



## Healthcare Services Department

Otero County Administration Building  
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## NOTICE OF PRIVACY PRACTICES

(45 CFR §164.520):

Effective Date – 02/01/2018

**THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.**

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**For any questions or concerns please call the Office of the Otero County Attorney at 575-437-7427.**

This Notice of Privacy Practices (“Notice”) applies to the Otero County Healthcare Services Department (OCHSD). It does not apply to any other department within Otero County. The terms “we,” “us,” and “our” used in this Notice refer to the Otero County Healthcare Services Department (OCHSD).

The OCHSD is the public health authority for Otero County responsible for public health matters as mandated by the State provided by: NMSA 1978 Chapter 27 Article 5 and Article 10; and NMSA 1978 Chapter 24 Article 12 and Article 13. OCHSD authority is restated in the Otero County Ordinance Chapter 140.

The Healthcare Assistance Program (HCAP) is a government program providing public benefits to provide or pay for the cost of medical care. (45 C.F.R. §160.103).

The Privacy Regulation issued under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires us to maintain the privacy of protected health information and to provide you with notice of our legal duties and privacy practices with respect to protected health information.

“Protected health information” is information created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse, including demographic information, that may identify you and that relates to (1) your past, present, or future physical or mental health or condition; (2) the provision of healthcare to you; (3) or the past, present or future payment for the provision of healthcare to you and that identifies you or with respect to which there is a reasonable basis to believe the information can be used to identify you. We must also notify you of a breach of unsecured protected health information.

This Notice describes how we may use and disclose your protected health information to carry out treatment, payment, or healthcare operations and for other purposes that are permitted or required by law. It also describes your rights to access and control your protected health information.

We are required to abide by the terms of this Notice of Privacy Practices. We may change the terms of our notice, at any time. The new notice will be effective for all protected health information that we maintain at that time. Upon your request, we will provide you with any revised Notice of Privacy Practices by either mailing the revised Notice to an address you provide or by delivering a revised Notice to you at our office. We will also have the most current Notice of Privacy Practices available on the Otero County website, [www.co.tero.nm.us](http://www.co.tero.nm.us).

Under 45 C.F.R. §164.520(a)(3), jail inmates do not have the right to receive the Notice of Privacy Practices. However, Notice will be made available upon request.

Each time you visit or communicate with the OCHSD, the staff may make a record of this communication. Typically, this record contains information needed to determine or continue eligibility, i.e., residency, household status, income, and/or potential eligibility for other programs. Your files may also contain Protected Health Information.

## **I. USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION**

### **A. Uses and Disclosures of Protected Health Information for Treatment, Payment, and Healthcare Operations**

We are permitted to use and disclose your protected health information for treatment, payment, and healthcare operations. In general, the we and our business associates contracted to maintain your information are the only persons or entities with access to these records. Your protected health information may be used and disclosed by us and others outside or our office that are involved in your care and treatment for the purpose of providing healthcare services to you. Your protected health information may also be used and disclosed to facilitate payment of your healthcare bills and to support our operations.

Following are examples of the types of uses and disclosures of your protected healthcare information that we are permitted to make. These examples are not meant to be exhaustive, but to describe the types of uses and disclosures that may be made by our office.

**1. Treatment:** We will use and disclose your protected health information to provide, coordinate, or manage your healthcare and any related services. This includes the coordination or management of your healthcare with a medical provider that has already obtained your permission to access your protected health information.

For example, we will disclose your protected health information to a primary care physician that provides care to you. In addition, we may disclose your protected health information from time-to time to another physician or healthcare provider (e.g., a specialist or laboratory) who, at our request, becomes involved in your care by providing assistance with your healthcare diagnosis or treatment.

**2. Payment:** Your protected health information may be used to obtain or allow payment or reimbursement for your healthcare services as required for the various programs operated by us.

This may include activities that our employees may undertake before they approve or pay for the healthcare services you have received, such as: determining eligibility; covering benefits; reviewing services provided to you for medical necessity and applicability to existing regulations; submitting bills to insurance companies (either directly or through a third-party billing company); undertaking utilization review activities; managing billed claims for services rendered; and collecting outstanding accounts. For example, we may receive a bill from a healthcare provider, third-party claims processor, etc., which includes information that identifies you, as well as your healthcare treatment received.

**3. Healthcare Operations:** We may use or disclose your protected health information in order to support the business activities of our office. Examples of these activities are quality assessment activities; employee review activities; training of our staff and contracted practitioners; coordination of care with other agencies to provide services, and conducting other business activities.

We will share your protected health information with third party “business associates” that perform various activities (e.g., auditing, legal, billing, processing claims, and database management) for us. Whenever an arrangement between our office and a business associate involves the use or disclosure of

your protected health information, we will have a written contract that contains terms that will protect the privacy of your protected health information. We will not disclose your protected health information to our business associates without assurance from them that they will safeguard the confidentiality of the information. This requirement may not apply if the business associate is a healthcare provider designated by our governing body.

We may also disclose personal information to other covered entities for the purpose of treatment, payment, or certain healthcare operation purposes. For example, we may contact your doctor to confirm the details of services received or to discuss coordination of care.

We may call or write to remind you that you have an appointment for an eligibility interview, treatment, or medical care. We may tell you about treatment alternatives or health-related benefits or services we offer that may be of interest to you.

**B. Uses and Disclosures of Protected Health Information Based upon Your Written Authorization**

Other uses and disclosures of your protected health information not stated in this Notice will be made only with your written authorization, unless otherwise permitted or required by law. You may revoke this authorization, at any time, in writing, except to the extent that we have taken an action in reliance on the use or disclosure indicated in the authorization.

We will not release psychotherapy notes in our possession without authorization from you, or as required by law.

We do not engage in marketing or selling your protected health information.

In accordance with the New Mexico Inspection of Public Records Act, NMSA 1978 §14-6-1, “All health information that relates to and identifies specific individuals as patients is strictly confidential and shall not be a matter of public record or accessible to the public even though the information is in the custody of or contained in the records of a governmental agency or its agent, a state educational institution, a duly organized state or county association of licensed physicians or dentists, a licensed health facility or staff committees of such facilities.”

**C. Permitted Uses and Disclosures to Which You May Agree or Object**

You have the opportunity to agree or object to the use or disclosure of all or part of your protected health information when others are involved in your care.

**1. Others Involved in Your Healthcare:** Unless you object, we may disclose to a member of your family, other relatives, a close friend, or any other person you identify, your protected health information that directly relates to that person's involvement in your healthcare. If you are not present or unable to agree or object to such a disclosure because of your incapacity or an emergency circumstance, we may use our professional judgment to determine if the use or disclosure is in your best interest. We may use or disclose protected health information to notify or assist in notifying a family member, personal representative, or any other person that is responsible for your care of (1) your location, (2) general condition, or (3) death. Only the protected health information that is directly relevant to another person's involvement in your healthcare, payment related to your care, or for notification purposes will be shared. Finally, we may use or disclose your protected health information to an authorized public or private entity to assist in disaster relief efforts and to coordinate uses and disclosures to family or other individuals involved in your healthcare.

**D. Other Permitted and Required Uses and Disclosures That May Be Made Without Your Consent, Authorization, or Opportunity to Object**

We may use or disclose your protected health information in the following situations without your consent or authorization. These situations include:

- 1. Emergencies:** We may use or disclose your protected health information in an emergency treatment situation.
- 2. Required By Law:** We may use or disclose your protected health information to the extent that the use or disclosure is required by law. The use or disclosure will be made in compliance with the law and will be limited to the requirements of the law. If required by law, you will be notified of any uses or disclosures.
- 3. Public Health:** We may disclose your protected health information for public health activities and purposes to a public health authority that is permitted by law to collect or receive the information. The disclosure will be made for the purpose of controlling disease, injury, or disability. We may also disclose your protected health information, if directed by the public health authority, to a foreign government agency that is collaborating with the public health authority.
- 4. Communicable Diseases:** We may disclose your protected health information, if authorized by law, to a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading the disease or condition.
- 5. Abuse or Neglect:** We may disclose your protected health information to a public health authority or other government authority that is authorized by law to receive reports of child abuse or neglect. In addition, if we believe that you have been a victim of abuse, neglect, or domestic violence we may disclose your protected health information to the governmental entity or agency authorized to receive such information. In this case, the disclosure will be made consistent with the requirements of applicable federal and state laws.
- 6. Health Oversight:** We may disclose protected health information to a health oversight agency for activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for oversight. Oversight agencies seeking this information include government agencies that oversee the healthcare system, government benefit programs, compliance with program standards, and civil rights laws.

**7. Food and Drug Administration:** We may disclose your protected health information to a person or company required by the Food and Drug Administration to report adverse events, product defects or problems; biological product deviations; to track products; to enable product recalls, repairs, or replacements; or to conduct post marketing surveillance, as required.

**8. Legal Proceedings:** We may disclose protected health information in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal (to the extent such disclosure is expressly authorized), and in response to a subpoena, discovery request, or other lawful process as permitted by law. We will only disclose protected health information in these circumstances upon satisfactory assurance that a notice of request has been provided to you with the opportunity to permit you to object to such use and disclosure, and reasonable efforts have been made to secure a qualified protective order of the protected health information.

