

COUNTY OF OTTAWA

**POLICIES FOR PROTECTION OF THE PRIVACY
OF
PROTECTED HEALTH INFORMATION**

I. INTRODUCTION

A. Purpose of These Privacy Policies.

These privacy policies for the protection of the privacy of protected health information are intended to comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), regulations under HIPAA, and any applicable Michigan law that is more stringent than the HIPAA requirements. They are designed to comply with the standards, implementation specifications, and other requirements of the HIPAA security and privacy regulations at 45 CFR Part 160 and Part 164.

In all instances, these privacy policies shall be interpreted and construed so as to be consistent with the requirements of HIPAA, its regulations, and any more stringent laws of the State of Michigan.

In the event of any conflict between a provision of these privacy policies and a requirement of HIPAA, a regulation under HIPAA, or a more stringent state law, that HIPAA, HIPAA regulation, or more stringent state law requirement shall control.

B. Disclaimer.

All of the policies contained or referred to in these privacy policies, or that may be added or otherwise established by the County of Ottawa (“Ottawa County”) in the future, represent the policies established by Ottawa County for the members of its workforce in relation to the particular subject addressed by the policy. It is the intention of Ottawa County that these privacy policies be used by its employees, and other members of its workforce, in meeting their responsibilities to Ottawa County and the general public. Violation of a policy can be the basis for discipline or termination of employment; however, because these privacy policies relate to the establishment and maintenance of high standards of performance, under no circumstances shall any policy be interpreted or construed as establishing a minimum standard, or any evidence of a minimum standard, of the safety, due care, or any other obligation which may be owed by Ottawa County, its departments, agencies, officers, employees, or its agents to another person.

II. PROTECTED HEALTH INFORMATION.

A. What is “Protected Health Information”?

“Protected health information” is any health information or mental health information maintained by Ottawa County that is individually identifiable.

“Individually identifiable health information” means any information, whether oral or recorded in any form or medium, including demographic information collected from an individual, that:

1. Is created or received by a health care provider, mental health care provider, a health plan, or health care clearinghouse; and,
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.

All health information maintained by Ottawa County is individually identifiable unless and until it is de-identified as stated in Section II.B, below.

B. De-Identification of Health Information.

1. De-Identification.

Health information or mental health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual is not individually identifiable health information.

2. Requirements for De-Identification.

Before any member of Ottawa County’s workforce treats any information as being de-identified, it must be designated as de-identified by the Ottawa County Chief Privacy Officer or the person designated to make such a determination within the relevant department or agency of Ottawa County.

The Chief Privacy Officer or the designated person may find that health information has been de-identified only if one of the following two conditions are met:

- a. **Condition 1: Statistical and Scientific Principles.** A person with appropriate knowledge and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable:
- (1) Applying such principles and methods, determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is subject to the information; and,
 - (2) Documents the methods and results of the analysis that justify such determination. Such documentation shall be in accordance with the requirements stated in Section III.N and Section III.O of these privacy policies.
- b. **Condition 2: Removal of Identifiers.** The following identifiers of the individual or of relatives, employers, or household members of the individual are removed and Ottawa County does not have actual knowledge that the information could be used alone or in combination with other information to identify an individual who is a subject of the information:
- (1) Names;
 - (2) All geographic subdivisions smaller than a State, including street addresses, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicity available data from the Bureau of the Census:
 - (a) The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and
 - (b) The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.
 - (3) All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated

into a single category of age 90 or older;

- (4) Telephone numbers;
- (5) Fax numbers;
- (6) Electronic mail addresses;
- (7) Social Security numbers;
- (8) Medical record numbers;
- (9) Health plan beneficiary numbers;
- (10) Account numbers;
- (11) Certificate/license numbers;
- (12) Vehicle identifiers and serial numbers, including license plate numbers;
- (13) Device identifiers and serial numbers;
- (14) Web Universal Resource Locators (URLs);
- (15) Internet Protocol (IP) address numbers;
- (16) Biometric identifiers, including finger and voice prints;
- (17) Full face photographic images and any comparable images; and,
- (18) Any other unique identifying number, characteristic, or code.

3. Requirements for Re-Identification.

A code or other means of record identification may be assigned to allow information de-identified to be re-identified by Ottawa County provided:

- a. The code or other means of record identification shall not be derived from or related to information about the individual and shall not otherwise be capable of being translated so as to identify

the individual; and,

- b. The code or other means of record identification shall not be used or disclosed for any other purpose and the mechanism for re-identification shall not be disclosed.

Whether or not information shall be coded for re-identification and be re-identified shall be determined by the Chief Privacy Officer or by the person so designated within each department or agency. If information is re-identified, the Chief Privacy Officer or the designated person shall oversee the process of doing so.

III. ADMINISTRATIVE POLICIES

A. Organizational Policies.

1. Hybrid Entity.

The Ottawa County Community Mental Health Agency and the Ottawa County Health Department are the health care components of the County of Ottawa but they are not designated health care components under 45 CFR S164.503 (j) (2)

B. Designation of Privacy Official.

1. Designation.

Ottawa County's Administrator shall designate a chief privacy official who shall be responsible for the development, updating and implementation of Ottawa County's privacy policies. That privacy official shall be called the "Chief Privacy Officer" of Ottawa County. The Chief Privacy Officer may designate a person within each department of Ottawa County having access to materials covered by these privacy policies as that department or agency's privacy officer.

2. Documentation.

The Ottawa County Administrator shall maintain, or cause to be maintained, a written or electronic record of the designation of the Chief Privacy Officer and of any department or agency privacy officer. Such records shall be maintained for six (6) years from the date of its creation or the date it is last in effect, whichever is later.

C. Designation of Other Persons.

1. Person/Office to Receive Complaints.

The Ottawa County Administrator shall designate a contact person or office who shall:

- a. Be responsible for receiving complaints concerning Ottawa County's privacy policies and procedures, Ottawa County's compliance with those policies and procedures, or Ottawa County's compliance with the HIPAA privacy rule pursuant to Section III.H of these privacy policies; and,
- b. Provide further information about matters covered by Ottawa County's Notice of Privacy Practices.

2. Person/Office to Receive and Process Requests for Access.

The Ottawa County Administrator shall designate a contact person or office who shall be responsible for receiving and processing individuals' requests for access to protected health information pursuant to Section VII.B of these privacy policies.

3. Person/Office to Receive and Process Requests for Amendment.

The Ottawa County Administrator shall designate a contact person or office who shall be responsible for receiving and processing individuals' requests for amendment of protected health information pursuant to Section VII.C of these privacy policies.

4. Documentation.

The Ottawa County Administrator shall maintain, or cause to be maintained, a written or electronic record of the title of the person or office for each person or office designed under this Section III.C. Such record shall be maintained for six (6) years from the date of its creation or the date it was last in effect, whichever is later.

D. Identification of Workforce Members' Access To Protected Health

Information.

Attached to these privacy policies as Appendix A is an identification of those classes of Ottawa County’s workforce who need access to protected health information to carry out their duties and, for each of those classes, the category or categories of protected health information to which access is needed and any conditions appropriate to that access. Failure of a member of the workforce to comply with that access or those conditions will result in disciplinary action up to and including termination of employment.

At least annually, the Privacy Officer shall cause a review of the identification and categories stated in Appendix A and make such changes to Appendix A as the Privacy Officer determines is necessary or desirable to keep Appendix A current.

E. Training of Workforce.

All members of Ottawa County’s workforce having access to protected health information in the course and scope of their duties (“the affected workforce”) shall be trained on Ottawa County’s policies and procedures with respect to protected health information as necessary and appropriate for the members of the workforce to carry out their functions within Ottawa County.

Each member of Ottawa County’s workforce having access to protected health information in the course and scope of their duties on April 14, 2003, shall be trained by no later than April 14, 2003. Thereafter, each new member of the workforce shall be trained within ten (10) calendar days after the person joins the workforce. Each member of the workforce whose functions are affected by a material change in these privacy policies or procedures shall be trained within ten (10) calendar days after the material change becomes effective.

Documentation of the training for each member of the workforce shall be kept in written or electronic form for six (6) years after the date of its creation or the date that person ceases to be a member of Ottawa County’s workforce, whichever is later.

F. Safeguards to Protect the Privacy of Protected Health Information.

Option 1: The administrative, technical and physical safeguards that Ottawa County has in place to safeguard the privacy of protected health information are stated in Appendix B to these privacy policies.

At least annually, the Ottawa County Administrator shall cause a review of the

safeguards stated in Appendix B and assure such changes to Appendix B as the Ottawa County Administrator determines is necessary or desirable to keep Appendix B current.

G. Receipt of Notice of Amended Protected Health Information.

Any member of Ottawa County's affected workforce who is informed by another health care provider, health plan or a healthcare clearinghouse of an amendment to an individual's protected health information shall promptly inform the Privacy Officer or his/her designee of the amendment. The Privacy Officer shall cause the protected health information concerning that individual that is maintained by Ottawa County to be amended as stated in Section VII.C.4.a of these privacy policies.

H. Process for Individuals to Make Complaints.

Individuals who desire to make a complaint against Ottawa County concerning Ottawa County's privacy policies and procedures, its compliance with those policies and procedures, or the requirements of the HIPAA privacy rule shall submit the complaint to the Chief Privacy Officer or his/her designee in writing.

The Chief Privacy Officer shall investigate the complaint and respond to the individual in writing concerning his or her findings and what action, if any, Ottawa County will take in response to the complaint.

The Chief Privacy Officer shall cause written documentation of each complaint and its disposition to be kept in written or electronic form for six (6) years after the date of its creation or the date when it was last in effect, whichever is later.

I. Sanctions.

Except for actions that are covered by and meet the conditions of Section VI.F.15, Section VI.F.16, or Section III.K of these privacy policies, any member of Ottawa County's affected workforce who fails to comply with Ottawa County's privacy policies and procedures or the requirements of the HIPAA privacy rule shall be subject to sanctions imposed through Ottawa County's discipline and discharge policies.

Examples of the Sanctions that may be applied for certain actions are:

1. Failure to promptly report any violation of any Ottawa County privacy

policy or procedure or requirement of the HIPAA privacy rule to the Privacy Officer or his/her designee – sanctions pursuant to the employment policies of Ottawa County up to and including termination.

2. Inadvertent violation of any Ottawa County privacy policy or requirement of the HIPAA privacy rule - sanctions pursuant to the employment policies of Ottawa County up to and including termination.
3. Knowing violation of any Ottawa County privacy policy or requirement of the HIPAA privacy rule - sanctions pursuant to the employment policies of Ottawa County up to and including termination.
4. Knowingly and improperly obtaining or disclosing protected health information - sanctions pursuant to the employment policies of Ottawa County up to and including termination.
5. Obtaining protected health information under false pretenses - sanctions pursuant to the employment policies of Ottawa County up to and including termination.
6. Obtaining or disclosing protected health information with an intent to sell, transfer or use it for commercial advantage, personal gain or malicious harm - sanctions pursuant to the employment policies of Ottawa County up to and including termination.

The Ottawa County Human Resources Director shall cause written documentation of the sanctions that are applied, if any, to be kept in written or electronic form for six (6) years after the date of its creation or the date when it is last in effect, whichever is later.

J. Mitigation of Harmful Effect.

If there is a use or disclosure of protected health information by a member of Ottawa County's affected workforce or an Ottawa County business associate in violation of Ottawa County's privacy policies or the requirements of the HIPAA privacy rule, the Chief Privacy Officer or his/her designee shall mitigate, or cause to be mitigated, to the extent practicable, any harmful effect that is known to Ottawa County.

K. Prohibition on Intimidating or Retaliatory Acts.

Neither Ottawa County nor any member of Ottawa County's workforce may

intimidate, threaten, coerce, discriminate against, or take other retaliatory action against:

1. **Individuals.** Any individual for the exercise by the individual of any right under, or for participation by the individual in any process established by, these privacy policies or the HIPAA privacy rule, including filing a complaint under the HIPAA privacy rule or under these privacy policies.

2. **Individuals and Others.** Any individual or other person for:
 - a. Filing of a complaint with the Secretary of Health and Human Services under the HIPAA privacy rule;
 - b. Testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing under the Administrative Simplification provisions of HIPAA; or
 - c. Opposing any act or practice made unlawful by the HIPAA privacy rule, provided the individual or person has a good faith belief that the practice opposed is unlawful, and the manner of the opposition is reasonable and does not involve a disclosure of protected health information in violation of the HIPAA privacy rule.

L. Prohibition on Waiver of Rights.

No member of Ottawa County's affected workforce may require an individual to waive the individual's rights under these privacy policies or the HIPAA privacy rule as a condition for the provision of treatment, payment, and enrollment in a health plan, or eligibility for benefits.

M. Changes to Policies and Procedures.

1. Changes in Law.

The Chief Privacy Officer with the consent of the Ottawa County Administrator shall promptly change these privacy policies as necessary and appropriate to comply with changes in the law, including changes in the HIPAA privacy rule. The changed policy or procedure shall be promptly documented and implemented. If the change materially affects the content of Ottawa County's Notice of Privacy Practices, the Privacy

Officer shall promptly make the appropriate revisions to the notice in accordance with Section V.C of these privacy policies.

2. Changes to Privacy Practices Stated In Notice of Privacy Practices.

Option 1: When Ottawa County changes a privacy practice that is stated in its Notice of Privacy Practices and makes corresponding changes to Ottawa County's policies, the change shall be effective for protected health information Ottawa County created or received prior to the effective date of the notice revision provided:

- a. The Chief Privacy Officer ensures that the policy or procedure, as revised to reflect the change, complies with the HIPAA privacy rule;
- b. The Chief Privacy Officer documents the policy or procedure, as revised, as stated in Section III.N and Section III.O of these privacy policies; and,
- c. The Chief Privacy Officer revises the Notice of Privacy Practices to state the changed practice and makes the revised notice available as stated in Section V.B of these privacy policies. The changed practice may not be implemented prior to the effective date of the revised Notice of Privacy Practices.

If these conditions are not met, then the change is effective only with respect to protected health information created or received after the effective date of the revised Notice of Privacy Practices.

Option 2: When Ottawa County changes a privacy practice that is stated in its Notice of Privacy Practices and makes corresponding changes to its policies, the following actions shall be taken:

- (a) The Chief Privacy Officer shall ensure that the policy or procedure, as revised to reflect the change, complies with the HIPAA privacy rule;
- (b) The Chief Privacy Officer shall document the policy or procedure, as revised, is documented as stated in Section III.N and Section III.O of these privacy policies; and,
- (c) The Chief Privacy Officer shall revise The Notice of Privacy Practices to state the changed practice and make the revised notice

available as stated in Section V.B of these policies. The changed practice may not be implemented prior to the effective date of the revised Notice of Privacy Practices.

The change shall be effective only with respect to protected health information created or received after the effective date of the revised Notice of Privacy practices.

3. Changes to Privacy Practices Not Stated In Notice of Privacy Practices.

Ottawa County may change, at any time, a privacy practice that does not materially affect the content of the Notice of Privacy Practices, provided:

- a. The policy or procedure involved, as revised, complies with the HIPAA privacy rule; and,
- b. Prior to the effective date of the change, the policy or practice, as revised, is documented by the Ottawa County Administrator by causing it to be kept in written or electronic form.

N. Documentation.

The Chief Privacy Officer shall take, or cause to be taken, each of the following actions:

- a. Maintain these privacy policies and procedures in written or electronic form;
- b. If a communication is required by these privacy policies and procedures, or by the privacy rule, to be in writing, maintain that writing, or an electronic copy, as documentation;
- c. If an action, activity, or designation is required by these privacy policies and procedures, or by the privacy rule, to be documented, maintain a written or electronic record of that action, activity or designation.

O. Period of Retention.

Documentation required by Section III.N, above, shall be retained for six (6)

years from the date of its creation or the date when it last was in effect, whichever is later.

P. Maintenance of Psychotherapy Notes.

Psychotherapy notes shall be maintained by the mental health professional who prepared the notes in a locked file in his/her office. A duplicate of the key to the locked file shall be retained by the Director of the Ottawa County Community Mental Health Agency.

Upon termination of the mental health professional's employment, or contract of service, any psychotherapy notes maintained by him/her shall be destroyed.

Q. Business Associates.

Prior to Ottawa County disclosing any protected health information to a business associate or allowing a business associate to create or receive protected health information on its behalf, the Chief Privacy Officer or his/her designee shall obtain satisfactory assurance from the business associate that the business associate will appropriately safeguard the protected health information disclosed to it or that it creates or receives on Ottawa County's behalf. The satisfactory assurance shall be through a written contract with the business associate that contains at least all the provisions required by the privacy rule.

However, if the business associate is required by law to perform a function or activity on behalf of Ottawa County or to provide a service described in the HIPAA privacy rule's definition of a business associate (see, Section IX.B, "Business Associate" of these privacy policies) to Ottawa County, Ottawa County may disclose protected health information to the business associate to the extent necessary to comply with the legal mandate without meeting the requirements for business associates, provided:

1. Ottawa County attempts in good faith to obtain satisfactory assurances, as stated above; and,
2. If that attempt fails, the Chief Privacy Officer or his/her designee documents the attempt and the reasons that the assurances cannot be obtained.

Any contract of Ottawa County where the other party, or one of the other parties, may be a business associate shall be submitted to the Chief Privacy Officer for review for compliance with these privacy policies and the HIPAA privacy rule prior to being signed on behalf of Ottawa County.

R. Reporting Violations.

Each member of Ottawa County's affected workforce must report any actual or possible violation of Ottawa County's privacy policies or the HIPAA privacy rule to the Chief Privacy Officer as soon as he or she becomes aware of the actual or possible violation.

S. Questions Concerning HIPAA Compliance.

If any member of Ottawa County's affected workforce has a question concerning Ottawa County's privacy policies, the HIPAA privacy rule, or their application to any situation, he or she should contact the Chief Privacy Officer for guidance. The Chief Privacy Officer may contact legal counsel for legal advice as he or she believes is necessary or desirable.

T. Action by Designee.

Whenever an action may be or is required to be taken under these privacy policies by the Chief Privacy Officer, the Ottawa County Administrator, or any other member of Ottawa County's workforce, the action may be taken by that person's designee.

IV. OTTAWA COUNTY REQUESTS FOR PROTECTED HEALTH INFORMATION.

A. Generally.

When requesting protected health information from another health care provider, a health plan or a health care clearinghouse, a member of Ottawa County's affected workforce must limit the request to that which is reasonably necessary to accomplish the purpose for which the request is made.

Except when the entire medical record or mental health record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the request, members of Ottawa County's affected workforce may not request an entire medical record or mental health record.

B. Routine and Recurring Requests.

For a request that is made on a routine and recurring basis, Ottawa County shall from time to time develop and implement standard protocols that limit the protected health information requested to the amount that is reasonably necessary to accomplish the purpose for which the request is made. The protocols established by Ottawa County are set forth in Appendix C to these privacy policies.

C. Other Requests.

Whenever any member of Ottawa County's affected workforce desires to request protected health information from another provider, a health plan or a health care clearinghouse and the request is not one made pursuant to a protocol for routine and recurring requests, he or she shall first submit the request to the Chief Privacy Officer or his/her designee for review and approval prior to the request being made. The Chief Privacy Officer or his/her designee shall review the request on an individual basis to determine that the protected health information sought is limited to the information reasonably necessary to accomplish the purpose for which the request is made.

V. NOTICE OF PRIVACY PRACTICES.

A. Form of Notice of Privacy Practices.

The Notice of Privacy Practices used by Ottawa County shall be established from time to time by the Chief Privacy Officer and shall meet the requirements of the HIPAA privacy regulations.

B. Provision of Notice of Privacy Practices.

1. To Each Patient, etc.

a. Generally.

Ottawa County's Notice of Privacy Practices shall be made available to any individual patient or client of Ottawa County (except to an inmate of a correctional institution) and to Ottawa County employees, no later than the date of the first service delivery by Ottawa County and to other persons upon request. The Notice of Privacy Practices also shall be made available at Ottawa County's offices whose Health Services and/or Mental Health Services are provided for individuals to request to take with them.

b. Via E-Mail.

If the individual agrees and that agreement has not been withdrawn, the Notice of Privacy Practices will be provided to that individual by e-mail in lieu of physical delivery. The transmission of the Notice of Privacy Practices by e-mail will be accomplished by the director of the affected department or agency, or his/her designee. If the e-mail transmission fails, a paper copy of the Notice of Privacy Practices will be provided to the individual. An individual who receives electronic notice may still obtain a paper copy of the notice upon request; his or her request should be submitted to the director of the affected department or agency, or his/her designee.

2. Posting.

Ottawa County's Notice of Privacy Practices shall be prominently posted on posters at the locations specified in Exhibit "D" hereto.

3. Web Site.

Ottawa County's Notice of Privacy Practices shall be prominently posted on Ottawa County's web site and made available electronically through the web site.

C. Revision of Notice of Privacy Practices.

Whenever there is a material change to the uses or disclosures, the individual's rights, Ottawa County's legal duties, or other privacy practices stated in the notice, the Chief Privacy Officer shall cause the Notice of Privacy Practices to be promptly revised, made available on request and distributed.

Except when the material change is required by law, a material change to any term of the Notice of Privacy Practices shall not be implemented prior to the effective date of the Notice of Privacy Practices in which the material change is reflected.

D. Documentation.

A copy of each Notice of Privacy Practices used by Ottawa County shall be maintained by Ottawa County in written or electronic form for six (6) years after the date the notice was last in effect.

VI. USES AND DISCLOSURE OF PROTECTED HEALTH INFORMATION.

A. General Rule.

Except as otherwise stated in this Section VI, Ottawa County shall obtain the individual's consent or authorization, whichever is applicable and in accordance with these privacy policies, prior to using or disclosing protected health information concerning the individual.

B. Use and Disclosure of Only the Minimum Necessary Information.

1. General Rule.

Except as stated in Section VI.B.2, below, when using or disclosing protected health information, members of Ottawa County's affected workforce shall make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use or disclosure.

2. Exceptions to Minimum Necessary Requirement.

The preceding general rule concerning limiting use and disclosure of protected health information to the minimum necessary does not apply to:

- a. Disclosures to a health care provider for treatment.
- b. Uses or disclosures made to the individual except for authorizations requested by Ottawa County.
 - (1) For Ottawa County's own uses and disclosures (see, Section VI.D.6, "Authorizations Requested by Ottawa County for its Own Uses and Disclosures" of these privacy policies)
 - (2) For disclosures to others (see, Section VI.D.7, "Authorizations Requested by Ottawa County for Disclosures by Others" of these privacy policies); or,

- (3) For uses and disclosures of protected health information created for research that includes treatment of the individual (see, Section VI.D.8, "Authorizations for Uses and Disclosures of Protected Health Information Created for Research That Includes Treatment of the Individual" of these privacy policies).
- c. Disclosures made to the Secretary of Health and Human Services in accordance with the HIPAA privacy rule.
- d. Uses or disclosures that are required by law.
- e. Uses or disclosures that are required for Ottawa County's compliance with the HIPAA privacy rule.

3. Routine and Recurring Disclosures.

For any type of disclosure that is made on a routine and recurring basis, the Ottawa County Administrator or his/her designee shall from time to time develop and implement standard protocols that limit the protected health information requested to the amount that is reasonably necessary to accomplish the purpose for which the disclosure is made. The protocols established are set forth in Appendix E to these privacy policies.

4. Other Disclosures.

Any disclosures that are not covered by an established protocol, shall be reviewed by the Chief Privacy Officer on an individual basis using the following criteria to limit the protected health information disclosed to the information reasonably necessary to accomplish the purpose for which disclosure is sought.

The criteria to be applied are:

- a. Whether or not the information requested is reasonably related to the purpose of the request.
- b. Whether or not the information requested will assist in the accomplishment of the purpose of the request.
- c. Whether or not the purpose of the request can be accomplished

without the information requested.

- d. Whether or not the purpose of the request can be met with information that is not protected health information.

5. Permitted Reliance.

If the reliance is reasonable under the circumstances, members of Ottawa County's affected workforce may rely on a requested disclosure as the minimum necessary for the stated purpose when:

- a. Making disclosures to public officials that are permitted under Section VI.F of these privacy policies, if the public official represents that the information is the minimum necessary for the stated purpose(s);
- b. The information is requested by another covered entity;
- c. The information is requested by a professional who is a member of Ottawa County's affected workforce or a business associate of Ottawa County for the purpose of providing professional services to Ottawa County, if the professional represents that the information requested is the minimum necessary for the stated purpose(s); or,
- d. Documentation or representations that comply with the applicable requirements of Section VI.F.10 of these privacy policies have been provided by the person requesting the information for research purposes.

The basis for reliance under this Section VI.B.5 shall be documented by the Privacy Officer. That documentation shall be maintained in the records of Ottawa County.

C. Uses and Disclosures for Which an Authorization is Required.

1. General Rule.

Except as otherwise permitted or required by these privacy policies, Ottawa County will not use or disclose protected health information without an authorization that is valid under this Section VI.C. When Ottawa County obtains or receives a valid authorization for its use or

disclosure of protected health information, Ottawa County's use or disclosure must be consistent with that authorization.

2. What is a Valid Authorization?

An authorization is valid if it contains all the elements required by Section VI.D.5 of these privacy policies and it is not defective.

An authorization is defective if the document has any of the following defects:

- a. The expiration date has passed or the expiration event is known by Ottawa County to have occurred.
- b. The authorization has not been filled out completely with respect to an element required to be included in the authorization;
- c. The authorization is known by Ottawa County to have been re-voked;
- d. The authorization lacks a required element (see, Section VI.D.5, "Form of Authorization" of these privacy policies);
- e. The authorization violates the requirements concerning compound authorizations (see, Section VI.C.9, "Compound Authorizations" of these privacy policies); or,
- f. If any material information in the authorization is known by Ottawa County to be false.

If any member of Ottawa County's affected workforce believes an authorization is defective for any reason, he or she should promptly report that fact and the basis for his or her belief to the Privacy Officer.

3. Maintaining an Authorization.

All authorizations shall be delivered to a designated records custodian who will file there in accordance with established protocols.

4. Conditioning of Authorizations.

a. General Rule.

Except as stated in Section VI.C.4.b, below, Ottawa County will not condition treatment or payment to an individual on the receipt of an authorization from that individual.

b. Exceptions.

Ottawa County will condition treatment or payment to an individual on the receipt of an authorization from that individual in the following situations:

- (1) **Research.** Ottawa County will condition the provision of research-related treatment on provision of an authorization under Section VI.C.8 of these privacy policies.
- (2) **Disclosure Is Sole Purpose.** Ottawa County will condition the provision of health care that is solely for the purpose of creating protected health information for disclosure to a third party on provision of an authorization for the disclosure of the protected health information to that third party.

5. Form of Authorization.

a. Core Elements. An authorization must contain at least the following elements:

- (1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;
- (2) The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure;
- (3) The name or other specific identification of the person (s), or class of persons, to whom Ottawa County may make the requested use or disclosure;
- (4) An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure;

- (5) A statement of the individual’s right to revoke the authorization in writing and the exceptions to the right to revoke, together with a description of how the individual may revoke the authorization;
- (6) A statement that information used or disclosed pursuant to the authorization may be subject to redisclosure by the recipient and no longer be protected by this rule;
- (7) Signature of the individual and date; and,
- (8) If the authorization is signed by a personal representative of the individual, a description of that personal representative’s authority to act for the individual.

b. **Additional Elements.** An authorization may contain elements or information in addition to the elements stated in this Section VI.C concerning “Uses and Disclosures for Which an Authorization is Required”, provided those additional elements or information are not inconsistent with the elements required by this Section VI.C.

c. **Plain Language.**

An authorization must be written in plain language.

6. Authorizations Requested by Ottawa County for Its Own Uses and Disclosures.

If an authorization is requested by Ottawa County for its own use or disclosure of protected health information that it maintains, Ottawa County will comply with the following requirements:

a. **Required Elements.**

In addition to meeting the requirements stated in Section VI.D.5 of these privacy policies, the authorization must contain the following elements:

- (1) For any authorization to which the prohibition on conditioning in Section VI.C.4 applies, a statement that

Ottawa County will not condition treatment or payment on the individual's providing authorization for the requested use or disclosure;

- (2) A description of each purpose of the requested use or disclosure;
- (3) A statement that the individual may:
 - (a) Inspect or copy the protected health information to be used or disclosed as provided in Section VII.B of these privacy policies; and,
 - (b) Refuse to sign the authorization; and,
- (4) If use or disclosure of the requested information will result in direct or indirect remuneration to Ottawa County from a third party, a statement that such remuneration will result.

b. **Copy to Individual.** Ottawa County will provide the individual with a copy of the signed authorization.

7. Authorizations Requested by Ottawa County for Disclosures by Others.

If an authorization is requested by Ottawa County for another health care provider, health plan or health care clearinghouse to disclose protected health information to Ottawa County to carry out treatment, payment, or health care operations, Ottawa County will comply with the following requirements:

- a. **Required Elements.** In addition to meeting the requirements stated in Section VI.C.5 of these privacy policies, the authorization will contain the following elements:
 - (1) A description of each purpose of the requested disclosure; and,
 - (2) A statement that the individual may refuse to sign the authorization.

- b. **Copy to Individual.** Ottawa County will provide the individual with a copy of the signed authorization.

8. Authorizations For Uses and Disclosures of Protected Health Information Created for Research That Includes Treatment of the Individual.

Except as otherwise permitted by Section VI.E.10 of these privacy policies concerning “Uses and Disclosures for Research Purposes”, if Ottawa County creates protected health information for the purpose, in whole or in part, of research that includes treatment of individuals, Ottawa County will obtain an authorization for the use or disclosure of such information.

That authorization will:

- a. For uses and disclosures not otherwise permitted or required under these privacy policies, meet the requirement of Section VI.D.5 and Section VI.C.6 of these privacy policies; and,
- b. Contain:
 - (1) A description of the extent to which such protected health information will be used or disclosed to carry out treatment, payment, or health care operations;
 - (2) A description of any protected health information that will not be used or disclosed for purposes permitted in accordance with Section VI.D and VI.E of these privacy policies, provided Ottawa County will not include a limitation affecting its rights to make a use or disclosure that is required by law or permitted by Section VI.E.11.b.(1) of these privacy policies; and,
 - (3) If Ottawa County has obtained or intends to obtain the individual’s consent under Section VI.C of these privacy policies, or has provided or intends to provide the individual with a Notice of Privacy Practices, (see Section V, “Notice of Privacy Practices”), the authorization will refer to that notice and state that the statements made pursuant to this Section VI.D.8, “Authorizations for Uses and Disclosures of Protected Health Information Created for Research That Includes Treatment of the Individual”,

are binding.

An authorization under this Section VI.C.8 may be in the same document as: Ottawa County's Notice of Privacy Practices (see, Section V, "Notice of Privacy Practices").

9. Compound Authorizations.

- a. **General Rule.** Except as stated in Section VI.C.9.b, below, an authorization for use or disclosure of protected health information may not be combined with any other document to create a compound authorization.
- b. **Exceptions.** Notwithstanding Section VI.C.9.a, above, an authorization for use or disclosure of protected health information may be combined with any other document to create a compound authorization in the following situations:
 - (1) An authorization for the use or disclosure of protected health information created for research that includes treatment of the individual may be combined as stated in Section VI.C.8 of these privacy policies;
 - (2) An authorization for a use or disclosure of psychotherapy notes may only be combined with another authorization for a use or disclosure of psychotherapy notes;
 - (3) An authorization, other than an authorization for a use or disclosure of psychotherapy notes may be combined with any other authorization, except when Ottawa County has conditioned the provision of treatment or payment under Section VI.C.4.b of these privacy policies on the provision of one of the authorizations.

10. Revocation of an Authorization.

An individual has the right to revoke an authorization in writing, except to the extent Ottawa County has taken action in reliance thereon.

A written revocation should be submitted to the Chief Privacy Officer or his/her designee who will cause the revocation to be filed in accordance with a standard protocol.

11. Documentation.

The Chief Privacy Officer or his/her designee will document and retain any signed authorizations under this section in writing, or an electronic copy, for six (6) years from the date of its creation or the date when it was last in effect, whichever is later.

D. Uses and Disclosures Requiring an Opportunity for the Individual to Agree or to Object.

1. General Rule.

Members of Ottawa County's affected workforce may use or disclose protected health information without the individual's written consent or authorization for the purposes described in this Section VI.D provided:

- a. The individual is informed orally or in writing in advance of the use or disclosure; and,
- b. The individual has an opportunity to agree to or prohibit or restrict the disclosure in accordance with the requirements of this Section VI.D.

2. Persons Involved in the Individual's Care; Notification

a. General Rules.

- (1) **Those Involved in Care.** Members of Ottawa County's affected workforce may, in accordance with Sections VI.D.3.b and VI.D.3.c, below, disclose to a family member, other relative, or a close personal friend of the individual, or to any other person identified by the individual, the protected health information directly relevant to that person's involvement with the individual's care or payment related to that individual's health care.
- (2) **Notification of Location, Condition, or Death.** If authorized by Michigan law, members of Ottawa County's affected workforce may use or disclose protected health information to notify, or assist in the notification of

(including identifying or locating) a family member, a personal representative of the individual, or another person responsible for the care of the individual of the individual's location, general condition or death. Any such use or disclosure must be in accordance with Section VI.D.3.b, VI.D.3.c, or VI.D.4, below, and Michigan law.

b. When the Individual is Present.

If the individual is present for, or otherwise available prior to, a use or disclosure to a person(s) involved in the individual's care and the individual has the capacity to make health care decisions, a member of Ottawa County's affected workforce may use or disclose the protected health information if he or she:

- (1) Obtains the individual's agreement;
- (2) Provides the individual with the opportunity to object to the disclosure, and the individual does not express an objection; or,
- (3) Reasonably infers from the circumstances, based on the exercise of professional judgment, that the individual does not object to the disclosure.

The Ottawa County affected workforce member shall document in the patient or client record which of the preceding reasons were the basis for the use or disclosure.

c. When the Individual Is Not Present.

- (1) **Incapacity; Emergency Circumstances.** If the individual is not present for, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the individual's incapacity or an emergency circumstance, a member of Ottawa County's affected workforce may, in the exercise of professional judgment, and if authorized by Michigan law, determine whether the disclosure is in the best interests of the individual and, if so, disclose only the protected health information that is directly relevant to the person's involvement with the individual's health care.

The Ottawa County affected workforce member shall document in the patient or client record the individuals' incapacity or the emergency and why he or she determined the disclosure was in the individuals' best interests.

- (2) **Other Actions.** When authorized by Michigan law, a member of Ottawa County's affected workforce may use professional judgment and experience with common practice to make reasonable inferences of the individual's best interest in allowing a person to act on behalf of the individual to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of protected health information.

The Ottawa County's affected workforce member shall document in the patient or client record the individuals' incapacity or the emergency and why he or she determined the disclosure was in the individual's best interests.

3. Disaster Relief.

A member of Ottawa County's affected workforce may use or disclose protected health information to a public or private entity authorized by law or by its charter to assist in disaster relief efforts, *e.g.*, the Red Cross, for the purpose of coordinating with such entities the uses and disclosures permitted by Section VI.D.3 concerning notification of location, condition or death. However, the requirements of Sections VI.D.3.b and VI.D.3.c of these privacy policies apply to those uses and disclosures to the extent that the Ottawa County affected workforce member, in the exercise of professional judgment, determines that those requirements do not interfere with the ability to respond to the emergency circumstances.

E. Uses and Disclosures for which Consent, an Authorization, or an Opportunity to Agree or Object is Not Required.

1. General Rules.

To the extent permitted by this Section VI.E, an authorized member of Ottawa County's affected workforce may use or disclose protected health information without the written consent or authorization of the individual,

or the opportunity of the individual to agree or object, in the situations described in this Section VI.E.

When Ottawa County is required by any of these situations to inform the individual of a use or disclosure permitted by this Section VI.E or when the individual may agree to a use or disclosure required by this Section VI.E, Ottawa County's information and the individual's agreement may be given orally. However, if given orally, the Ottawa County affected workforce member involved shall document the giving of the information or the agreement by notification in the patient or client's records.

2. Uses and Disclosures Required by Law.

a) Informing the Chief Privacy Officer or his/her designee.

Any member of Ottawa County's affected workforce who receives a request, or who proposes, to use or disclose protected health information for a use or disclosure required by law must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the use or disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the use or disclosure for compliance with these privacy policies. The use or disclosure should not occur until it has been approved by the Chief Privacy Officer or his/her designee.

b) Permitted Uses and Disclosures.

Ottawa County may use or disclose protected health information to the extent that the use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of the law.

Ottawa County will meet the requirements of the following sections of these privacy policies, as applicable, for uses and disclosures required by law:

- (1) Section VI.E.4 concerning, "Uses and Disclosures About Victims of Abuse, Neglect or Domestic Violence";
- (2) Section VI.E.6 concerning, "Disclosures for Judicial and Administrative Proceedings", and,
- (3) Section VI.E.7 concerning "Disclosures for Law

Enforcement Purposes.

3. Uses and Disclosures for Public Health Activities.

- a. **Informing the Chief Privacy Officer.** Any member of Ottawa County's affected workforce who receives a request, or who proposes, to use or disclose protected health information for public health activities must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the use or disclosure being made. The Chief Privacy Officer or his /her designee will then oversee the use or disclosure for compliance with these privacy policies. The use or disclosure should not occur until it has been approved.

- b. **Permitted Disclosures.** An authorized member of Ottawa County's affected workforce may disclose protected health information for the public health activities and purposes described below:
 - (1) A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including but not limited to, the reporting of disease, injury and vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of the public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;
 - (2) A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;
 - (3) A person subject to the jurisdiction of the United States Food and Drug Administration:
 - (a) To report adverse events (or similar reports with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations if the disclosure is made to the person

required or directed to report such information to the Food and Drug Administration;

- (b) To track products if the disclosure is made to a person required or directed by the Food and Drug Administration to track the product;
 - (c) To enable product recalls, repairs, or replacements (including locating and notifying individuals who have received products or product recalls, withdrawals, or other problems); or,
 - (d) To conduct post marketing surveillance to comply with requirements or at the direction of the Food and Drug Administration;
- (4) A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if Ottawa County or another public health authority is authorized or required by law to notify such person as necessary in the conduct of a public health intervention or investigation; or
- (5) An employer, about an individual who is a member of the workforce of the employer, if:
- (a) Ottawa County provides health care to the individual at the request of the employer:
 - i) To conduct an evaluation relating to medical surveillance of the workplace; or,
 - ii) To evaluate whether the individual has a work-related illness or injury; or,
 - (b) The protected health information that is disclosed consists of findings concerning a work-related illness or injury or a work-related medical surveillance;
 - (c) The employer needs such findings in order to comply with its obligations under 29 CFR Parts 1904 through 1928 (concerning occupational safety and health), 30 CFR parts 50 through 90

(concerning mine safety and health), or similar Michigan law, to record such illness or injury or to carry out responsibilities for workplace medical surveillance;

- (d) Ottawa County provides written notice to the individual that protected health information relating to the medical surveillance of the workplace and work-related illnesses and injuries is disclosed by the employer:
 - i) By giving a copy of the notice to the individual at the time the health care is provided; or
 - ii) If the health care is provided on the work site of the employer, by posting the notice in a prominent place at the location where the health care is provided.

4. Uses and Disclosures About Victims of Abuse, Neglect or Domestic Violence.

- a. **Delivery to Chief Privacy Officer.** Any member of Ottawa County's affected workforce who receives a request, or who proposes, to use or disclose protected health information about a victim of abuse, neglect or domestic violence must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the use or disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the use or disclosure for compliance with these privacy policies and the requirements of Michigan law. The use or disclosure should not occur until it has been approved by the Chief Privacy Officer or his/her designee, unless otherwise required by Michigan law.
- b. **General Rule.** Except for reports of child abuse or neglect that are permitted by Section VI.E.3.b.(2) of these privacy policies, an authorized member of Ottawa County's affected workforce may disclose protected health information about an individual that workforce member reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including

a social service or protective services agency, authorized by Michigan law to receive reports of such abuse, neglect or domestic violence:

- (1) To the extent the disclosure is required by Michigan law and the disclosure complies with and is limited to the relevant requirements of that law;
- (2) If the individual agrees to the disclosure; or,
- (3) To the extent the disclosure is expressly authorized by Michigan law or regulation and:
 - (a) The Ottawa County affected workforce member, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victim, or is required by Michigan law.

c. Informing the Individual.

If a member of Ottawa County's affected workforce makes a disclosure permitted by VI.E.4.b, above, Ottawa County shall comply with Michigan law with respect to notice of such disclosure to the patient or client.

5. Uses and Disclosures for Health Oversight Activities.

- a. **Delivery to Chief Privacy Officer.** Any member of Ottawa County's affected workforce who receives a request, or who proposes, to use or disclose protected health information for purposes of a health oversight activity must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or her/her designee prior to the use or disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the use or disclosure for compliance with these privacy policies and Michigan and/or other applicable Federal law. The use or disclosure should not occur until it has been approved by the Chief Privacy Officer or his/her designee.

b. **General Rule.** An authorized member of Ottawa County's affected workforce may disclose protected health information to a health oversight agency, *e.g.*, state department of health, CMS, for oversight activities authorized by law, including: audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or other actions; or, other activities necessary for appropriate oversight of:

- (1) The health care system;
- (2) Government benefit programs for which health information is relevant to beneficiary eligibility;
- (3) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or,
- (4) Entities subject to civil rights laws for which health information is necessary for determining compliance.

c. **Exceptions.**

For purposes of the disclosures permitted by Section VI.E.5.b, above, a health oversight activity does not include an investigation or other activity in which the individual is the subject of the investigation or activity and such investigation or other activity does not arise out of and is not directly related to:

- (1) The receipt of health care;
- (2) A claim for public benefits related to health; or,
- (3) Qualification for, or receipt of, public benefits or services when a patient's health is integral to the claim for public benefits or services.

d. **Joint Activities or Investigations.** Notwithstanding the exceptions stated in Section VI.E.5.c, above, if a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, the joint activity or investigation is

considered a health oversight activity for purposes of this section.

6. Disclosures for Judicial and Administrative Proceedings.

- a. **Delivery to Chief Privacy Officer.** Any member of Ottawa County’s affected workforce who receives an order of a court or administrative tribunal or a subpoena, discovery request, or other lawful process must promptly deliver or otherwise communicate the document to the Chief Privacy Officer or his/her designee prior to the disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the disclosure for compliance with these privacy policies. The disclosure should not occur until it has been approved by the Chief Privacy Officer or his/her designee.

- b. **General Rules.** Ottawa County will disclose protected health information in the course of any judicial or administrative proceeding:
 - (1) In response to an order of a court or administrative tribunal, provided Ottawa County will disclose only the protected health information expressly authorized by the order; or,

 - (2) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if such disclosure is authorized or required by Michigan law, and only if the procedures followed by the requesting party fully comply with the requirements of Michigan law.

- c. **Satisfactory Assurance.**
 - (1) **That Individual Has Received Notice.** Ottawa County will be considered to have received “satisfactory assurance” from a party seeking protected health information that the individual has received notice if Ottawa County receives from that party a written statement and accompanying documentation demonstrating that:
 - (a) The party requesting the information has made a good faith attempt to provide written notice to the individual (or, if the individual’s location is

unknown, to mail a notice to the individual's last known address);

- (b) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and,
- (c) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
 - i) No objections were filed; or,
 - ii) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with that resolution.
- (d) Or it the disclaimer is made in compliance with Michigan law.

d. **Not Limitation on Other Uses and Disclosures.** The provisions of this section dealing with disclosures for judicial and administrative proceedings do not supersede other provisions of these privacy policies that otherwise permit or restrict uses of disclosures of protected health information.

7. **Disclosures for Law Enforcement Purposes.**

- a. **Delivery to Privacy Officer.** Any member of Ottawa County's workforce who receives a request, or proposes, to disclose protected health information for law enforcement purposes must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the use or disclosure for compliance with these privacy policies and Michigan law. The use or disclosure should not occur until it has been approved by the Chief

Privacy Officer or his/her designee, unless otherwise required by law.

- b. **Pursuant to Process and As Otherwise Required by Law.** An authorized member of Ottawa County's affected workforce may disclose protected health information:
- (1) As required by Michigan law including laws that require the reporting of certain types of wounds or other physical injuries, except:
 - (a) For laws concerning a public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect (see, Section VI.E.3.b.(1).); or,
 - (b) To the extent the disclosure is pursuant to a mandatory reporting law concerning reporting of abuse, neglect, or domestic violence and the disclosure complies with and is limited to the relevant requirements of that law (see, Section VI.E.4.b.(1).
 - (2) In compliance with and as limited by relevant requirements of:
 - (a) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
 - (b) A grand jury subpoena; or,
 - (c) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, if disclosure is authorized or required by law.
- c. **Limited Information for Identification and Location Purposes.** Except for disclosures required by law as permitted by VI.E.7.b, VI.E.7.b, above, an authorized member of Ottawa County's affected workforce may disclose protected health information in response to a law enforcement official's request for such

information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:

- (1) Ottawa County may disclose only the following information:
 - (a) Name and address;
 - (b) Date and place of birth;
 - (c) Social Security number;
 - (d) ABO blood type and rh factor;
 - (e) Type of injury;
 - (f) Date and time of treatment;
 - (g) Date and time of death, if applicable; and,
 - (h) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.
- (2) Except as stated in (1), above, a member of Ottawa County's workforce may not disclose for the purposes of identification or location under this section any protected health information related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue, unless otherwise authorized or required by Michigan law.

d. **Victims of a Crime.** Except for disclosures required by law as permitted by VI.E.7. b, VI.E.7.b, above, an authorized member of Ottawa County's affected workforce may disclose protected health information in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures that are subject to Section VI.E.7.b, VI.E.7.b, and Section VI.E.7.c, if:

- (1) If the individual agrees to the disclosure; or,
- (2) Ottawa County is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that the disclosure is otherwise authorized or required by Michigan law.

e. **Decedents.** An authorized member of Ottawa County's affected

workforce may disclose protected health information about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if Ottawa County has a suspicion that such death may have resulted from criminal conduct, or if such notice is otherwise required by Michigan law.

- f. **Crime on the Premises.** An authorized member of Ottawa County's may disclose to a law enforcement official protected health information that he or she believes in good faith constitutes evidence of criminal conduct that occurred on the premises of Ottawa County.

- g. **Reporting Crime in Emergencies.** If Ottawa County is providing emergency health care in response to a medical or mental health emergency, other than on the premises of Ottawa County, an authorized member of Ottawa County's affected workforce may disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:
 - (1) The commission and nature of a crime;
 - (2) The location of such crime or of the victim(s) of such crime; and,
 - (3) The identity, description, and location of the perpetrator of the crime.

If the member of Ottawa County's affected workforce believes the medical or mental health emergency is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, the preceding does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to Section VI.E.7.c of these privacy policies and if the disclosure is authorized or required by Michigan law.

8. Uses and Disclosures About Decedents.

- a. **Delivery to Privacy Officer.** Any member of Ottawa County's affected workforce who receives a request, or proposes, to use or

disclose protected health information to a coroner, medical examiner, or funeral director must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the use or disclosure being made. The Privacy Officer will then oversee the use or disclosure for compliance with these privacy policies. The use or disclosure may not occur until it has been approved by the Chief Privacy Officer or his/her designee.

- b. **Coroners and Medical Examiners.** An authorized member of Ottawa County's affected workforce may disclose protected health information to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized or required by Michigan law.

- c. **Funeral Directors.** An authorized member of Ottawa County's affected workforce may disclose protected health information to funeral directors consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If necessary for funeral directors to carry out their duties, Ottawa County may disclose the protected health information prior to, and in reasonable anticipation of, the individual's death, in compliance with Michigan law.

9. Uses and Disclosures for Cadaveric Organ, Eye or Tissue Donation.

- a. **Delivery to Privacy Officer.** Any member of Ottawa County's authorized workforce who receives a request, or proposes, to use or disclose protected health information for purposes of Cadaveric organ, eye or tissue donation must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the use or disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the use or disclosure for compliance with these privacy policies. The use or disclosure may not occur until it has been approved by the Chief Privacy Officer or his/her designee.

- b. **Permitted Uses and Disclosures.** An authorized member of Ottawa County's affected workforce may use or disclose protected health information to organ procurement organizations or other

entities engaged in the procurement, banking or transplantation of Cadaveric organs, eyes or tissue for the purpose of facilitating organ, eye or tissue donation and transplantation, or authorized by Michigan law.

10. Uses and Disclosures for Research Purposes.

- a. **Delivery to Chief Privacy Officer.** Any member of Ottawa County's affected workforce who receives a request, or proposes, to use or disclose protected health information for research purposes must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the use or disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the use or disclosure for compliance with these privacy policies. The use or disclosure may not occur until it has been approved by the Chief Privacy Officer or his/her designee.

