



LEGAL ASSISTANCE FOR SENIORS

Health Insurance Counseling & Advocacy Program (HICAP)
Ensuring the independence and dignity of seniors by protecting their legal rights through
education, counseling and advocacy

Legal Assistance for Seniors' (LAS) HMIS Privacy and Confidentiality Policy

The intent of this Policy is:

1. To protect the privacy of agency clients.
2. To comply with applicable laws and regulations.
3. To insure fair information practices as to:
 - a. Openness
 - b. Accountability
 - c. Collection limitations
 - d. Purpose and use limitations
 - e. Access and correction
 - f. Data Quality
 - g. Security

STATEMENT OF POLICY:

- 1) LAS' privacy practices will comply with all applicable laws governing HMIS client privacy/confidentiality. Applicable standards include but are not limited to the following.
 - a) Federal Register Vol. 69, No. 146 (1 IMIS FR 4848-N-02) - Federal statute governing HMIS information – Friday, July 30, 2004.
 - b) HIPAA - the Health Insurance Portability Act.
 - c) 42 CFR Part 2. - Federal statute governing drug and alcohol treatment.
 - d) Alameda County-wide Continuum of Care HMIS Policy and Procedures manual.
 - e) Alameda County-wide Continuum of Care HMIS partner agency sharing agreement(s).
- 2) Use of Information: PPI (protected personal information which can be used to identify a specific client) can be used only for the following purposes:
 - a) To provide or coordinate services to a client.
 - b) For functions related to payment or reimbursement for services.
 - c) To carry out administrative functions such as legal, audit, personnel planning, oversight and management functions.
 - d) For creating de-personalized client identification for unduplicated counting.
 - e) Where disclosure is required by law.
 - f) To prevent or lessen a serious and imminent threat to the health or safety of an individual or the public.
 - g) For law enforcement purposes in response to a properly authorized request for information from a properly authorized source.
- 3) Collection and Notification: Information will be collected only by fair and lawful means with the knowledge or consent of the client.
 - a) PPI will be collected only for the purposes listed above, and entered into Alameda County HMIS.
 - b) Clients will be made aware that personal information is being collected and recorded and will be asked to express written consent to have their basic intake information shared in

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the Alameda County HMIS system.

- c) A written sign will be posted in locations where PPI is collected. This written notice will read:

"We collect personal information directly from you for reasons that are discussed in our Privacy Notice. We may be required to collect some personal information by law or by organizations that give us money to operate this program. Other personal information that we collect is important to run our programs, to improve services for homeless persons, and to better understand the needs of homeless persons. We only collect information that we consider to be appropriate.

The collection and use of all personal information is guided by strict standards of confidentiality. Our Privacy Notice is posted. A copy of our Privacy Notice is available to all clients upon request."

- d) This sign will be explained in cases where the client is unable to read and/or understand it.
- 4) Data Quality: PPI data will be accurate, complete, timely, and relevant.
- a) All PPI collected will be relevant to the purposes for which it is to be used.
 - b) Identifiers will be removed from data that is not in current use after 7 years (from date of creation or last edit) unless other requirements mandate longer retention.
 - c) Data will be entered in a consistent manner by authorized users.
 - d) Data will be entered in as close to real-time data entry as possible.
 - e) Measures will be developed to monitor data for accuracy and completeness and for the correction of errors.
 - i) LAS runs reports and queries monthly to help identify incomplete or inaccurate information.
 - ii) LAS monitors the correction of incomplete or inaccurate information.
 - iii) By the 15th of the following month all monitoring reports will reflect corrected data.
 - f) Data quality is subject to routine audit by System Administrators who have administrative responsibilities for the database.
- 5) Privacy Notice, Purpose Specification and Use Limitations: The purposes for collecting PPI data, as well as it uses and disclosures will be specified and limited.
- a) The purposes, uses, disclosures, policies, and practices relative to PPI data are to be outlined in this LAS Privacy Notice.
 - b) LAS' Privacy Notice will comply with all applicable regulatory and contractual limitations.
 - c) LAS' Privacy Notice will be made available to agency clients, or their representative, upon request and explained/interpreted as needed.
 - d) Reasonable accommodations will be made with regards to the Privacy Notice for persons with disabilities and non-English speaking clients as required by law.
 - e) PPI will be used and disclosed only as specified in the Privacy Notice, and only for the purposes specified therein.
 - f) Uses and disclosures not specified in the Privacy Notice can be made only with the consent of the client.
 - g) The Privacy Notice will be posted on the agency web site.
 - h) The Privacy Notice will reviewed and amended as needed.
 - i) Amendments to or revisions of the Privacy Notice will address the retroactivity of any changes.
 - j) Permanent documentation will be maintained of all Privacy Notice amendments/revisions.
 - k) All access to, and editing of PPI data will be tracked by an automated audit trail, and will be monitored for violations use/disclosure limitations.



