered valid unless it is on the City's Authorization form.

6. DE-IDENTIFYING INFORMATION. The Privacy Official shall be responsible for de-identifying PHI that is to be used or disclosed. Generally, the Privacy Official shall redact all health information from PHI before using or disclosing PHI. However, if the circumstances require, health information to be used or disclosed, such PHI shall be de-identified by removing the following information from the record:

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|-----------------------------------|---|
| 1. Name | 9. Treatment date |
| 2. Birth date | 10. Date of death |
| 3. Discharge date | 11. Fax number |
| 4. Telephone number | 12. Social security number |
| 5. Email address | 13. Account number |
| 6. Medical record number | 14. License number |
| 7. Health plan beneficiary number | 15. Vehicle identifiers |
| 8. Address | 16. Genetic Information |
| | 17. Information that the Privacy Official knows could be used to identify the individual. |

7. THE MINIMUM NECESSARY. Only the minimum amount of information needed to accomplish the intended purpose of the use or disclosure will be used or disclosed by the City. In addition, disclosure of PHI within the City shall be only to those persons that

need the information to perform their job function related to the permitted disclosure of the information. The following Table indicates the class of persons within the City that need access to PHI, the categories of PHI to which access is needed by each class, and the conditions under which they need PHI to perform their job:

Table 1.

Class of Person	Categories of PHI	Conditions of Access
City Clerk	All.	When necessary to carry out the office's duties and functions as the Privacy Official, FOIA Coordinator, and Insurance Administrator.
Deputy City Clerk	All.	When necessary to assist the City Clerk in carrying out the office's duties and functions as the Privacy Official, FOIA Coordinator, and Insurance Administrator.
City Clerk Staff	All.	When necessary to perform necessary clerical functions for the City Clerk's office.
Fire Department Computer Administrators	As necessary for computer administration access.	When necessary for computer administration access.
Fire Department Quality Assurance Committee	As necessary for quality assurance activities	When necessary for quality assurance activities.
Fire Chief	As necessary to review records.	When necessary to review records.
Administrative Assistant to the Fire Chief	As necessary to review records.	When necessary to review records.
EMS Coordinator for Fire Department	As necessary for computer administration access and records review.	When necessary for computer administration access and records review.
Fire Department Medical Responders	Patient Care Reports.	As part of completion of patient event and post event activity.
Human Resources Generalist	As necessary to perform plan sponsor functions consistent with City's health insurance plan.	When necessary to perform plan sponsor functions consistent with City's health insurance plan.

Human Resources Assistant	As necessary to perform plan sponsor functions consistent with City's health insurance plan and functions of City Manager's office.	When necessary to perform plan sponsor functions consistent with City's health insurance plan and functions of City Manager's office.
Financial Analyst/Compliance Officer	As necessary to perform auditing functions of City Departments.	When necessary to perform auditing functions of City Departments.
City Manager	As necessary to perform functions of City Manager.	When necessary to perform functions of City Manager.
City Manager Executive Assistant/Purchasing Agent	As necessary to perform plan sponsor functions consistent with City's health insurance plan and functions of City Manager's office.	When necessary to perform plan sponsor functions consistent with City's health insurance plan and functions of City Manager's office.
City Police Chief	As necessary to perform the functions of Chief of Police.	When necessary to perform the functions of the Chief of Police.
Police Captain	As necessary to perform the functions of Police Captain.	When necessary to perform the functions of Police Captain.
Police Sergeant	As necessary to initiate, review, supervise and prepare reports and records.	When necessary to initiate, review, supervise and prepare reports and records.
Police Officer	As necessary to initiate, review and prepare reports and records.	When necessary to initiate, review and prepare reports and records.
Administrative Assistant to Chief of Police	As necessary to prepare and review records and reports.	When necessary to prepare and review records and reports.
Investigative Assistants	As necessary to initiate, review and prepare reports and records.	When necessary to initiate, review and prepare reports and records.
Office Specialists	As necessary to transcribe and process reports and records.	When necessary to transcribe and process reports and records.