**9. Law Enforcement:** We may disclose protected health information, so long as applicable legal requirements are met, for law enforcement purposes. Such disclosures include (1) the reporting of certain physical injuries; (2) responding to legal processes; (3) providing limited information for identification and location purposes, (4) providing law enforcement officials with information pertaining to victims of a crime; (5) reporting deaths possibly resulting from criminal conduct; (6) reporting a crime that occurs on our premises; and (7) reporting criminal activity outside our premises that results in emergency medical services.

**10. Funeral Directors:** We may disclose protected health information to the medical examiner for identification purposes, determining cause of death or for the medical examiner to perform other duties authorized by law. We may also disclose protected health information to a funeral director, as authorized by law, in order to permit the funeral director to carry out other duties. We may disclose such information in reasonable anticipation of death.

**11. Organ Donation:** Protected health information may be used and disclosed for cadaveric organ, eye, or tissue donation purposes.

**12. Research:** We may disclose your protected health information to researchers when their research has been approved by an Institutional Review Board or privacy board that has reviewed the research proposal and established protocols to ensure the privacy of your protected health information.

**13. Serious Threat to Health or Safety:** Consistent with federal and state laws, we may disclose your protected health information if we believe that the use or disclosure is necessary to prevent or minimize a serious and imminent threat to the health or safety of a person or the public. We may also disclose protected health information if it is necessary for law enforcement authorities to identify or apprehend an individual.

**14. Military Activity:** When the appropriate conditions apply, we may use or disclose protected health information of individuals who are Armed Forces personnel (1) for activities deemed necessary by appropriate military command authorities; (2) for the U.S. Department of Veterans Affairs to determine your eligibility for benefits, or (3) to foreign military authority, if you are a member of that foreign military service.

**15. National Security:** We may also disclose your protected health information to authorized federal officials for conducting national security and intelligence activities. We may disclose protected health information to authorized Federal officials for the provision of protective services to the President 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 for the conduct of investigations authorized by 18 U.S.C. §§ 871 and 879.

**16. Inmates:** We may use or disclose your protected health information if you are an inmate of a correctional facility and Otero County or your physician created or received your protected health information in the course of providing treatment and payment of care for you.

**17. Government Programs Providing Public Benefits:** As required or expressly authorized by statute or regulation, we may disclose protected health information relating to eligibility for or enrollment in the health plan to another agency administering a government program providing public benefits. We may disclose protected health information to another government agency administering a government program providing public benefits if the program serves the same or similar populations and the disclosure is necessary to coordinate or improve administration and management of such programs.

**18. Workers' Compensation:** Your protected health information may be disclosed by us as authorized to comply with workers' compensation laws and similar programs.

**19. De-identification of Protected Health Information:** With strict scrutiny, we may disclose health information that does not identify you and there is no reasonable basis to believe that the information can be used to identify you.

## **II. YOUR PRIVACY RIGHTS REGARDING PROTECTED HEALTH INFORMATION**

Your eligibility records and the protected health information contained therein are the physical property of the OCHSD. The following is a statement of your rights with respect to your protected health information and a brief description of how you may exercise these rights.

### **A. You have the right to request a restriction of uses and disclosures of your protected health information.**

You have the right to request us not to use or disclose any part of your protected health information for the purposes of treatment, payment, or healthcare operations. You may also request that any part of your protected health information not be disclosed to family members or friends who may be involved in your care or for notification purposes as described in this Notice of Privacy Practices. Your request must state the specific restriction requested and to whom you want the restriction to apply.

We are not required to agree to a restriction except when required by law. We may permit the use and disclosure of your protected health information if we believe the use and disclosure is in your best interest.

If we agree to the restriction, we may not use or disclose your protected health information in violation of that restriction. We may use and disclose your protected health information if you need emergency treatment and the information is necessary to provide emergency treatment. In such case, we will request the released protected health information not be further used or disclosed. We may also use and disclose your protected health information as required by law.

You may request a restriction by completing a "Restriction of use and Disclosures Request Form," which you may obtain from the Office of the Otero County Attorney.

Either you or the OCHSD has the right to terminate an agreed restriction at any time. The termination must be documented in writing.

**B. You have the right to request and receive confidential communications from us by alternative means or at an alternative location.**

We will accommodate reasonable requests.

You must clearly state if the disclosure of all or part of that information could endanger you.

All requests must be in writing to the Office of the Otero County Attorney.

**C. You have the right to inspect and copy your protected health information.**

You have the right to inspect and obtain a copy of protected health information about you that is contained in a designated record set, for as long as we maintain the protected health information. A designated record set contains medical, billing, and enrollment records, or any other information, collected and maintained by us to make decisions about you.

All requests for access must (1) be made in writing, (2) specifically state the information you wish to obtain, and (3) state the form and format you want the records to be produced in (for example, paper or electronic and copy or summary). We will act on a request for access no later than 30 days after receipt of the request.

