

Overview

Article 14 – Information Privacy and Security Provisions

“Article 14” is the Agency-approved set of documents that encompass federal and State requirements related to Privacy and Security of Protected Information of *County clients*. It includes three sections, some or all of which may be applicable to a contract. Article 14 includes the privacy and security requirements established under the Health Insurance Portability and Accountability Act (HIPAA) as well as applicable State requirements. The sections cover:

- Section 14.1: Reference to federal HIPAA and 42 CFR, and State Agreements which may only apply to certain HHSA program and its contractors (double check your program’s coverage with a State Agreement)
- Section 14.2: Definitions for terms used within Article 14
- Section 14.3: Responsibilities of Contractor which passes on operational, administrative, and technical requirements of HHSA’s privacy and security expectations, rules and regulations

Article 14 Information

The Decision Tree in the second page of this document will help you determine whether none, all, or part of Article 14 applies to your contract, MOU/MOA, procurement, or other type of agreement. To understand the Decision Tree, it is important that you can distinguish between the different types of *County client* data.

Specifically,

- Personally Identifiable Information (**PII**) or Protected Information (**PI**), may be information maintained that identifies or describes an individual and/or to distinguish or trace an individual’s identity. This includes demographic information such as case number or status, public assistance or dependency information, such as a case number or status; health and medical information; or financial records such as health plan information or banking information.
- Protected Health Information (**PHI**), is defined as individually identifiable health information, including demographic information, that relates to an individual’s physical or mental health, or the provision of, or payment for, health care, and that is transmitted or maintained by any other medium.

Also,

- Data Security and Privacy Incident Requirements are included in section 14.3.6. These refer to security of all Protected Information that is entered into, maintained and/or transmitted via an electronic platform such as a case management system, email or other database specifically designed to store health information, as well as reporting of privacy incidents.

Other Considerations

Even if the contract, MOU/MOA or procurement includes no *County client* data, it may include *County employee* data. Dependent on the scope of work, a privacy statement may be appropriate to address applicable regulations.

Questions? Email PrivacyOfficer.HHSA@sdcounty.ca.gov

HHSA Privacy Language Decision Tree

INSTRUCTIONS

1. Complete a Privacy Language Decision Tree for each contract, MOA, MOU, procurement, etc ('agreements') and re-review with material agreement changes.
2. Check the appropriate box below for each question, then follow instructions as to what language is required.
3. Privacy Statements:
 - Most HHSA divisions have a standard, pre-approved privacy statement; check with your division's contract lead.
 - Some agreements may require a more detailed privacy statement, such as those that include out-stationed workers or student practicums. Again, many HHSA divisions already have one; check with your division's contract lead.
 - Sample Privacy Statement: "[Other Party] will comply with all applicable laws pertaining to privacy and security of Protected Information, such as, but not limited to, [insert relevant laws]."
 - Insert Privacy Statement under "Article 14" section of contract template or under confidentiality section of MOA/ MOU.
4. Submit Decision Tree to HHSA Business Assurance & Compliance (BAC) when asking for review of an agreement: (PrivacyOfficer.HHSA@sdcounty.ca.gov).
5. Keep copy of the Decision Tree in contract file.
6. See BAC Policy and Procedure L-23 for additional instruction and definitions.

QUESTIONS

QUESTION A: Will the other party have any access to or store any *Protected Information* regarding County clients?

If YES, go to Question B.

If NO, stop. **No privacy language** is required.

Check here if agreement is with an academic institution and pertains to placement of students, i.e. clinical practicum or internship, AND students will have access to County client information, but academic institution will not. Skip Questions B-D and include detailed privacy statement.

QUESTION B: Will the *Protected Information* pertain to a State Agreement listed in Article 14, section 14.1?

If NO, go to Question C.

If YES, stop here. **Article 14 is required.**

QUESTION C: Will the other party have access to or store any *Protected Health Information* regarding County clients ?

If YES, go to Question D.

If NO, stop here. Article 14 is not required, but you need a **privacy statement.**

QUESTION D: Will the other party use *Protected Health Information* solely to provide health or medical treatment to County clients or is the other party a health plan that will use the *Protected Health Information* solely for payment?

If YES, include a **privacy statement.** Article 14 is not required.

If No to Question D, **Article 14 is required.**

Contract Number:

Contractor:

Printed Name of Staff Completing Decision Tree:

Program/Division:

Signature: