

**LNRA BOARD POLICY  
207 - PROTECTION OF INDIVIDUALLY  
IDENTIFIABLE HEALTH INFORMATION**

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**207.10            PURPOSE**

LNRA strives to protect the privacy of its employees' health information when administering the Health Flexible Spending Account. To accomplish this, LNRA and its managers and employees are required to follow this policy regarding the protection of Individually Identifiable Health Information.

**207.20            POLICY**

**207.201          SCOPE**

These policies and procedures apply only to the Health Flexible Spending Account offered to the Lavaca-Navidad River Authority's (LNRA) employees under LNRA's Cafeteria Plan.

**207.202          DEFINITIONS**

To ensure consistency between all policies and procedures, LNRA has adopted a standard set of definitions to be used for these policies and procedures for the protection of Individually Identifiable Health Information.

- A. Administrative Safeguards – means administrative actions and policies and procedures to manage the selection, development, implementation and maintenance of security measures to protect Protected Health Information and to manage the conduct of LNRA's Workforce in relation to the protection of that information.
  
- B. Business Associate - means a person or organization who:
  - 1. On behalf of LNRA, but other than in the capacity of a member of LNRA'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, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management and repricing; or
    - b. Any other function or activity regulated by the Privacy Rule; or
  - 2. Provides, other than in the capacity of a member of LNRA's Workforce, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation or financial services to or for LNRA where the provision of the

service involves the Disclosure of Individually Identifiable Health Information from LNRA to the person or organization.

- C. CFR - means Code of Federal Regulations. The Code of Federal Regulations can be accessed on the internet at [www.gpoaccess.gov/cfr](http://www.gpoaccess.gov/cfr).
- D. Covered Entity – means:
1. a health plan;
  2. a health care clearinghouse; or
  3. a health care provider who transmits any health information in electronic form in connection with a transaction covered by HIPAA Title II, Administrative Simplification.
- E. Covered Individual – means any person who is eligible to have his or her qualifying medical expenses reimbursed under LNRA’s Health Flexible Spending Account.
- F. Disclosure – means the release, transfer, provision of, access to or divulging in any other manner of information outside LNRA.
- G. Health Flexible Spending Account – means a health plan option offered through LNRA’s section 125 cafeteria plan that allows LNRA’s employees to have pretax dollars withheld from their salaries to pay for unreimbursed medical expenses.
- H. HIPAA – means the Health Insurance Portability and Accountability Act of 1996, as enacted and amended.
- I. Incidental Use or Disclosure – means a secondary Use or Disclosure that cannot reasonably be prevented, is limited in nature and that occurs as a result of another Use or Disclosure that is permitted by the Privacy Rule.
- J. Individually Identifiable Health Information – means information that is a subset of health information, including demographic information collected from an individual, and:
1. Is created or received by a health care provider, health plan, employer 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; to the past, present or future payment for the provision of health care to an individual; and
    - a. that identifies the individual; or
    - b. with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Health information is not individually identifiable only if:

1. all the following identifiers of the Covered Individual or of relatives, employers or household members of the Covered Individual, are removed:
  - a. names;
  - b. all geographic subdivisions smaller than a state, including street address, 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:
    - i. the geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and
    - ii. the initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000;
  - c. all elements of dates (except year) for dates directly related to a Covered 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;
  - d. Telephone numbers;
  - e. Fax numbers;
  - f. Electronic mail addresses;
  - g. Social security numbers;
  - h. Medical record numbers;
  - i. Health plan beneficiary numbers;
  - j. Account numbers;
  - k. Certificate/license numbers;
  - l. Vehicle identifiers and serial numbers, including license plate numbers;
  - m. Device identifiers and serial numbers;
  - n. Web Universal Resource Locators (URL's);
  - o. Internet Protocol (IP) address numbers;