- b. **Permitted Uses and Disclosures.** An authorized member of Ottawa County's affected workforce may use or disclose protected health information for research, regardless of the source of funding for the research, provided that:
 - (1) **Board Approval of a Waiver of Authorization.** Ottawa County obtains documentation that an alteration to or waiver, in whole or in part, of the individual authorization required by Section VI.C.8 of these privacy policies for use and disclosure of protected health information has been approved by either:
 - (a) An Institutional Review Board (IRB) established in accordance with the federal regulations set forth in the HIPAA privacy rule; or,
 - (b) A privacy board that meets the requirements of the HIPAA privacy rule, *see*, 45 CFR §164.512(i)(1)(i)(B).

The documentation must include all of the information required by the HIPAA privacy rule, *see*, 45 CFR §164.512(i)(2).

- (2) **Reviews Preparatory to Research.** Ottawa County obtains from the researcher representations that:
 - (a) Use or disclosure is sought solely to review protected health information as necessary to prepare a research protocol or for similar purposes preparatory to research;
 - (b) No protected health information will be removed from Ottawa County by the researcher in the course of the review; and,
 - (c) The protected health information for which use or access is sought is necessary for the research purposes.

- (3) **Research on Decedent's Information.** Ottawa County obtains from the researcher:
 - (a) Representation that the use or disclosure is sought is solely for research on the protected health information of decedents;
 - (b) Documentation, at the request of Ottawa County, of the death of such individuals; and,
 - (c) Representation that the protected health information for which use or disclosure is sought is necessary for the research purposes.

11. Uses and Disclosures to Avert a Serious Threat to Health or Safety.

- a. **Delivery to Chief Privacy Officer.** Any member of Ottawa County's affected workforce who receives a request, or proposes, to use or disclose protected health information to avert a serious threat to health or safety must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the use or disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the use or disclosure for compliance with these privacy policies. The use or disclosure may not occur until it has been approved by the Chief

Privacy Officer or his/her designee.

- b. **Permitted Uses and Disclosures.** An authorized member of Ottawa County's affected workforce may, consistent with Michigan law and standards of ethical conduct, use or disclose protected health information, if the member of Ottawa County's affected workforce, in good faith, believes the use or disclosure:

(1) **Serious and Imminent Threat.**

- (a) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and,
- (b) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; and,
- (c) Is otherwise authorized by Michigan law.

(2) **Law Enforcement.**

Is necessary for law enforcement authorities to identify or apprehend an individual:

- (a) Because of a statement by an individual admitting participation in a violent crime that Ottawa County reasonably believes may have caused serious physical harm to the victim; or,
- (b) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody; and,
- (c) Is otherwise authorized by Michigan law.

c. **Uses and Disclosures Not Permitted.**

A use or disclosure pursuant to Section VI.E.11.b.(2)(a), above, concerning a statement of an individual may not be made if the information described in that section is learned by Ottawa County:

- (1) In the course of treatment to affect the propensity to commit the criminal conduct that is that basis for the disclosure under that section, or counseling or therapy; or,
- (2) Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy described in Section VI.E.11.b.(2)(a), above; unless,
- (3) The disclosure is required by Michigan law.

A disclosure made pursuant to Section VI.E.11.b.(2)(a), above, shall contain only the statement described in that section and the protected health information described in Section VI.F.7.c.(1) of these privacy policies, unless the disclosure of additional information is required by Michigan law.

12. Uses and Disclosures for Specialized Government Functions.

- a. **Delivery to Privacy Officer.** Any member of Ottawa County's affected workforce who receives an a request, or proposes, to use or disclose protected health information for purposes of a specialized government function described in this Section VI.E.12 must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the use or disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the use or disclosure for compliance with these privacy policies. The use or disclosure may not occur until it has been approved by the Chief Privacy Officer or his/her designee.

b. Military and Veterans Activities.

(1) Armed Forces Personnel.

An authorized member of Ottawa County's affected workforce may use and disclose the protected health information of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, if the appropriate military authority has published by notice in the *Federal Register* the following

information:

- (a) Appropriate military command authorities; and,
- (b) The purposes for which the protected health information may be used or disclosed.

- (2) **Foreign Military Personnel.** An authorized member of Ottawa County's affected workforce may use and disclose the protected health information of individuals who are foreign military personnel to their appropriate foreign military authority for the same purposes for which uses and disclosures are permitted for Armed Forces personnel under the notice published in the *Federal Register*.

c. National Security and Intelligence Activities.

An authorized member of Ottawa County's affected workforce may disclose protected health information to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act, 50 U.S.C. 401 *et seq* and implementing authority, *e.g.*, Executive Order 12333.

d. Protective Services for the President and Others.

An authorized member of Ottawa County's affected workforce may disclose protected health information to authorized federal officials for the provision of protective services to the President of the United States or other persons authorized by 18 U.S.C. 3056, or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or to for the conduct of investigations authorized by 18 U.S.C. 871 and 879.

e. Correctional Institutions and Other Law Enforcement Custodial Situations.

- (1) **Permitted Disclosures.** An authorized member of Ottawa County's affected workforce may disclose to a correctional institution or a law enforcement official having lawful

custody of an inmate or other individual protected health information about such inmate or individual, if the correctional institution or such law enforcement official represents that such protected health information is necessary for:

- (a) The provision of health care to such individuals;
- (b) The health and safety of such individual or other inmates;
- (c) The health and safety of the officers or employees of or others at the correctional institution;
- (d) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;
- (e) Law enforcement on the premises of the correctional institution; and,
- (f) The administration and maintenance of the safety, security, and good order of the correctional institution.

- (2) **No Application After Release.** For purposes of this provision, an individual is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.

13. Disclosures for Workers' Compensation.

a. Delivery to Chief Privacy Officer.

Unless the use or disclosure has previously been approved by the Chief Privacy Officer, a member of Ottawa County's affected workforce who receives a request, or proposes to disclose protected health information to comply with laws relating to workers compensation or other similar programs, must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the disclosure

being made. The Chief Privacy Officer or his/her designee will then oversee the use or disclosure for compliance with these privacy policies. The use or disclosure should not occur until it has been approved by the Chief Privacy Officer or his/her designee.

- b. **Permitted Disclosures.** An authorized member of Ottawa County's affected workforce may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illnesses without regard to fault.

14. **Disclosure to the Secretary of Health and Human Services.**

- a. **Delivery to Chief Privacy Officer.**

Any member of Ottawa County's affected workforce who receives a request, or proposes, to disclose protected health information to the Secretary of Health and Human Services must promptly deliver or otherwise communicate the request or proposal to the Privacy Officer prior to the disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the disclosure for compliance with these privacy policies. The use or disclosure should not occur until it has been approved by the Chief Privacy Officer or his/her designee.

- b. **Permitted Disclosures.** Acting through its Chief Privacy Officer or his/her designee, Ottawa County will permit access by the Secretary of Health and Human Services during normal business hours to its facilities, books, records, accounts and other sources of information, including protected health information, that are pertinent to ascertaining compliance with the applicable requirements of the HIPAA privacy rule. If the Secretary of Health and Human Services determines that exigent circumstances exist, such as when documents may be hidden or destroyed, Ottawa County will permit access by the Secretary of Health and Human Services at any time and without notice.

If any information required of Ottawa County under this section is in the exclusive possession of any other agency, institution, or person and that other agency, institution or person fails or refuses

to furnish the information, the Chief Privacy Officer or his/her designee will so certify and set forth what efforts Ottawa County has made to obtain the information.

15. Disclosures by Whistleblowers.

A member of Ottawa County's affected workforce or a business associate may disclose protected health information, provided that:

- a. The workforce member or business associate believes in good faith that Ottawa County has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services or conditions provided by Ottawa County potentially endangers one or more patients, workers, or the public; and,
- b. The disclosure is to:
 - (1) A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of Ottawa County or to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by Ottawa County; or,
 - (2) An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to the conduct described in Section a., above.

The disclosure does not need to be approved by the Chief Privacy Officer or his/her designee before it is made.

16. Disclosures by Workforce Members Who are Victims of a Crime.

A workforce member who is the victim of a criminal act may disclose protected health information to a law enforcement official, provided that:

- a. The protected health information disclosed is about the suspected perpetrator of the criminal act; and,

b. The protected health information disclosed is limited to the following information:

- (1) Name and address;
- (2) Date and place of birth;
- (3) Social Security number;
- (4) ABO blood type and Rh factor;
- (5) Type of injury;
- (6) Date and time of treatment;
- (7) Date and time of death, if applicable; and,
- (8) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

The disclosure does not need to be approved by the Chief Privacy Officer or his/her designee before it is made.

17. Disclosures to Business Associates.

a. Delivery to Chief Privacy Officer.

Unless the use or disclosure has previously been approved by the Chief Privacy Officer or his/her designee, any member of Ottawa County's workforce who receives a request, or proposes, to disclose protected health information to a business associate of Ottawa County must promptly deliver or otherwise communicate the request or proposal to the Chief Privacy Officer or his/her designee prior to the disclosure being made. The Chief Privacy Officer or his/her designee will then oversee the use or disclosure for compliance with these privacy policies. The use or disclosure may not occur until it has been approved by the Chief Privacy Officer or his/her designee.

b. **Permitted Disclosures.** Authorized members of Ottawa County's affected workforce may disclose protected health information to a business associate and may allow a business associate to create or receive protected health information on Ottawa County's behalf, if Ottawa County has a written contract with the business associate that meets the requirements of the HIPAA privacy rule.

F. Uses and Disclosures for Marketing.

1. General Rule.

Except as stated in section VI.F, below, a member of Ottawa County's affected workforce may not use protected health information for marketing without an authorization that meets the applicable requirements of Section VI.C of these privacy policies, except as stated in this Section VI.F.

Any use of protected health information for marketing without an authorization must be approved in advance by the Chief Privacy Officer or his/her designee.

2. Exceptions.

An authorization does not need to be obtained if Ottawa County uses or discloses protected health information to make a marketing communication to an individual that:

- a. Occurs in a face-to-face encounter with the individual;
- b. Concerns products or services of nominal value (*e.g.*, pens, refrigerator magnets); or,
- c. Concerns the health-related products and services of Ottawa County or of a third party and the communication meets the applicable conditions stated below.

An authorized member of Ottawa County's affected workforce may disclose protected health information for purposes of such marketing communications to a business associate that assists Ottawa County with such communications.

3. Conditions.

For a marketing communication to be permitted under Section VI.F.2, above, the following conditions must be met:

- a. The communication must:
 - (1) Identify Ottawa County as the party making the communication;

- (2) If Ottawa County has received or will receive direct or indirect remuneration for making the communication, prominently state that fact; and,
 - (3) Except when the communication is contained in a newsletter or similar type of general communication device that Ottawa County distributes to a broad cross section of patients or other broad groups of individuals, contain instructions describing how the individual may opt out of receiving future such communication.
- b. If Ottawa County uses or discloses protected health information to target the communication to individuals based on their health status or condition:
- (1) Ottawa County must determine prior to making the communication that the product or service being marketed may be beneficial to the health of the type or class of individual targeted; and,
 - (2) The communication must explain why the individual has been targeted and how the product or services relates to the health of the individual.
- c. Ottawa County must make reasonable efforts to ensure that individuals who decide to opt out of receiving future marketing communications are not sent future communications.

4. “Marketing” Defined.

- a. **General Rule.** Except as stated in Section VI.F.4.b, below, for purposes of these privacy policies, “marketing” means to make a communication about a product or service a purpose of which is to encourage recipients of the communication to purchase or use the product or service.
- b. **Exception.** Marketing does not include:
- (1) A communication that is made orally; or,
 - (2) A communication that is in writing and Ottawa County

does not receive direct or indirect remuneration from a third party for making the communication; and

- (3) The communication is made by Ottawa County:
 - (a) For the purpose of describing the entities participating in a health care provider network or health plan network, or for the purposes of describing if and the extent to which a product or service (or payment for that product or service) is provided by a entity covered by the HIPAA privacy rule or included in a plan of benefits; or,
 - (b) That are tailored to the circumstances of a particular individual and the communications are:
 - i) Made by Ottawa County as part of the treatment of the individual, and for the purposes of furthering the treatment of that individual; or,
 - ii) Made by Ottawa County to an individual in the course of managing the treatment of that individual, or for the purpose of directing or recommending to that individual alternative treatments, therapies, health care providers, or settings of care.

G. Uses and Disclosures for Fundraising.

1. General Rule.

An authorized member of Ottawa County's affected workforce may use, or disclose to a business associate or to an institutionally related foundation, the following protected health information for the purpose of raising funds for its own benefit, without an authorization meeting the requirements of Section VI.C of these privacy policies:

- a. Demographic information relating to an individual; and,
- b. Dates of health care provided to an individual.

Any use of protected health information for the purpose of raising funds

for Ottawa County's benefit without an authorization must be approved in advance by the Chief Privacy Officer or his/her designee.

2. **Opting Out.** Any fundraising materials Ottawa County sends to an individual must include a description of how the individual may opt out of receiving any further fundraising communications.

Ottawa County must make reasonable efforts to ensure that individuals who decide to opt out of receiving future marketing communications are not sent future communications.

H. **Verification of Identity and Authority.**

1. **General Rule.**

Prior to any disclosure of protected health information, the authorized member of Ottawa County's affected workforce who is making the disclosure must:

- a. Except with respect to disclosures under VI.D, "Uses and Disclosures Requiring an Opportunity for the Individual to Agree or to Object" of these privacy policies, verify the identity of a person requesting protected health information and the authority of that person to have access to protected health information under these privacy policies, if the identity of that person is not known to Ottawa County; and,
- b. Obtain any documentation, statements, or representations, whether oral or written, from the person requesting the protected health information when such documentation, statement, or representation is a condition of the disclosure under these privacy policies.

2. **Personal Representatives.**

Unless the person and his or her authority is known to Ottawa County, the authorized member of Ottawa County's affected workforce who is making a disclosure to an individual's personal representative shall verify the person's identity by way of a government issued document with a picture (e.g., a driver's license, passport) and verify the person's authority (e.g., requiring a copy of a power of attorney, asking questions to establish

relationship to a child.)

3. Conditions on Disclosures.

If a disclosure is conditioned by these privacy policies on particular documentation, statements, or representations from the person requesting the protected health information, the authorized member of Ottawa County's affected workforce who is making the disclosure may rely, if such reliance is reasonable under the circumstances, on documentation, statements, or representations that, on their face, meet the applicable requirements.

In this regard:

- a. The conditions in Section VI.E.7.b.(2)(c) under "Disclosures for Law Enforcement Purposes" of these privacy policies may be satisfied by the administrative subpoena or similar process or by a separate written statement that, on its face, demonstrates that the applicable requirements have been met.
- b. The documentation required by Section VI.E.10.b.(1), "Board Approval of a Waiver of Authorization" of these privacy regulations, may be satisfied by one or more written statements provided that each is appropriately dated and signed in accordance with the HIPAA privacy rule, 45 CFR §164.512(i)(2)(i)&(v).

4. Identity of Public Officials.

Ottawa County may rely, if such reliance is reasonable under the circumstances, on any of the following to verify identity when the disclosure of protected health information is to a public official or a person acting on behalf of a public official:

- a. If the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;
- b. If the request is made in writing, the request is on the appropriate government letterhead; or,
- c. If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the

person is acting under the government's authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official.

5. Authority of Public Officials.

Ottawa County may rely, if such reliance is reasonable under the circumstances, on any of the following to verify authority when the disclosure of protected health information is to a public official or a person acting on behalf of a public official:

- a. A written statement of the legal authority under which the information is requested, or , if a written statement would be impractical, on oral statement of such legal authority;
- b. If a request is made pursuant to legal process, warrant, subpoena, order or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.

6. Exercise of Professional Judgment.

The verification requirements of this section are met if a member of Ottawa County's affected workforce relies on the exercise of professional judgment in making a use or disclosure in accordance with Section VI.D, "Uses or Disclosures Requiring an Opportunity for the Individual to Agree or Object" of these privacy policies or acts on a good faith belief in making a disclosure in accordance with Section VI.E.11, "Uses or Disclosures to Avert a Serious Threat to Health or Safety" of these privacy policies.

I. How to Resolve Conflicting Consents and Authorizations.

1. Comply with More Restrictive.

If Ottawa County obtains an authorization or written legal permission from the individual for a disclosure of protected health information to carry out treatment, payment, or health care operations, Ottawa County may disclose that protected health information only in accordance with the more restrictive authorization, or other written legal permission from the individual.

2. Attempt to Resolve Conflict.

Ottawa County may attempt to resolve a conflict between an authorization or other written legal permissions, from the individual by:

- a. Obtaining a new authorization from the individual for the disclosure; or,
- b. Communicating orally or in writing with the individual in order to determine the individual's preference in resolving the conflict. Ottawa County must document the individual's preference and may only disclose protected health information in accordance with the individual's preference.

3. **Communicate to Chief Privacy Officer.** Any member of Ottawa County's affected workforce who encounters conflicting authorizations or other legal permissions must promptly communicate the situation and documents to the Chief Privacy Officer or his/her designee who will determine how Ottawa County should proceed.

J. Prior Consents and Authorizations.

1. General Rule.

Notwithstanding other sections of these privacy policies, Ottawa County may continue to use or disclose protected health information pursuant to an authorization or other express legal permission obtained from an individual permitting the use or disclosure of protected health information if:

- a. It was obtained prior to April 14, 2003;
- b. It does not comply with Section VI.B, "Consent for Uses and Disclosures to Carry Out Treatment, Payment and Health Care Operations" or Section VI.C, "Uses and Disclosures for Which an Authorization is Required" of these privacy policies; and,
- c. The use or disclosure complies with the conditions stated in Section VI.J.2, below.

2. **Conditions.**

- a. **For Treatment, Payment, or Health Care Operations.** If the authorization or other express legal permission obtained from an individual permits a use or disclosure for purposes of carrying out treatment, payment, or health care operations, Ottawa County may, with respect to protected health information it received before April 14, 2003, and to which the authorization or other express legal permission obtained from the individual applies, use or disclose such information for purposes of carrying out treatment, payment, and health care operations, provided that:
- (1) Ottawa County does not make any use or disclosure that is expressly excluded from the authorization or other express legal permission obtained from the individual; and,
 - (2) Ottawa County complies with all limitations placed by the authorization or other express legal permission obtained from the individual.
- b. **For Purpose Other Than Treatment, Payment, or Health Care Operations.** If the authorization, or other express legal permission obtained from an individual specifically permits a use or disclosure for a purpose other than to carry out treatment, payment or health care operations, Ottawa County may, with respect to protected health information that Ottawa County created or received before April 14, 2003, and to which the authorization, or other express legal permission obtained from the individual applies, make such use or disclosure, provided that:
- (1) Ottawa County does not make any use or disclosure that is expressly excluded from the authorization, or other express legal permission obtained from the individual; and,
 - (2) Ottawa County complies with all limitations placed by the authorization, or other express legal permission obtained from the individual.
- c. **Research.** In the case of an authorization, or other express legal permission obtained from the individual that identifies a specific research project that includes treatment of individuals:

- (1) If the authorization, or other express legal permission obtained from an individual specifically permits a use or disclosure for purposes of the project, Ottawa County may, with respect to protected health information that it created or received either before or after April 14, 2003, and to which the consent or authorization applies, make such use or disclosure for purposes of that project, provided that Ottawa County complies with all limitations placed by the authorization, or other express legal permission obtained from the individual.
- (2) If the authorization, or other express legal permission obtained from an individual is a general consent to participate in the project, and Ottawa County is conducting or participation in the research, Ottawa County may, with respect to protected health information that is created or received as part of the project before or after April 14, 2003, make a use or disclosure for purposes of that project, provided that Ottawa County complies with all limitations placed by the authorization, or other express legal permission obtained from the individual.

d. **Agreed to Restriction.** If, after April 14, 2003, Ottawa County agrees to a restriction requested by an individual under Section VII.A.1, “Restriction of Uses and Disclosures” of these privacy policies, a subsequent use or disclosure of protected health information that is subject to the restriction based on an authorization, or other express legal permission obtained from an individual, as given effect by Section VI.J.1, “Prior Consents and Authorizations” of these privacy policies, must comply with such restriction.

VII. RIGHTS OF INDIVIDUALS.

A. Right to Request Privacy Protection.

1. Restriction of Uses and Disclosures.

a. **Generally.** Ottawa County will permit an individual to request that Ottawa County restrict:

- (1) Uses and disclosures of protected health information about

the individual to carry out treatment, payment or health care operations; and,

- (2) Disclosures permitted under Section VI.D.3, “Persons Involved in the Individual’s Care; Notification” of these privacy policies, for involvement in the individual’s care and notification purposes.

Whether or not Ottawa County will agree to the restriction will be determined by the Chief Privacy Officer or his/her designee. If a restriction is agreed to, a written or electronic record of that restriction shall be retained by Ottawa County for six years from the date of its creation or the date when it was last in effect, whichever is later.

If Ottawa County agrees to a restriction, the protected health information shall not be used or disclosed in violation of such restriction, except that, if the individual who requested the restriction is in need of emergency treatment and the restricted protected health information is needed to provide the emergency treatment, the restricted protected health information may be used by Ottawa County, or may be disclosed by an authorized member of Ottawa County’s affected workforce to a health care provider, to provide such treatment to the individual. If the information is disclosed to a health care provider for emergency treatment, the member of Ottawa County’s affected workforce making the disclosure shall request that health care provider not further use or disclose the information.

A restriction agreed to by Ottawa County under this Section VII.A.1.a is not effective to prevent uses or disclosures:

- (a) To the individual when requested by the individual pursuant to the individual’s right of access to the information (see, Section VII.B, “Right of Access”).
- (b) When the use or disclosure does not require an authorization, or opportunity to agree or object is not required (see, Section VI.E, “Uses and Disclosures for which Consent, an Authorization, or an Opportunity to Agree or Disagree is Not Required”).

- b. **Termination of Restriction.** Ottawa County may terminate its

agreement to a restriction under this Section VII.A.1, if:

- (1) The individual agrees to or requests the termination in writing;
- (2) The individual orally agrees to the termination and the oral agreement is documented in the patent or client's records; or,
- (3) Ottawa County informs the individual that it is terminating its agreement to the restriction, except that such termination shall be effective only with respect to protected health information created or received after Ottawa County has so informed the individual.

2. Restriction on Means and Location of Communications.

- a. **Generally.** Ottawa County shall permit individuals to request and, subject to the conditions stated below, shall accommodate reasonable requests by individuals to receive communications of protected health information from Ottawa County by alternative means or at alternative locations.

The request by the individual to receive communications by alternative means or at alternative locations must be in writing.

- b. **Conditions.** Ottawa County's accommodation of such requests shall be conditioned on:
 - (a) When appropriate, information as to how payment, if any, will be handled; and,
 - (b) Specification by the individual of an alternative address or other method of contact.

Ottawa County shall not require an explanation from the individual as to the basis for the request as a condition of providing communications on a confidential basis.

B. Right of Access.

1. Generally.

Except when access is denied under Section VII.B.5 , “Denial of Access” of these privacy policies, an individual shall have a right of access to inspect and obtain a copy of protected health information about the individual for as long as the protected health information is maintained in that record set except for:

- a. Psychotherapy notes;
- b. Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.
- c. Protected health information subject to the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. Section 263a, to the extent the provision of access to the individual would be prohibited by law.

2. Request for Access.

The individual’s request for access must be submitted in writing to the Chief Privacy Officer or his/her designee.

3. Action on Request for Access.

a. Time Limits for Action.

The Chief Privacy Officer or his/her designee shall act on a request for access no later than thirty (30) calendar days after Ottawa County’s receipt of the request. However, if the request for access is for protected health information that is not maintained or accessible to Ottawa County on-site, the Chief Privacy Officer or his/her designee shall act on the request for access no later than sixty (60) calendar days after Ottawa County’s receipt of the request.

If the Chief Privacy Officer or his/her designee is unable to take an action on the request within the applicable time required by the preceding paragraph, the Chief Privacy Officer or his/her designee may extend the time for the action by no more than thirty (30) calendar days, provided:

- (1) Within the applicable time required by the preceding paragraph, the Chief Privacy Officer or his/her designee shall provide the individual with a written statement of the reason(s) for the delay and the date by which Ottawa County will complete its action on the request; and,
- (2) Only one such extension shall be permitted on a request for access.

b. Inform Individual of Action on Request.

If the request is granted, in whole or in part, the Chief Privacy Officer or his/her designee shall inform the individual of the acceptance of the request and provide the access requested in accordance with Section VII.B.4, below.