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- 6) Record Access and Correction: Provisions will be maintained for the access to and corrections of PPI records.
 - a) Clients will be allowed to review their Alameda County HMIS record within 5 working days of a request to do so.
 - b) During a client review of their record, a LAS staff person must be available to explain any entries the client does not understand.
 - c) The client may request to have their record corrected so that information is up-to-date and accurate to ensure fairness in its use.
 - d) When a correction is requested by a client, the request will be documented and the staff will make a corrective entry if the request is valid.
 - e) A client may be denied access to their personal information for the following reasons:
 - i) Information is compiled in reasonable anticipation of litigation or comparable proceedings;
 - ii) Information about another individual other than the LAS staff would be disclosed,
 - iii) Information was obtained under a promise of confidentiality other than a promise from this provider and disclosure would reveal the source of the information
 - iv) The disclosure of information which would be reasonably likely to endanger the life or physical safety of any individual.
 - f) A client may be denied access to their personal information in the case of repeated or harassing requests for access or correction. However, if denied, documentation will be provided regarding the request and reason for denial to the individual and be made a part of the client's record.
 - g) A grievance process may be initiated if a client feels that their confidentiality rights have been violated, if access has been denied to their personal records, or if they have been put at personal risk, or harmed.
 - h) Any client grievances relative to the Alameda County HMIS will be processed/resolved according to LAS' grievance policy.
 - i) A copy of any client grievances relative to Alameda County HMIS data or other privacy/ confidentiality issues and agency response are forwarded to CoC staff.
 - j) If a client is unsatisfied with the resolution of their grievance at the agency level, the client may request mediation at the system level.

- 7) Accountability: Processes will be maintained to ensure that the privacy and confidentiality of client information is protected and staff is properly prepared and accountable to carry out agency policies and procedure that govern the use of PPI data.
 - a) Grievances may be initiated through LAS' grievance process for considering questions or complaints regarding privacy and security policies and practices. All users of the Alameda County HMIS must sign a User's Agreement that specifies each staff persons' obligations with regard to protecting the privacy of PPI and indicates that they have received a copy of the agency's Privacy Notice and that they will comply with its guidelines.
 - b) All staff, interns, volunteers or associates collecting PPI intended for, or viewing data generated by Alameda County HMIS must successfully complete Council-sponsored privacy and security certification training.
 - c) A process will be maintained to document and verify completion of training requirements.
 - d) A process will be maintained to monitor and audit compliance with basic privacy requirements including but not limited to auditing clients entered against signed Alameda County HMIS Consent Releases. At minimum, a quarterly Compliance Review will be conducted and documented.



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- e) A copy of any staff grievances initiated relative to privacy, confidentiality, or Alameda County HMIS data will be forwarded to CoC Staff.
- f) Regular user meetings will be held and issues concerning data security, client confidentiality, and information privacy will be discussed and solutions will be developed.
- 8) **Sharing of Information:** Basic Intake data may be shared with partnering agencies only with client approval.
 - a) All routine data sharing practices with partnering agencies will be documented and governed by the CoC MOU Agreement that defines the agency-determined sharing practice.
 - b) Resident name and social security number are viewable in Alameda County HMIS without express written consent for the purpose of searching for a client in the software. Procedures are available to not enter name and/or social security number from the searchable field.
 - c) A completed Alameda County HMIS Client Release of Information (ROI) Form is needed before information may be shared electronically.
 - i) The Alameda County HMIS release is to inform the client about what is shared and with whom it is shared.
 - ii) The client accepts or rejects the sharing plan.
 - iii) Revisions to the consent for sharing the Basic intake may be requested by the resident during the standard business hours. Changes will not be retroactive.
 - d) Clients will be informed about and understand the benefits, risks, and available alternatives to sharing their information prior to signing an ROI, and their decision to grant permission shall be voluntary.
 - e) Clients who choose not to authorize sharing of information cannot be denied services for which they would otherwise be eligible.
 - f) All Client Authorization for ROI forms related to the Alameda County HMIS will be placed in a file to be located on premises and will be made available to the CoC Staff for periodic audits.
 - g) Alameda County HMIS-related Authorization for ROI forms will be retained for a minimum period of three (3) years, after which time the forms will be discarded in a manner that ensures client confidentiality is not compromised.
 - h) No confidential/restricted information received from the Alameda County HMIS system will be shared with any organization or individual without proper written consent by the client, unless otherwise permitted by applicable regulations or laws.
 - i) Restricted information, including progress notes and psychotherapy notes about the diagnosis, treatment, or referrals related to a medical health, disabilities, mental health disorder, drug or alcohol use, HIV/AIDS, and any violence-related concerns shall not be shared with other participating Agencies without the clients written, informed consent as documented on the Agency Authorization for Release of Restricted Information Form.
 - i) Sharing of restricted information is not covered under the general Alameda County HMIS Client ROI.
 - ii) Sharing of restricted information must also be planned and documented through a fully executed Authorization for Release of Restricted Information Form.
 - j) If a client has previously given permission to share information and then chooses to revoke that permission by completing a new ROI, the Alameda County HMIS Intake will be closed to further sharing.
 - k) All client ROI forms will include an expiration date, and once a Client ROI expires, any new information entered will be closed to sharing unless a new Client ROI is signed by the client and entered in the Alameda County HMIS system.
- 9) **System Security:** System security provisions will apply to all systems where PPI is stored: agency's networks, desktops, laptops, mini-computers, mainframes and servers.



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- a) Password Access:
 - i) Only individuals who have completed Privacy and Security Certification and Software Training may be given access to the Alameda County HMIS through User IDs and Passwords,
 - ii) Temporary default passwords will be changed on first use.
 - iii) Access to PPI requires a user name and password at least 8 characters long and using at least one number and one letter.
 - iv) Passwords will not use or include the users name or the vendor name, and will not consist entirely of any word found in the common dictionary or any of the above words spelled backwards.
 - v) User Name and password may not be stored or displayed in any publicly accessible location.
 - vi) Passwords must be changed routinely.
 - vii) Users must not be able to log onto more than one workstation or location at a time.
 - viii) Individuals with User IDs and Passwords will not give or share assigned User IDs and Passwords to access the Alameda County HMIS with any other person, organization, governmental entity, business.
- b) Virus Protection and Firewalls:
 - i) Commercial anti-virus protection software will be maintained to protect all agency network systems and workstations from virus attack.
 - ii) Virus protection will include automated scanning of files as they are accessed by users.
 - iii) Virus Definitions will be updated regularly.
 - iv) All workstations will be protected by a firewall either through a workstation firewall or a server firewall.
- c) Physical Access to Systems where Alameda County HMIS Data is Stored
 - i) Computers stationed in public places must be secured when workstations are not in use and staff is not present.
 - ii) After a short period of time a password protected screen saver will be activated during time that the system is temporarily not in use.
 - iii) For extended absence from a workstation, staff must log off the computer.
- d) Stored Data Security and Disposal:
 - i) All Alameda County HMIS data downloaded onto a data storage medium must be maintained and stored in a secure location, not accessible to non-licensed users of the Alameda County HMIS.
 - ii) Data containing PPI will not be downloaded to any remote access site at any time for any reason, nor transmitted outside the physical agency by any means whatsoever.
 - iii) Data stored on a portable medium will be secured when not in use and will never be taken off site at any time for any reason.
 - iv) Data downloaded for purposes of statistical analysis will exclude PPI whenever possible.
 - iii) Alameda County HMIS data downloaded onto a data storage medium must be disposed of by reformatting as opposed to erasing or deleting. This includes hard drives.
 - iv) A data storage medium will be reformatted a second time before the medium is reused or disposed of.
- e) System Monitoring
 - i) User access to the Alameda County HMIS Live Web Site will be monitored using the computer access logs located on each computer's explorer "history" button, or via a central server report.
- f) Hard Copy Security:



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- i) Any paper or other hard copy containing PPI that is either generated by or for Alameda County HMIS including, but not limited to report, data entry forms and signed consent forms will be secured.
- ii) Agency staff will supervise at all time hard copy with identifying information generated by or for the Alameda County HMIS when the hard copy is in a public area. If the staff leaves the area, the hard copy must be secured in areas not accessible by the public.
- iii) All written information pertaining to the user name and password must not be stored or displayed in any public accessible location.
- g) Authorized Location Access:
 - i) Access to the Alameda County HMIS is allowed only from authorized agency locations.

10) Agency HMIS/ Alameda County HMIS Grievance Policy:

Because LAS is a legal services program, our relationship with clients is regulate by the Business and Professions Code and the California Rules of Professional Conduct. If you have a complaint about the legal assistance you received, or if you have a complaint that you were improperly denied assistance, or that your type of case was not taken because of LAS' governing regulations or priorities, you may bring a complaint.

To bring a complaint, you must notify the receptionist or staff person handling your case that you have a complaint to bring. You will then be given an opportunity to present your complaint to the Managing Attorney who will hear your complaint and will make a decision regarding the need for further action within one weeks' time.

If you are not satisfied with the Managing Attorney's decision, you may present your complaint to the Executive Director. The Executive Director will hear your complaint and render a decision within one weeks' time. The Executive Director's decision will be final regarding complaints brought by **applicants** for legal services. Written notification will be delivered to the complainant that will include the results of the review and a statement that the complainant may appeal to the Alameda County Area Agency on Aging if dissatisfied with the results of the review by LAS.

All complaints are confidential to protect the consumers right to privacy. Only information relevant to the complaint may be released to the responding party without the individual's consent.

If you are a **client** and you are not satisfied with the Executive Director's decision, you may bring your complaint to the Alameda County Area Agency on Aging by using their grievance form provided by LAS. If you wish, you may have (at your own expense) an attorney or other person represent you when you present your complaint.

PROCEDURES:

1. Kirsten Voyles, Leo Treggiari, Milo Beitman, Ana Smith, Jourdan Clark and any additional staff we determine to need access will have access on Alameda County HMIS.
2. The rooms where the Alameda County HMIS is being used will be controlled by LAS' HMIS trained employees.
3. Procedures for acquiring client consent.
 - i. LAS' Privacy Notice will be posted.
 - ii. The Privacy Notice will be explained at the initial client intake meeting.
 - iii. The Alameda County HMIS Consent Release of Information will be introduced and



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explained to clients at the initial client intake meeting.

- iv. The Release of Restricted Information Form will be explained to a client as needed, i.e. when disclosure of restricted information comes up.
- v. Clients will be offered a copy of the policy and the signed release(s).