

POLICY # A1-9.1

HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) PRIVACY POLICY ALL EMPLOYEES

It is the policy of the Town of Wayland to comply with the Privacy Regulations of the Health Information Portability and Accountability Act of 1996 hereafter referred to as HIPAA. The Town shall limit the use of access to Protected Health Information (PHI) that is held by the Town or its lawful agents. PHI is any written, oral or electronic form of information relating to a person's past, present or future health condition, delivery or payment of health services that identifies an individual or where there is a reasonable basis to believe the information could be used to identify an individual. Administrative, technical and physical safeguards established to limit use and access to PHI are stated as an integral part of this policy, established as part of daily operating procedures and will be maintained by all responsible staff and representatives of lawful agents and business associates of the Town of Wayland.

To assure this commitment to compliance the Board of Selectmen designates a Privacy Officer who shall have the responsibility:

- To keep the Board of Selectmen, Town officials and School Administrators informed of all changes, updates, requirements, responsibilities, claims, etc. concerning HIPAA privacy regulations
- To maintain documentation of the Town's efforts to comply with HIPAA privacy regulations
- To ensure that plan subscribers are sent privacy notices and new enrollees receive said notices
- To track any PHI disclosures
- To process authorizations for disclosure and use of PHI
- To resolve complaints from participants about possible privacy violations
- To serve as the Town's liaison with the group health insurance program third party administrator, relevant business associates and health insurance carriers while communicating the Town's commitment and securing the commitment of these entities to the privacy and security of PHI
- To maintain all required authorizations, agreements, etc. relative to the PHI of group health insurance program participants
- To monitor the Town's compliance with HIPAA privacy regulations on a regular basis

The Privacy Officer will receive the total support of the Board of Selectmen, Town officials and School Administrators. The Privacy Officer of the Town of Wayland is covered under the Town's liability insurance in the legal performance of his/her duties and has access to the Town's legal counsel in the same regard.

In accordance with HIPAA, only the Town of Wayland's Assistant Town Administrator/Human Resource Director and Benefits Coordinator may be given access to PHI in order to legally

perform the duties of their positions and administer the Town's group health and dental insurance program.

The Town of Wayland communicates its commitment to HIPAA Privacy Regulations through:

- Adoption of this policy
- Posting the HIPAA Privacy Notice in all work locations,
- Distribution of the HIPAA Privacy Notice to all subscribers to the self-insured group health insurance plans,
- Including the privacy notice in the new employee benefits package.

As an employer, the Town of Wayland may use PHI in its possession without specific authorization from the employee for treatment, payment, quality assessment, medical review and auditing, studies to improve the group's health care quality or reduce health care costs, compiling civil/criminal proceedings and/or any other use required by law for public health, communicable disease, abuse or neglect, or food and drug administration purposes. Information that is normally maintained in the personnel records that is not classified as PHI includes all forms, responses, inquiries and data relative to the family medical leave act, drug screenings, fitness for duty, workers compensation and items related to the occupational safety and health act.

PHI may be released for other purposes by the authorization of the employee submitting the established form in person to the Privacy Officer. The use and/or disclosure of PHI is limited to the specific information for the specific purpose to and from the specific individual and/or entity for a specific time period as delineated in the authorization form. The Privacy Officer may share the request with either the Assistant Town Administrator/Human Resource Director or the Benefits Coordinator for the purpose of processing the request. Group health insurance program participants are allowed to review their PHI that is held by the Town and to make correction to errors. Upon request a participant will be provided with an accounting of disclosures of PHI.

The Town separates PHI from the personnel record and retains such information in a locked file accessible only to the Assistant Town Administrator/Human Resource Director and Benefits Coordinator and under special circumstances other Town Officials that have a bona fide need to know in order to accomplish legal Town business. All entities that could receive PHI (i.e., Group Benefits Strategies as the third party administrator, ambulance billing company, fully insured plan providers, legal counsel, actuaries and consultants) must enter into a business associate agreement with the Town of Wayland in which both parties commit to compliance with the HIPAA Privacy Regulations and providing satisfactory assurances that the business associate will appropriately safeguard the PHI.

Participants who believe they have been aggrieved by the use or disclosure of PHI may file a written grievance with the Privacy Officer within sixty (60) calendar days of the use or disclosure of the PHI or within fifteen (15) calendar days of their knowledge of the disclosure in accordance with HIPAA legislation. Only the Assistant Town Administrator/Human Resource Director and the Benefits Coordinator may be given access to PHI calendar days for their knowledge of said use or disclosure. The grievance must delineate the specifics of the complaint, including but not limited to:

- identifying the unauthorized PHI that was released
- identifying who received the PHI and/or is knowledgeable of the PHI
- specify when the PHI was released and/or when the complainant become aware of the unauthorized knowledge of the PHI
- the result or effect of the release of the unauthorized PHI

The Privacy Officer will meet with the complainant as soon as possible after the receipt of the grievance. During this meeting the Privacy Officer will discuss the issue brought forward with the complainant. The Privacy Officer will investigate the allegations of the complaint with the full support and assistance of Town officials and/or School Administrators and if necessary legal counsel. The Privacy Officer will provide a written report of his/her findings and recommended action to the complainant within thirty (30) calendar days from the date of the meeting. If for some reason the Privacy Officer is unable to conduct this meeting and/or investigation the Town Administrator shall appoint a senior manager to perform these duties.

Complainants may also contact the Federal Offices of the Department of Health and Human Services for assistance.

The Town of Wayland will comply with the Privacy Regulations established by the Federal Government and requires its employees to observe and comply with this policy and the use of the proper procedures and policy documents. Employees found to have breached PHI security may be subject to disciplinary action up to and including termination, dependent upon the seriousness, willfulness and ramifications of the breach.

Personnel Board Updated: November 16, 2005