You may not inspect or copy the following records: psychotherapy notes; information compiled in reasonable anticipation of, or use in, a civil, criminal, or administrative action or proceeding; and protected health information that is subject to any law that prohibits access to protected health information.

If you are granted the request, we will inform you and provide the access requested in the requested form and format. We reserve the right to impose a cost-based fee for: the labor of copying the requested information whether in paper or electronic form; the supplies for the paper copy or electronic media if provided on portable media; postage for mailing documents to you; and preparing an explanation or summary of the information.

If we deny your request, in whole or in part, we will inform you in writing the basis for the denial. If applicable, we will provide you with a description of how you may exercise your review rights.

Please contact the Office of the Otero County Attorney if you have questions about access to your protected health information maintained by Otero County.

**D. You may have the right to have us amend your protected health information.**

You have the right to request an amendment of protected health information about you in a designated record set for as long as we maintain this information.

All requests for amendment must be in writing and must provide a reason to support each requested amendment. We will act no later than 60 days after receipt of request.

If you are granted the request to amend your information, in whole or in part, we will notify you when we have amended the information.

If you are denied the request to amend your information, in whole or in part, we will inform you in writing the basis for the denial. You have the right to submit a written statement disagreeing with the denial. We are permitted by law to deny a requested amendment if we determine that the information is complete and accurate, and on limited other grounds. We may prepare written rebuttal to your statement and will provide you with a copy.

**E. You have the right to an accounting of disclosures of your protected health information.**

You have the right to receive an accounting of disclosures of protected health information made by the OCHSD covering the six years prior to the date of your request for disclosure.

The OCHSD is not required to provide an accounting of the uses or disclosures for the following purposes:

- Disclosures to carry out treatment, payment, and healthcare operations;
- Disclosures to you about your own protected health information;
- Disclosures incident to a use or disclosure otherwise permitted or required by law;
- Disclosures made pursuant to an authorization signed by you;
- Disclosures for when we share information with our business associates;
- Disclosures for emergency circumstances;
- Disclosures for maintaining a directory;
- Disclosures to individuals involved in your healthcare or other notification purposes;
- Disclosures for national security or intelligence purposes;
- Disclosures to correctional institutions or law enforcement officials;
- Disclosures as part of a limited data set for research, public health, or healthcare operations;
- Disclosures that occurred before April 14, 2003.

**F. You have the right to obtain a copy of this Privacy Notice from the Otero County Healthcare Services Department.**

The OCHSD will prominently post a copy of this Notice on the Otero County website. The Notice will be electronically available. If you allow us, we will forward you this Notice by electronic mail. You may also request a paper copy. We must obtain written acknowledgement of receipt of the Notice.

**III. YOUR LEGAL RIGHTS AND COMPLAINTS.**

You have the right to complain to the OCHSD or to the Secretary of the U.S. Department of Health and Human Services if you believe your privacy rights have been violated by Otero County or its agents. You will not be retaliated against in any way for filing a complaint with Otero County or to the U.S. Department of Health and Human Services.

OCHSD complies with applicable Federal civil rights laws and does not discriminate, exclude, or treat people differently based on a person's race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, or political beliefs.

For further information about the complaint process, or to file a complaint, or exercise any rights in this Notice, please contact:

Office of the Otero County Attorney  
Otero County Building  
1101 New York Avenue  
Alamogordo, N.M. 88310  
Phone: 575-437-7427  
Fax: 575-434-2888

For further information about filing a complaint with the Secretary of Health and Human Servers, or to file a complaint, contact:

Centralized Case Management Operations,  
Office of Civil Rights,  
U.S. Department of Health & Human Services  
Hubert H. Humphrey Building, Room 509F  
200 Independence Avenue, S.W.  
Washington, D.C. 20201  
Phone: 1-800-368-1019  
TTY: 1-800-537-7697  
E-mail: [OCRComplaint@hhs.gov](mailto:OCRComplaint@hhs.gov)

You may also file a complaint online at:

<https://ocrportal.hhs.gov/>

This notice was published and becomes effective on February 1, 2018.



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1101 New York Avenue  
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Janet White  
Commissioner, District 1  
  
Susan Flores  
Commissioner, District 2  
  
Lori Bies  
Commissioner, District 3  
  
Pamela Heltner  
County Manager

### **ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF PRIVACY PRACTICES**

I hereby acknowledge that I have been offered or provided with a copy of Otero County Healthcare Services Department's Notice of Privacy Practices effective February 1, 2018.

I understand that, under the Health Insurance Portability and Accountability Act of 1996, I have certain rights to privacy regarding my protected health information.

A copy of this signed form shall be given to you. Please keep for your records.

<u>Print</u> Applicant Name:	SSN	DOB (Month/Day/Year)
Applicant Address		Telephone Number:

<u>Signature</u> of Applicant or Personal Representative:	Date:
If Signed by Personal Representative, Relationship to Applicant	