- p. Biometric identifiers, including finger and voice prints;
  - q. Full face photographic images and any comparable images; and
  - r. Any other unique identifying number, characteristic or code; and
2. LNRA 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.
- K. Physical Safeguards – means physical policies and procedures, devices, and segmentation methods designed to protect LNRA’s records, information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.
- L. Privacy Official – means the LNRA employee who is responsible for the development and implementation of LNRA’s policies and procedures for the protection of Individually Identifiable Health Information and who has been designated LNRA’s Privacy Official as required by 45 CFR § 164.530(a).
- M. Privacy Rule – means the federal standards, requirements and implementation specifications regulating the privacy of Individually Identifiable Health Information under HIPAA Title II, Administrative Simplification, and found in 45 CFR Parts 160 and 164.
- N. Protected Health Information – means Individually Identifiable Health Information:
- 1. Except as provided in paragraph 2. of this definition, that is:
    - a. transmitted by electronic media;
    - b. maintained in electronic media;
    - c. transmitted or maintained in any other form or medium.
  - 2. Protected Health Information excludes Individually Identifiable Health Information in:
    - a. education records covered in the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g;
    - b. records described at 20 U.S.C. 1232g(a)(4)(B)(iv);
    - c. employment records held by a Covered Entity in its role as employer.
- O. Use – means with respect to Individually Identifiable Health Information, the sharing, employment, application, utilization, examination or analysis of the Individually Identifiable Health Information within LNRA.

- P. Technical Safeguards – means the technology and policies and procedures for its use that protect Protected Health Information and control access to it.
- Q. Workforce – means employees, volunteers, trainees and other persons whose conduct, in the performance of work for LNRA, is under the direct control of LNRA, whether or not they are paid by LNRA.

Definitions will be based on the definitions developed by the U.S. Department of Health and Human Services (HHS) in 45 CFR Parts 160 and 164 and will be updated as HHS makes modifications. Definitions unique to LNRA will be developed as needed. All defined terms used in policies and procedures for the protection of Individually Identifiable Health Information will be capitalized so that they may be recognized as defined terms.

**207.203 PERSONNEL DESIGNATIONS**

As required by 45 CFR § 164.530(a), LNRA will designate a Privacy Official and a contact person for receiving complaints about LNRA’s compliance with HIPAA’s Privacy Rule (45 CFR Parts 160 and 164) and LNRA’s own policies and procedures for the protection of Individually Identifiable Health Information.

LNRA designates the employee who holds the title of Human Resource Manager as LNRA’s Privacy Official. LNRA’s Privacy Official is responsible for development and implementation of LNRA’s policies and procedures for the protection of Individually Identifiable Health Information.

LNRA designates the employee who holds the title of Human Resource Manager as the contact person for receiving and handling complaints about LNRA’s compliance with the Privacy Rule and complaints about LNRA’s compliance with its own policies and procedures for the protection of Individually Identifiable Health Information.

LNRA designates the employee who holds the title of Human Resource Manager as the person responsible for receiving inquiries about information in LNRA’s Notice of Privacy Practices.

LNRA will document the name of the employee who holds the title, Human Resource Manager, and the period of time for which that employee held that title as part of this policy and will maintain that information in this policy, in written or electronic form, for a period of at least six years from the date the employee last held the designated title.

**LNRA’s Privacy Official, person responsible for privacy complaints, and contact for questions on the Notice of Privacy Practices**

<u>Employee Name</u>	<u>Dates of Service</u>
Jennifer Martin	September 22, 2004 to Present

**207.204 BUSINESS ASSOCIATE CONTRACTS**

LNRA will require that all Business Associates execute a written contract that meets the requirements of 45 CFR § 164.502(e).

LNRA will track the receipt of a signed business associate contract, including any addenda, from each Business Associate who handles Protected Health Information. The tracking information will be maintained in a spreadsheet or database.

LNRA will retain a paper or electronic copy of a business associate contract for six years from the date it is created or the date it last is in effect, whichever is later.

#### **207.205 NOTICE OF PRIVACY PRACTICES**

LNRA will develop and distribute a Notice of Privacy Practices as required by HIPAA's Privacy Rule in 45 CFR § 164.520.

LNRA shall distribute the initial privacy notice to Covered Individuals no later than October 1, 2004.

LNRA shall distribute any revised notices as soon as reasonably possible but no later than the effective date of the revised notice.

Each Covered Individual shall receive a reminder of his/her privacy rights at least every three years.

LNRA will mail a copy of the privacy notice to each Covered Individual for whom LNRA provides continuation coverage or retiree coverage in the same time frame as for active employees.

LNRA will maintain the current privacy notice on its web site at [www.lnra.org](http://www.lnra.org).

LNRA will mail a copy of the privacy notice to any person upon request.

LNRA will revise the privacy notice as necessary to comply with HIPAA's Privacy Rule and/or LNRA's business processes. Revised privacy notices will be distributed prior to the effective date of the revised notice.

#### **207.206 USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION**

LNRA will comply with all federal regulations relating to permitted Uses and Disclosures of Protected Health Information.

#### **207.207 POLICIES AND PROCEDURES**

LNRA will develop and maintain written policies and procedures for the protection of Individually Identifiable Information as required by HIPAA's Privacy Rule in 45 CFR § 164.530(i).

LNRA's Privacy Official will develop and implement written policies and procedures for the protection of Individually Identifiable Health Information. These policies and procedures will be

designed to comply with the standards, implementation specification or other requirements of the Privacy Rule.

LNRA's Privacy Official will promptly revise LNRA's privacy policies and procedures as necessary to comply with changes in the law, including the standards, requirements and implementation specifications of the Privacy Rule. LNRA's Privacy Official will revise LNRA's privacy policies and procedures as necessary to correspond with changes in LNRA's business practices, personnel or workflows.

LNRA's Privacy Official will document all privacy policies and procedures, including any revisions. LNRA's Privacy Official will maintain all privacy policies and procedures, in written or electronic form, for at least six years from the date a policy and procedure last is in effect.

#### **207.208 SAFEGUARDS**

LNRA will keep in place appropriate Administrative, Physical and Technical Safeguards to protect the privacy of Individually Identifiable Health Information as required by HIPAA's Privacy Rule in 45 CFR § 164.530(c).

LNRA will develop and implement policies and procedures that reasonably safeguard Protected Health Information to limit Incidental Uses or Disclosures made pursuant to an otherwise authorized or required Use or Disclosure.

#### **207.209 PRIVACY TRAINING**

In compliance with 45 CFR § 164.530(b), all LNRA employees who handle Protected Health Information will receive training, appropriate to their job functions, on the requirements of HIPAA's Privacy Rule (45 CFR Parts 160 and 164) and on LNRA's policies and procedures for the protection of Individually Identifiable Health Information.

LNRA's Privacy Official will maintain records, in writing, electronically or both, indicating who has been trained, what training occurred, and the date of training for six years following the date of the training.

#### **207.210 SANCTIONING OF EMPLOYEES**

In compliance with 45 CFR § 164.530(e), LNRA may sanction any employee who Uses or Discloses Protected Health Information in violation of HIPAA's Privacy Rule (45 CFR Parts 160 and 164) or in violation of LNRA's policies and procedures for the protection of Individually Identifiable Health Information. A sanction may be any form of employee discipline up to and including termination of employment.

#### **207.211 DOCUMENTATION**

LNRA will retain all records and documentation relating to its compliance with HIPAA's Privacy Rule as required by the Privacy Rule in 45 CFR § 164.530(j).

LNRA will retain all documentation for at least six years from the date of its creation or the date it last is in effect, whichever is later.

#### **207.212 WAIVER OF RIGHTS**

In compliance with 45 CFR § 164.530(h), LNRA will not require any Covered Individual to waive any of his or her rights under HIPAA's Privacy Rule (45 CFR Parts 160 and 164) in order to participate in LNRA's Health Flexible Spending Account.

#### **207.213 REFRAINING FROM INTIMIDATING OR RETALIATORY ACTS**

In compliance with 45 CFR § 164.530(g), LNRA will not retaliate against nor intimidate any Covered Individual for exercising his or her rights under HIPAA's Privacy Rule (45 CFR Parts 160 and 164).

#### **207.214 MITIGATION OF HARM**

As required by 45 CFR § 164.530(f), LNRA will mitigate, to the extent practicable, any harm caused by a Use or Disclosure of a Covered Individual's Protected Health Information that violates HIPAA's Privacy Rule (45 CFR Parts 160 and 164) or LNRA's own policies and procedures for the protection of Individually Identifiable Health Information.

#### **207.215 RESPONSIBILITIES**

Responsibility for implementation of the LNRA Board Policies and Procedures of the Protection of Individually Identifiable Health Information is shared by all LNRA employees who come into possession of Identifiable Health Information. However, certain staff and managers have special responsibilities as noted hereinbelow.

#### **207.216 GENERAL MANAGER**

The General Manager shall ensure that the provisions of these policies and procedures are followed.

#### **207.217 HUMAN RESOURCES**

LNRA's Human Resource Manager shall be responsible for the administration and coordination of these policies and procedures.

**Effective:** Amended October 17, 2007