If the request is denied, in whole or in part, the Chief Privacy Officer or his/her designee shall provide the individual with a written denial, in accordance with Section VII.B.6.b, “Actions if Access is Denied”, of these privacy policies.

4. Providing Access.

- a. **Access.** If the individual is granted access, in whole or in part, to protected health information, Ottawa County shall provide the access requested by the individual, including inspection and obtaining a copy, or both, of the protected health information about the individual in designated record sets. If the same protected health information that is the subject of a request for access is maintained in more than one designated record set or at more than one location, the protected health information will only be produced once in response to a request for access.

b. Form and Format.

The protected health information will be provided to the individual in the form or format requested by the individual, if it is readily producible in that form or format. If it is not readily producible in that form or format, it shall be provided in a readable hard copy form or such other form or format as agreed to by Ottawa County and the individual or as required by law.

c. **Summary In Lieu of Access.** The individual may be provided a summary of the protected health information requested, in lieu of providing access to the protected health information, or may be provided an explanation of the protected health information to which access has been provided, if:

- (1) The individual agrees in advance to such a summary or explanation; and,
- (2) The individual agrees in advance to the fees imposed, if any, by Ottawa County for such summary or explanation.

d. **Time and Manner of Access.**

Access shall be provided in a timely manner as stated in Section VII.B.3.a, “Action on Request for Access”, of these privacy policies, including arranging with the individual for a convenient time and place to inspect or obtain a copy of the protected health information, or mailing the copy to the individual at the individual’s request. Ottawa County may discuss the scope, format and other aspects of the request for access with the individual as necessary to facilitate the timely provision of access.

e. **Fees.**

If the individual requests a copy of the protected health information, or agrees to a summary or explanation of such information, Ottawa County shall impose charges as set forth in Appendix F to these privacy policies, as permitted by law.

5. **Denial of Access.**

a. **Unreviewable Grounds for Denial.**

Ottawa County may deny an individual access without providing the individual an opportunity for review, in any the following circumstances:

- (1) **Information Is Exempted.** The protected health information is exempted from the right of access as stated in Section VII.B.1, “Generally” of these privacy policies.
- (2) **Inmates.** When Ottawa County is acting under the direction of a correctional institution, Ottawa County may deny, in whole or in part, an inmate’s request to obtain a copy of protected health information, if obtaining such copy 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 reasonable for the transporting of the inmate or if denial is otherwise authorized by law..
- (3) **Research.** An individual’s access to protected health information created or obtained by Ottawa County in the course of research that included treatment may be temporarily suspended for so long as the research is in progress, provided that the individual has agreed to the denial of access when consenting to participate in the research that includes treatment, and Ottawa County has informed the individual that the right of access will be reinstated upon completion of the research.
- (4) **Information Obtained From Others.** An individual’s access may be denied if the protected health information was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information, if denial is otherwise authorized by law.

b. **Reviewable Grounds for Denial.** Ottawa County may deny an individual access, provided that the individual is given a right to have the denial reviewed as stated in Section VII.B.6.c, “Review of Denial” of these privacy policies, in any the following circumstances:

- (1) **Endangerment.** A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the

life or physical safety of the individual or another person;

- (2) **Reference to Another Person.** The protected health information makes reference to another person (unless such other person is a health care provider) and a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or,
- (3) **Personal Representative.** The request for access is made by the individual'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.

6. **Actions if Access is Denied.**

If an individual's access to protected health information is denied, in whole or in part, Ottawa County shall comply with the following:

- a. **Making Other Information Accessible.** Ottawa County shall, to the extent possible, give the individual access to any other protected health information requested, after excluding the protected health information as which Ottawa County had the ground to deny access.
- b. **Written Denial.** Ottawa County shall provide a written denial to the individual within the applicable time period stated in Section VII.B.6.c, "Review of Denial" of these privacy policies. The denial shall contain:
 - (1) The basis for the denial;
 - (2) If applicable, a statement of the individual's review rights, including a description of how the individual may exercise such review rights;
 - (3) A description of how the individual may complain pursuant to Ottawa County's complaint procedures or to the

Secretary of Health and Human Resources, including the name or title, and the telephone number of the Ottawa County contact person or office designated to receive complaints.

- (4) If Ottawa County does not maintain the protected health information that is the subject of the individual's request for access, and Ottawa County knows where the requested information is maintained, a statement informing the individual where to direct the request for access.

c. Review of Denial.

If access is denied on a ground permitted under Section VII.B.5.b, "Reviewable Grounds for Denial" of these privacy policies, above, the individual shall have the right to have the denial reviewed by a licensed health care professional who is designated by the Chief Privacy Officer or his/her designee to act as a reviewing official and who did not participate in the original decision to deny.

The individual's request for review shall be promptly referred to that designated reviewing official. The designated reviewing official shall then determine, within a reasonable period of time, whether or not to deny the access requested based on the standards stated in Section VII.B.5.b, "Reviewable Grounds for Denial" of these privacy policies.

The Chief Privacy Officer or his/her designee shall then promptly provide written notice to the individual of the determination of the designated reviewing official and implement the designated reviewing official's determination.

7. Documentation.

The Chief Privacy Officer or his/her designee shall maintain, or cause to be maintained, documentation of:

- a. The designated record sets that are subject to access by individuals; and,
- b. The titles of the persons or offices responsible for receiving and processing request for access by individuals.

The documentation shall be maintained by Ottawa County in written or electronic form for six years after the date of its creation or the date when it was last in effect, whichever is later.

C. Right to Request Amendment.

1. Generally.

Except when access is denied under Section VII.C.5, “Grounds for Denying the Amendment” of these privacy policies, an individual shall have a right to have Ottawa County amend protected health information or a record about the individual in a designated record set for as long as the protected health information is maintained in the designated record set.

2. Request for Amendment.

The individual’s request for amendment must be submitted in writing to the designated medical records custodian and must state in the written request a reason to support the requested amendment. Individuals shall be informed in advance of these requirements in Ottawa County’s Notice of Privacy Practices.

3. Action on Request for Amendment.

- a. **Time Limits for Action.** Ottawa County shall act on a request for access no later than sixty (60) calendar days after Ottawa County’s receipt of the request.

If the designated medical records custodian is unable to take an action on the request within that sixty (60) day period, applicable time required by the preceding paragraph, Ottawa County may extend the time for the action by no more than thirty (30) calendar days, provided:

- (1) Within that sixty (60) day period, the designated medical records custodian shall provide the individual with a written statement of the reason(s) for the delay and the date by which Ottawa County will complete its action on the request; and,

- (2) Only one such extension shall be permitted on a request for amendment.

- b. **Inform Individual of Action on Request.** If the request for amendment is accepted, in whole or in part, the designated medical records custodian shall inform the individual of the acceptance of the request and make the amendment requested in accordance with Section VII.C.4.a, above, of these privacy policies.

If the request for amendment is denied, in whole or in part, the designated medical records custodian shall provide the individual with a written denial, in accordance with Section VII.C.6, “Actions if Amendment is Denied” of these privacy policies, and shall take the other actions required by that Section VII.C.6.

4. Accepting the Amendment.

If the individual’s request for amendment is accepted, in whole or in part, the designated medical records custodian shall:

- a. **Making the Amendment.** The designated medical records custodian shall make the appropriate amendment to the protected health information or record that is the subject of the request for amendment by, at a minimum, identifying the records in the designated record set that are affected by the amendment and appending or otherwise providing a link to the location of the amendment.
- b. **Informing the Individual.** The designated medical records custodian shall inform the individual as stated in Section VII.C.3.b, “Inform Individual of Action on Request” of these privacy policies, that the amendment as been accepted and obtain the individual’s identification of and agreement to have Ottawa County notify the relevant persons with the amendment needs to be shared in accordance with Section VII.C.4.c, below.
- c. **Informing Others.** The designated medical records custodian shall make a reasonable effort to inform and provide the amendment within a reasonable time to:

- (1) Persons identified by the individual as having received protected health information about the individual and needing amendment;
- (2) Persons, including Ottawa County business associates, that Ottawa County knows have the protected health information that is the subject of the amendment and that may have relied, or could foreseeable rely, on such information to the detriment of the individual.

5. Grounds for Denying the Amendment.

An individual's request to amend protected health information may be denied if the designated medical records custodian determines that the protected health information or record that is the subject of the request:

- a. Was not created by Ottawa County, unless the individual provides a reasonable basis to believe that the originator of the protected health information is no longer available to act on the requested amendment;
- b. Is not part of the designated record set;
- c. Would not be available for inspection (see, Section VII.B.1, "Generally" of these privacy policies); or,
- d. Is accurate and complete.

6. Actions if Amendment is Denied.

If an individual's requested amendment is denied, in whole or in part, Ottawa County shall comply with the following:

- a. **Written Denial.** The designated medical records custodian shall provide a written denial to the individual within the applicable time period stated in Section VII.C.3.a, "Time Limits for Action" of these privacy policies. The denial shall contain:
 - (1) The basis for the denial;
 - (2) The individual's right to submit a written statement disagreeing with the denial and how the individual may file

such a statement;

- (3) At statement that, if the individual does not submit a statement of disagreement, the individual may request that Ottawa County provide the individual's request for amendment and the denial with any future disclosures of the protected health information that is the subject of the requested amendment; and,
- (4) A description of how the individual may complain to Ottawa County pursuant to Ottawa County's complaint procedure or to the Secretary of the United States Department of Health and Human Services. The description shall include the name or title and telephone number of the contact person or office designed by Ottawa County to receive complaints.

b. Statement of Disagreement.

The individual may submit a written statement disagreeing with the denial of all or part of a requested amendment and the basis for such disagreement. The written statement must be not more than ten (10) pages.

c. Rebuttal Statement.

The Chief Privacy Officer or his/her designee, may prepare, or cause to be prepared, a written rebuttal of Ottawa County to the individual's statement of disagreement. If a rebuttal statement is prepared, a copy of it shall be provided to the individual who submitted the statement of disagreement.

- d. **Recordkeeping.** As appropriate, the designated medical records custodian shall identify the record or protected health information in the designated record set that is the subject of the disputed amendment and append or otherwise link the individual's request for amendment, Ottawa County's denial of the request, the individual's statement of disagreement, if any, and Ottawa County's rebuttal, if any, to the designated record set.

e. Future Disclosures.

- (1) If a statement of disagreement has been submitted by the individual, Ottawa County will include the material appended in accordance with section VII.C.6.d, above, or, at the election of the Privacy Officer, an accurate summary of any such information, with any subsequent disclosure of the protected health information to which the disagreement relates.
- (2) If the individual has not submitted a written statement of disagreement, Ottawa County will include the individual's request for amendment and its denial, or an accurate summary of such information, with any subsequent disclosure of the protected health information only if the individual has requested such action in accordance with Section VII.C.6.a.(3), "Actions if Amendment is Denied" of these privacy policies.
- (3) When a subsequent disclosure described in (1) or (2), above, is made using a transaction that does not permit the additional material to be included with the disclosure, Ottawa County shall separately transmit the material to the recipient of the transaction.

7. Documentation.

The Chief Privacy Officer or his/her designee shall maintain documentation of the titles of the persons or offices responsible for receiving and processing requests for amendment. The documentation shall be maintained by Ottawa County in written or electronic form for six (6) years after the date the notice was last in effect.

D. Right to an Accounting of Disclosures.

1. Right to Accounting.

- a. **General Rule.** Except as stated in VII.D.1.b, "Exceptions" or VII.D.1.c "Suspension of Right for Certain Disclosures", below, an individual shall have a right to receive an accounting of disclosures of protected health information made by Ottawa County in the six (6) years prior to the date on which the accounting is requested or

for such shorter period as the individual may request.

- b. **Exceptions.** The right to an accounting of disclosures does not apply to the following types of disclosures:
- (1) Pursuant to and in compliance with a consent that complies with Section VI.C, “Consent for Uses and Disclosures to Carry Out Treatment, Payment and Health Care Operations” (see, page 20) of these privacy policies, to carry out treatment, payment and health care operations;
 - (2) To individuals of protected health information about them;
 - (3) For national security or intelligence purposes as provided in Section VI.F.12.c, “National Security and Intelligence Activities” of these privacy policies);
 - (4) To correctional institutions or law enforcement officials as provided in Section VI.F.12.e, “Correctional Institutions and Other Law Enforcement Custodial Situations” of these privacy policies;
 - (5) That occurred prior to April 14, 2003.
- c. **Suspension of Right for Certain Disclosures.** An individual’s right to receive an accounting of disclosures to a health oversight agency (see, Section VI.F.5, “Uses and Disclosures for Health Oversight Activities” of these privacy policies) or to a law enforcement official (see, Section VI.F.7, “Disclosures for Law Enforcement Purposes” of these privacy policies) shall be temporarily suspended for the time specified by the agency or official, if the agency or official provides Ottawa County with a written statement that such an accounting to the individual would be reasonably likely to impede the agency’s activities and specifying the time for which such a suspension is required.