The Minimum Necessary requirement shall not apply to:

1. Disclosure pursuant to a request to or by a health care provider for treatment purposes.
 2. Disclosure to an individual that is the subject of the information or that individual's personal representative.
 3. Disclosure pursuant to a proper authorization.
 4. Disclosure to the Department of Health and Human Service in compliance with HIPAA.
 5. Disclosure when required by law.
8. **RIGHTS OF THE INDIVIDUAL.** A person that is the subject of PHI contained within City records shall have the following rights:
- A. **Notice.** A right to receive a paper copy of the notice of the City's privacy practices pursuant to the Privacy Rule. Once an individual receives a paper copy of the notice, the City shall have the individual sign an acknowledgment of receipt except where impracticable in which case the City shall keep a log identifying that the individual was given a copy of the notice. The City shall also post its Privacy Notice on its website, www.traversecitymi.gov.
 - B. **Access.** A right to access their health information in most circumstances. The City shall have 30 days after the receipt of a request for PHI to provide or deny the PHI to the individual. All such requests shall be in writing. The City may charge a reasonable fee for the costs of copying, mailing or other supplies associated with the request. The City may deny access to health information if:
 1. The health information consists of psychotherapy notes or information compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding.
 2. The health information consists of health information of an inmate at a correctional institution that was obtained when a covered function was acting under the direction of a correctional institution if such access would jeopardize the health, safety, security, custody, or rehabilitation of the individual or of other inmates, or the safety of any officer, employee, or other person at the correctional institution or responsible for transporting the inmate.
 3. The health information was created or obtained by a covered function in the course of research as long as the research is in progress, provided that the individual has agreed to the denial of access and such access shall be reinstated upon completion of the research.
 4. The records are protected under the Privacy Act, 5 USC §552a and such denial is required under the Privacy Act.
 5. The health information was obtained from someone other than a covered function under a promise of confidentiality and the access request would be likely to reveal the source of the information.
 6. A licensed health care professional has determined, in the exercise

of professional judgment, that the access request is reasonably likely to endanger the life or physical safety of the individual or another person.

7. The health information makes reference to another person and a licensed health care professional has determined, in the exercise of professional judgment, that the access request is reasonably likely to cause substantial harm to such other person.
8. The request for access is made by the person's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

If the City denies any such request in whole or in part, such denial shall be in writing. The individual shall not have the right of review for a denial based on grounds 1 through 5, but shall have the right to review of the denial based on grounds 6 through 8. The review shall not be by the person who denied the request.

- C. Amendment. A right to have inaccurate or incomplete Health Information amended within 60 days from the date of request. All such requests must be in writing and the individual must provide a statement supporting why such a request is being made. The City may extend the time for action by 30 days by notifying the individual in writing in the event that it is unable to act on the request within 60 days. The City may deny the request for the following reasons:
1. The PHI was not created by the City.
 2. The record requested to be amended is not a City record.
 3. The record request to be amended is not a party of the PHI that the individual would be permitted to inspect or copy; or
 4. The record is accurate and complete.

If the City denies in whole or in part the request, the City shall provide the individual with an explanation in writing.

- D. Restriction. A right to request that only certain individuals or entities receive access to PHI. The City will attempt to accommodate such a request to the extent that patient care will not be compromised and such restriction is allowed by law. All such requests shall be in writing. The request must include (1) what information the individual wants limited; (2) whether they want to limit the City's use, disclosure or both; and (3) to whom they want the limits to apply, for example, disclosures to their spouse.
- E. Accounting. A right to receive a written accounting of all disclosures made by the City of PHI within the past 6 years within 60 days from the date of the request. All such requests shall be in writing and must include the time period for which the individual wants an accounting, which may not include dates before April 14, 2003. The first list requested within a 12-month period will be free. For additional lists, the City may charge for the costs of providing the list. Before preparing the list, the City will notify the individual of the cost involved and they may choose to withdraw or modify their request before the cost is incurred.
- F. Alternative Communication. A right to request that PHI be communicated to

them in a particular manner or location. The City will comply with such a request to the extent that it is reasonable. Unless the circumstances do not permit, all such requests shall be in writing.

9. PRIVACY OFFICIAL. The City hereby designates the City Clerk as its Privacy Official. The Privacy Official shall be responsible for developing and implementing the City's privacy policies and procedures. The Privacy Official shall also be responsible for receiving all complaints from individuals with respect to the Privacy Rule and shall be the person to whom all City personnel or other individuals shall contact with respect to obtaining access to PHI or exercising any of their rights under HIPAA.
10. TRAINING. All employees of the City who may use, disclose or have access to PHI shall, as a condition of initial or continued employment, complete a training program that outlines employee responsibility. The City shall document that such training has been provided.
11. SAFEGUARDING PHI. PHI may only be accessed, used or disclosed by authorized personnel in the City. Physical access to controlled areas and the City's records containing PHI shall be restricted by employing the appropriate data safeguards to guard against both unintentional and intentional unauthorized access. Such safeguards shall include limiting access to electronic files by appropriate password protection, limiting access to physical record by storing them in locked file cabinets, and ensuring that PHI is received in or sent to a secure location. Once an employee is no longer employed by the City, their access to PHI will be revoked and they shall be required to return or destroy any PHI in their possession.
The unauthorized access to or unauthorized use or disclosure of PHI that exists in any City record may subject the responsible employee to disciplinary action up to and including termination of employment. This extends to the unauthorized use or disclosure of PHI that is overheard during the course of business or PHI that is otherwise learned or secured by an employee. An employee who intentionally accesses, uses or discloses PHI without authorization shall indemnify and hold harmless the City from any claim, action or suit as a result of the employee's conduct.

