



Policy and Protocols for the Use and Disclosure of Confidential Medical Information Related to COVID-19

I. Preamble

The City of Oakley implemented Temperature Testing and Screening for Symptoms Associated with COVID-19 and an Accommodation for High-risk Employees policies in order to ensure the health and safety of City of Oakley employees in accordance with the California Occupational Safety and Health Act of 1973 and its purpose to assure safe and healthy working conditions for all workers. (Labor Code § 6300, et seq.)

The City of Oakley's Temperature Testing and Screening for Symptoms Associated with COVID-19 and an Accommodation for High-risk Employees policies authorize(s) the City of Oakley to collect certain confidential Medical Information about City of Oakley employees.

II. Definitions

"Medical Information" means any Individually Identifiable information, in electronic or physical form, in possession of or obtained from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding an employee's medical history, mental or physical condition, or treatment. It also means any Individually Identifiable information collected by the City of Oakley in relation to the Temperature Testing and Screening for Symptoms Associated with COVID-19 and an Accommodation for High-risk Employees policies implemented by City of Oakley.

"Individually Identifiable" means that the Medical Information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient's name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual's identity.

III. Statement of Policy

The purpose of this policy is to safeguard confidential Medical Information in a manner compliant with the Confidentiality of Medical Information Act ("CMIA") and the

Americans with Disabilities Act (“ADA”) with respect to all Medical Information that the City of Oakley acquires during the administration of the confidential Medical Information that the City of Oakley acquires during the administration of the Temperature Testing and Screening for Symptoms Associated with COVID-19 and an Accommodation for High-risk Employees policies or obtains by other means. The City of Oakley recognizes the importance of confidentiality concerning the information at issue and will fully and faithfully comply with CMIA in its use and disclosure of such information

IV. **Authority**

The City of Oakley is authorized to conduct the Temperature Testing and Screening for Symptoms Associated with COVID-19 and provide accommodations under the authority provided for under the Temperature Testing and Screening for Symptoms Associated with COVID-19 Policy and the Accommodation for High-risk Employees Policy.

V. **Compliance**

The **City of Oakley** will fully and faithfully comply with the CMIA and ADA in the implementation and administration of this policy as well as the associated Temperature Testing and Screening for Symptoms Associated with COVID-19 and an Accommodation for High-risk Employees policies.

VI. **Policy**

Scope of Coverage:

This policy covers all Individually Identifiable Medical Information of all City of Oakley employees and applicants that the City of Oakley acquires or obtains and which relates to COVID-19, including, but not limited to, symptoms associated with COVID-19, positive COVID-19 test results, and other health or medical conditions that would place the employee at high-risk for a serious illness if the employee contracted COVID-19.

Specifically, this policy covers the following types of confidential Medical Information:

- All confidential Medical Information acquired by City of Oakley during or as a result of the administration of the City of Oakley’s Temperature Testing and Screening for Symptoms Associated with COVID-19 policy and the Accommodation for High-risk Employees policy. For example, the policy covers COVID-19 test results, temperature test results, the results of screenings for symptoms associated with COVID-19, and information regarding other medical conditions.
- All Medical Information that the City of Oakley obtains by means other than by testing administered by the City of Oakley. For example, the County Public Health

Department may inform the City of Oakley that a City of Oakley employee has tested positive or a City of Oakley employee may voluntarily disclose a positive COVID-19 diagnosis not as the result of a test administered by the City of Oakley.

- All Medical Information related to COVID-19 that the City of Oakley acquires or obtains, including, but not limited to, information about an employee's health or medical conditions that may put the employee at increased risk of serious illness should the employee contract COVID-19 as provided under the City of Oakley's accommodation policy for high-risk employees.

Effective Dates:

This policy shall be effective immediately upon adoption and shall remain in effect as long as necessary to safeguard confidential Medical Information acquired or obtained by the City of Oakley employees and as otherwise required by law.

Employee Authorization to Disclose Medical Information:

Permissible disclosures of employee Medical Information without prior written authorization from an employee are limited.

Should an employee wish to provide the City of Oakley authority to make additional disclosures of Medical Information related to COVID-19, the employee or their legal representative may authorize such disclosure using the Authorization for Disclosure and Use of Medical Information ("Authorization"), and completing each of the required fields provided therein.

An employee may also authorize the Disclosure and Use of Medical Information in a handwritten document. Such a handwritten Authorization must:

- State the specific uses and limitations on the types of Medical Information to be disclosed;
- State the name or function of the City of Oakley that may disclose the Medical Information;
- State the names or functions of the persons or entities authorized to receive the Medical Information;
- State the limitations, if any, on the use of the Medical Information by the persons or entities authorized to receive the Medical Information; and
- State a specific date after which the City of Oakley is no longer authorized to disclose the Medical Information.