If the agency or official statement is made orally, the Chief Privacy Officer or his/her designee shall:

- (1) Document the statement, including the identity of the agency or official making the statement;

- (2) Temporarily suspend the individual's right to an accounting of disclosures subject to the statement; and,
- (3) Limit the temporary suspension to no longer than thirty (30) calendar days from the date of the oral statement, unless a written statement as described above is submitted during that time.

2. Content of the Accounting.

The written accounting provided to the individual shall meet the following requirements:

- a. Except as otherwise stated in Section VII.D.1.b, "Exceptions" of these privacy policies, the accounting must include the disclosures of protected health information that occurred during the period the individual requests up to a maximum of six (6) years prior to the date of the request, including disclosures to or by business associates of Ottawa County.
- b. The accounting must include for each disclosure:
 - (1) The date of the disclosure;
 - (2) The name of the entity or person who received the protected health information and, if known, the address of such entity or person;
 - (3) A brief description of the protected health information disclosed; and,
 - (4) A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure; or, in lieu of such statement:
 - (a) A copy of the individual's written authorization pursuant to Section VI.D, "Uses and Disclosures for Which an Authorization is Required" of these privacy policies;
 - (b) A copy of a written request for disclosure by the Secretary of Health and Human Services under Section VI.F.14, "Disclosure to the Secretary of

Health and Human Services” of these privacy policies, if any; or,

- (c) A copy of a written request for disclosure under Section VI.F, “Uses and Disclosures for which Consent, an Authorization, or an Opportunity to Agree or Object is Not Required” of these privacy policies, if any.

c. If, during the period covered by the accounting, Ottawa County has made multiple disclosures of protected health information to the same person or entity for a single purpose under Section VI.F.14, “Disclosure to the Secretary of Health and Human Services” or Section VI.F, “Uses and Disclosures for which Consent, an Authorization, or an Opportunity to Agree or Object is Not Required” of these privacy policies, or pursuant to a single authorization under Section VI.D, “Uses and Disclosures for Which an Authorization is Required” of these privacy policies, the accounting may with respect to such multiple disclosures, provide:

- (1) The information required by Section VII.D.2.b of these privacy policies, for the first disclosure during the accounting period;
- (2) The frequency, periodicity, or number of the disclosures made during the accounting period; and,
- (3) The date of the last such disclosure during the accounting period.

3. Provision of the Accounting.

a. **Time Limit to Provide the Accounting.** The Chief Privacy Officer or his/her designee shall act on a request for an accounting no later than sixty (60) calendar days after Ottawa County’s receipt of the request.

Within that sixty (60) day period, the Chief Privacy Officer or his/her designee shall:

- (1) Provide the individual with the accounting requested; or,
- (2) If the Chief Privacy Officer or his/her designee is unable to

take an action on the request within that sixty (60) day period, the Chief Privacy Officer or his/her designee may extend the time for the action by no more than thirty (30) calendar days, provided:

- (a) Within that sixty (60) day period, the Chief Privacy Officer or his/her designee shall provide the individual with a written statement of the reason(s) for the delay and the date by which Ottawa County will provide the accounting; and,
 - (b) Only one such extension shall be permitted on a request for amendment.
- b. **Fee for Accounting.** The first accounting to an individual in any twelve (12) month period will be provided to the individual without charge. For each subsequent request for an accounting by the same individual with the twelve (12) month period shall be as stated in Appendix F to these privacy policies; before charging the fee, however, the Chief Privacy Officer or his/her designee shall notify the individual in advance of the fee and provide the individual an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.
- c. **Documentation.** The Chief Privacy Officer shall document and retain the following:
- (1) The information required to be included in an accounting under Section VII.D.2, “Content of Accounting” of these privacy policies, for disclosures of protected health information that are subject to an accounting;
 - (2) The written accounting that is provided to the individual under this section; and,
 - (3) The titles of the persons of offices responsible for receiving and processing requests for an accounting by individuals.

The documentation shall be maintained by Ottawa County in written or electronic form for six years after the date of its creation or the date when it was last in effect, whichever is later.

VIII. PERSONAL REPRESENTATIVES.

A. General Rule.

Except as otherwise stated or permitted in these privacy policies, Ottawa County will treat a personal representative as the individual for purposes of these privacy policies, as provided for under Michigan law.

B. Adults and Emancipated Minors.

If, under state law, a person has authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care, Ottawa County will treat such person as a personal representative with respect to protected health information relevant to such personal representative.

C. Unemancipated Minors.

1. General Rule.

If, under Michigan law, a parent, guardian, or other person acting in loco parentis has authority to act on behalf of an individual who is an Unemancipated minor in making decisions related to health care or mental health care, Ottawa County will treat such person as a personal representative with respect to protected health information relevant to such personal representative.

2. Exception.

Notwithstanding the general rule stated, above, a person will not be treated as a personal representative of an Unemancipated minor, and the minor has the authority to act as an individual, with respect to protected health information pertaining to health care services or mental health care services, if:

- a. The minor consents to such health care service or mental health care services; no other consent to such health care services or mental health care services is required by Michigan law, regardless of whether the consent of another persona has also been obtained; and, the minor has not requested that such person be treated as the personal representative.

- b. The minor may lawfully obtain such health care service or mental health care service without the consent of a parent, guardian, or other person acting in loco parentis, and the minor, a court, or another person authorized by Michigan law consents to such health care service or mental health care service; or,
- c. A parent, guardian, or other person acting in loco parentis assents to an agreement of confidentiality between Ottawa County and the minor with respect to such health care service or mental health care service.

D. Deceased Individuals.

If under state law an executor, administrator, or other person has authority to act on behalf of a deceased individual or of the individual's estate, Ottawa County will treat that person as a personal representative under these privacy policies with respect to protected health information relevant to such person representation.

E. Abuse, Neglect, Endangerment Situations.

Notwithstanding anything in these privacy policies to the contrary, Ottawa County may elect not to treat a person as the personal representative of an individual if:

- 1. Ottawa County has a reasonable belief that:
 - a. The individual has been or may be subjected to domestic violence, abuse, or neglect by such person; or,
 - b. Treating that person as the personal representative could endanger the individual; and
- 2. Ottawa County , in the exercise of professional judgment, decides that it is not in the best interest of the individual to treat the person as the individual's personal representative.

IX. DEFINITIONS.

A. Authorized Member of Ottawa County's Workforce.

“Authorized member of Ottawa County’s workforce” means a member of Ottawa County’s affected workforce who has been authorized to take the action involved by: (a) his or her job description; (b) a protocol established by the Chief Privacy Officer; or, (c) by the Chief Privacy Officer or his/her designee.

B. Business Associate.

“Business associate” means, with respect to Ottawa County, a person or other legal entity that:

1. On behalf of Ottawa County or an organized health care arrangement in which Ottawa County participates, but other than as a member of Ottawa County’s workforce, performs, or assists in the performance of:
 - a. A function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and reprising; or,
 - b. Any other function or activity regulated by the HIPAA privacy rule; or
2. Provides, other than as a member of Ottawa County’s workforce, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for Ottawa County, or for an organized health care arrangement in which Ottawa County participates, where the provision of such service involves the disclosure of individually identifiable health information from Ottawa County, or from another business associate of Ottawa County, to the person or legal entity.

However, in any of those situations, if a covered entity participating in a organized health care arrangement performs the function, activity or service for, on behalf of, or to the organized health care arrangement, that by itself does not make that covered entity a business associate of Ottawa County or any other covered entity participating in the organized health care arrangement.

C. Covered Entity.

“Covered entity” means a health plan, a health care clearinghouse, or a health

care provider that is covered by the HIPAA privacy rule.

D. Designated Record Set.

“Designated record set” means a group of records maintained by or for Ottawa County that is:

1. The medical records and billing records about individuals maintained by or for Ottawa County; or,
2. Used, in whole or in part, by or for Ottawa County to make decisions about individuals.

For purposes of this definition, the term “record” means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for Ottawa County.

E. Disclosure.

“Disclosure” means the release, transfer, provision of access to, or divulging in any other manner of information outside Ottawa County.

F. Health Care Operations.

“Health care operations” means any of the following activities of Ottawa County to the extent that the activities are related to covered functions, and any of the following activities of an organized health care arrangement in which Ottawa County participates:

1. Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
2. Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or

practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities;

3. Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;
4. Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and,
5. Business management and general administrative activities of Ottawa County, including, but not limited to:
 - a. Management activities relating to implementation of and compliance with the requirements of these privacy policies and the HIPAA privacy rule;
 - b. Customer service;
 - c. Resolution of internal grievances;
 - d. Due diligence in connection with the sale or transfer of assets to a potential successor in interest, if the potential successor in interest is an entity covered by the HIPAA privacy rule or, following completion of the sale or transfer, will become an entity covered by the HIPAA privacy rule; and,
 - e. Consistent with the applicable requirements of Section II.B, “De-Identification of Health Information” creating de-identified health information, fundraising for the benefit of Ottawa County, and marketing for which an individual authorization is not required.

G. Health Care.

“Health care” means care, services, or supplies related to the health or mental health of an individual.

“Health care” includes, but is not limited to, the following:

1. Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or

palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and,

2. Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

H. Health Oversight Agency.

“Health oversight agency” means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

“Health oversight agency” includes the employees or agents of such a public agency or its contractors or persons or entities to whom it has granted authority.

I. HIPAA Privacy Rule.

“HIPAA privacy rule” means 45 CFR Part 160 and 45 CFR Part 164 as amended from time to time.

J. Inmate.

“Inmate” means a person incarcerated in or otherwise confined to a correctional institution, including but not limited to the Ottawa County Jail.

K. Law Enforcement Official.

“Law enforcement official” means an officer or employee of any agency or authority of the United States, a state, a county, a municipality, a territory, or an Indian tribe, who is empowered by law to:

1. Investigate or conduct an official inquiry into a potential violation of law; or,
2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

L. Payment.

“Payment” means the activities undertaken by Ottawa County to obtain reimbursement for the provision of health care that relate to the individual for whom health care is provided.

“Payment” includes but is not limited to:

1. Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts) and adjudication or subrogation of health benefit claims;
2. Billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess of loss insurance) and related health care data processing;
3. Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;
4. Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and,
5. Disclosure to consumer reporting agencies of any of the following protected health information relating to collection of premiums or reimbursement:
 - a. Name and address;
 - b. Date of birth;
 - c. Social Security number;
 - d. Payment history;
 - e. Account number;
 - f. Name and address of Ottawa County.

M. Psychotherapy Notes.

“Psychotherapy notes” means notes recorded (in any medium) by a health care

provider who is a mental health professional documenting or analyzing the contents of a conversation during a private counseling session or a group, joint or family counseling session and that are separated from the rest of the individual's medical record. "Psychotherapy notes" excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

N. Secretary of Health and Human Services.

“Secretary of Health and Human Services” means the Secretary of the United States Department of Health and Human Services or any other officer or employee of that Department to whom the authority involved has been delegated.

O. These Privacy Policies.

“These privacy policies” means these privacy policies adopted by Ottawa County concerning the protection of the privacy of protected health information.

P. Treatment.

“Treatment” means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

Q. Use.

“Use” means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of that information within Ottawa County.

R. Affected Workforce.

“Workforce” means employees, volunteers, trainees, students, and other persons whose conduct, in the performance of work for Ottawa County, is under the direct control of Ottawa County, whether or not they are paid by Ottawa County, and who are engaged in performing health care or payment activities on behalf of Ottawa County, or who have a role in administering these privacy policies. Faxes containing patient or client records or information may be sent only by a person authorized to send Faxes.

X. AMENDMENTS.

These Policies and the County of Ottawa “Notice of Privacy Practices” may be amended, from time-to-time to comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the regulations under HIPAA, any applicable Michigan law that is more stringent than the HIPAA requirements, and to assure prompt, efficient, and effective compliance with the requirements of law. All Amendments shall be promulgated pursuant to the Ottawa County Board of Commissioners Policy on Administrative Rules.