Departments or employees that become aware of the unauthorized use or disclosure of protected health information that causes or reasonably could cause harm shall immediately report the incident to the Privacy Official. To the extent practicable, the City will attempt to minimize the known harmful effects or correct the known instances of harm. If requested, the City shall keep the name of the employee reporting unauthorized use or disclosure confidential to the extent allowed by law. The City or any of its employees or officers shall not retaliate against any employee or take any other action adverse to the terms and conditions of the employee's employment as a result of such reporting.

12. BREACH. In the event of a breach of PHI, the involved staff shall immediately notify the Privacy Official. The Privacy Official shall ensure that steps to minimize the impact of the breach of PHI are taken. The Privacy Official shall provide notification to the

individual to whom the PHI applies as well as the United States Secretary of Health and Human Services as required by HIPAA within sixty days of when the breach was discovered. The Privacy Official shall conduct an investigation of the cause of the breach and prescribe a remedy to avoid reoccurrences.

13. SALE OF PHI. The sale, which includes receiving financial remuneration, financial or otherwise, directly or indirectly, from or on behalf of a recipient in exchange for PHI is expressly prohibited unless proper authorization is given by the individual.
14. BUSINESS ASSOCIATES. The City may disclose PHI to persons or organizations that perform certain functions or activities on behalf of the City that involve or require the use or disclosure of PHI. PHI provided to a business associate must be pursuant to an assurance that the business associate, and its sub-contractors, will use the information only for the purposes intended, will restrict access to the information pursuant to the HIPAA Privacy Rule, and will otherwise take appropriate measure to safeguard the information in its possession.
15. COMPLAINTS. All complaints by an individual with respect to the City's HIPAA Privacy Rule policies and procedures or its compliance with such policies and procedures shall be filed with the Privacy Official on a complaint form provided by the Privacy Official within 180 days of when the complainant knew or should have known that the act or omission complained of occurred, unless the Privacy Official for good cause shown waives the requirement. The Privacy Official shall review all complaints and investigate as necessary. Within 30 days from the date of the complaint, the Privacy Official shall make a determination.

In the event that the individual is unsatisfied with the Privacy Official's determination, the individual may appeal such determination to the City Manager within 5 days from the date of the determination. The City Manager shall make a determination within 30 days from the date of filing. Subsequent appeals shall be as provided by HIPAA or other law. The City shall document all complaints received and their disposition.


In addition to or in lieu of the above procedure, the individual may file a complaint with the United States Secretary of the Department of Health and Human Services. More information about this process may be found at www.hhs.gov.

The City or any of its employees or officers shall not retaliate against any individual or take any other adverse action as a result of the filing of a complaint pursuant to HIPAA and the Privacy Rule.

16. DOCUMENT RETENTION. The City shall maintain all documents in relation to its privacy policies and procedures or compliance with such policies and procedures for 6 years from the date of creation or last effective date, whichever is later. This Policy was created on February 6, 2006. This Policy's effective date is February 6, 2006.

17. CHANGES IN THE LAW. Whenever there is a change in HIPAA or the Privacy Rule that requires a change in the City's privacy policies or procedures, the City shall amend this Policy accordingly. In addition, if the change materially effects the contents of the City's Notice of Privacy Practices, the City shall appropriately amend its notice and distribute the revised notice as required by HIPAA. In addition, in the event that any portion of HIPAA or the Privacy Rule is amended or deleted in a manner that would make any of the above requirements more protective than HIPAA or the Privacy Rule, the provisions of HIPAA and the Privacy Rule shall control.
18. OTHER LAWS. In the event that other applicable laws, regulations, or rules regulating or restricting the use or disclosure of health information concerning an employee, officer, or third person are more protective than HIPAA or the Privacy Rule, the City shall follow such other law, rule, or regulation.

I certify that this policy was adopted by the City Commission for the City of Traverse City on February 6, 2006, and was amended by the City Commission on September 16, 2013, at a meeting held in the Commission Chambers, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan.



Benjamin C. Marentette, CMC, City Clerk