Permissible Uses and Disclosures of Confidential Medical Information:

Generally, the City of Oakley may not disclose Medical Information without prior written authorization from an employee. The City of Oakley may, however use and disclose an employee's confidential Medical Information for certain public interest and benefit purposes, including, but not limited to:

- If compelled by judicial or administrative process or by any other specific provision of law.
- That part of the information which is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the City of Oakley and employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment may be used or disclosed in connection with that proceeding;
- For the purpose of administering and maintaining employee benefit plans, including health care plans and plans providing short-term and long-term disability income, workers' compensation and for determining eligibility for paid and unpaid leave from work for medical reasons;
- To a provider of health care or other health care professional of facility to aid the diagnosis of treatment of the employee, where the employee or other person authorized by law to permit disclosure of Medical Information on the employee's behalf, is unable to authorize the disclosure.

The uses and disclosures of an employee's confidential information for these purposes do not require the employee's authorization.

Further, it shall not be a violation of the Policy and Protocols for the City of Oakley to disclose information that does not contain Individually Identifiable information of an employee. For example, the City of Oakley may notify other employees that an employee has tested positive for COVID-19 so long as the City of Oakley does not disclose information that would lead others to identify that employee (e.g. their name, work location, position). In such a circumstance, it may be necessary for the City of Oakley to inform certain persons, such as the individual's supervisor, janitorial staff, that an employee has tested positive so that the City of Oakley may take appropriate steps to ensure a healthy and safe workplace for all employees.

Disclosures of Confidential Medical Information to the Employee:

Employees are entitled to access and review their medical file as maintained by the City of Oakley. The City of Oakley must disclose the confidential Medical Information contained in the employee's medical file to the employee when requested.

Reasonable Safeguards for Confidential Medical Information:

The City of Oakley employs reasonable safeguards in order to protect against and limit the incidental use and disclosure of employee's confidential Medical Information.

The City of Oakley will store Medical Information in a medical file that is separate and distinct from the employee's personnel file.

City of Oakley employees follow the following safeguards in order to limit the incidental use and disclosure of confidential Medical Information:

1. Determine who is with an employee before discussing the employee's confidential Medical Information.
2. Do not assume that an employee will permit disclosure of their confidential Medical Information to a family member or friend.
3. Request that individuals leave the room or vicinity in order to provide the employee an opportunity to object to the disclosure of their confidential Medical Information.
4. Dispose of unnecessary paper products that have protected health information in a shredder.

Limiting the Use of Confidential Medical Information:

The City of Oakley limits the use of confidential Medical Information to the "minimum necessary" amount needed to accomplish the intended purpose of the use of such information.

Limiting the Disclosures of Confidential Medical Information:

All requests for confidential Medical Information, whether routine or non-routine, are handled by the City of Oakley's Human Resources Division. All City of Oakley employees must therefore direct all requests for confidential Medical Information to the City of Oakley's Human Resources Division.

Accounting of Disclosures:

Employees are entitled to an accounting of any disclosures of their confidential Medical Information. Should an employee request an accounting of the City of Oakley's disclosures of their confidential Medical Information, the City of Oakley will provide such access in a timely manner.

Policy on Requests to Amend Confidential Medical Information:

Employees are entitled to request a true copy of an employee's authorization for the disclosure of Medical Information.

Employees are also entitled to cancel or modify an employee authorization for the disclosure of Medical Information. Employees who wish to cancel or modify an employee authorization must provide written notice to the City of Oakley. Cancellations and modifications of employee authorizations only become effective after the City of Oakley receives written notice of any such action.

Policy on Requests to Restrict Use and Disclosure of Confidential Medical Information:

Employees are entitled to request that the City of Oakley restrict the use and/or disclosure of protected health information, as outlined in Civil Code Section 56.11 (d)-(h).

If an employee has authorized disclosure of Medical Information but wishes to restrict such authorization, the City of Oakley shall communicate to the person or entity to which it discloses the Medical Information any limitations in the authorization regarding use of the Medical Information.

**POLICY & PROTOCOLS FOR THE USE DISCLOSURE OF CONFIDENTIAL
MEDICAL INFORMATION RELATED TO COVID-19**

ACKNOWLEDGEMENT OF RECEIPT

Employees shall acknowledge receipt of the City of Oakley's Notice of Privacy Practices.

Name (Printed): _____

Signature: _____

Date: _____