Cabinet for Health and Family Services

EMPLOYEE PRIVACY AND SECURITY OF PROTECTED HEALTH, CONFIDENTIAL AND SENSITIVE INFORMATION AGREEMENT

PLEASE PRINT:

Last Name, First Name, & MI Position Number Department Name

I understand that I may be allowed access to confidential information and/or records in order that I may perform my specific job duties. I further understand and agree that I am not to disclose confidential information and/or records without the prior consent of the appropriate authority(ies) in the Cabinet for Health and Family Services.

I understand that all CHFS employee positions are considered to be assigned a high-risk designation based on potential access to and viewing of various data types, including but not limited to, protected health, confidential, sensitive and personally identifiable information.

I understand that certain employee positions work-related duties involve access to or use of federal tax information and that these positions are considered to be assigned a critical-risk designation.

I understand that CHFS performs background screening and rescreens individuals periodically based on the considered risk-designation of their position and that CHFS will formally identify whether an additional background screening is required when a CHFS employee is transferred, reclassified or promoted, or their job duties are changed.

I understand that all user id/passwords to access computer data are issued on an individual basis. I further understand that I am solely responsible for all information obtained, through system access, using my user id/passwords. At no time will I allow use of my user/passwords by any other person. I understand my compliance is required, and that intentional or inappropriate use shall result in corrective or disciplinary action up to and including dismissal pursuant to KRS 18A and 101 KAR 1:345. **I understand that I should never respond to any messages asking for my password, user name or personal information and to never open or download an email attachment unless I know that the sender is legitimate**.

I understand that installing or adding equipment and/or software without express permission from the Office of Technology is prohibited.

I understand that I may be subject to civil liability and criminal penalty pursuant to federal and Kentucky law upon:

1. **The disclosure of confidential information to unauthorized persons; or**
2. **Accessing or releasing confidential information and/or records, to myself, other individuals, clients, relatives, etc., outside the scope of my assigned job duties.**

I understand that such disclosure, accessing, or releasing of confidential information would constitute a violation of this agreement and may result in disciplinary action, up to and including dismissal.

I understand all data, information, documents, etc. belong to the Cabinet and I agree not to take any information in any form from the agency upon termination of my employment.

I understand that the following is not an exhaustive list of all confidential information, but is an attempt to include most of the major examples of such information. In the event of doubts about whether certain information is covered by confidentiality requirements, I understand that I should consult my supervisor or the Office of Legal Services.

Under KRS 194A.060, all records and reports of the Cabinet which directly or indirectly identify a patient or client, or former patient or client, of the Cabinet or the Cabinet by a former name (CHR, CHS, CFC) are confidential.

Under KRS 209.140, all information regarding an adult protective service investigation is confidential.

Under KRS 216.530 all inspections of long-term care facilities shall be unannounced.

Under HIPAA, an individual's health care information must be used by the Cabinet and its employees and agents only for legitimate health purposes like treatment and payment. 45 C.F.R. § 160.101, and 160.103 et seq. and specifically §§ 164.500, 164.501, 164,502(a), 164.514 established standards for privacy of health information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Health information that must be kept private and secure is called Protected Health Information (PHI). HIPAA establishes in Federal Law the basic principle that an individual's medical records belong to that individual and, with certain exceptions, cannot be used, released or disclosed without the explicit permission of that individual or their legal guardian. This includes disclosing PHI in even casual or informal conversation not related to a legitimate health purpose (like treatment or payment) at any time whether at work or not. HIPAA gives consumers of Cabinet programs and services the right to an explanation of their privacy rights, the right to see his/her medical records (with some exceptions), the right to request corrections to these records, the right to control the release of information from their records with some exceptions, and the right to documented explanations of disclosures by the Cabinet and by others who may have access to this information. Those who violate the rules laid down by HIPAA are subject to federal penalties. For non-criminal violations of the privacy standards, including disclosures made in error, there are civil monetary penalties of $100 per violation up to $25,000 per year, per standard. Criminal penalties are imposed for violations of the statute that are done knowingly (on purpose) — up to $50,000 and one year in prison for obtaining or disclosing protected health information; up to $100,000 and up to five years in prison for obtaining or disclosing protected health information under "false pretenses;" and up to $250,000 and up to 10 years in prison for obtaining protected health information with the intent to sell, transfer or use it for commercial advantage, personal gain or malicious harm.

Under KRS 214.420 and 214.625, all information in the possession of local health departments or the Cabinet concerning persons tested for, having, or suspected of having sexually transmitted diseases, or identified in an epidemiologic investigation for sexually transmitted diseases, is strictly confidential. A general authorization for the release of medical or other information is not sufficient to authorize release of this information. Breach of this confidentiality is considered a violation under KRS 214.990(6).

Under KRS 214.181, no test results relating to human immunodeficiency virus are to be disclosed to unauthorized persons.

Under KRS 222.271 and 42 C.F.R. part 2, treatment records of alcohol and drug abuse patients are confidential and a general authorization for release of this information is ineffective.

Under KRS 216.2927, raw data used by the Kentucky Health Policy Board are confidential. This includes data, data summaries, correspondence, or notes that could be used to identify an individual patient, member of the public, or employee of a health care provider.

Under KRS 202A.091, court records relating to hospitalization of the mentally ill are confidential. Violation of the confidentiality of these records is a Class B misdemeanor under KRS 202A.991.

Under KRS 202B.180, court records related to mental retardation admissions are confidential. Violation of the confidentiality of these records is a Class A misdemeanor under KRS 202B.990.

Under KRS 210.235, all records which directly or indirectly identify any patient, former patient, or person whose hospitalization has been sought are confidential.

Under KRS 211.902, the names of individuals are not to be disclosed in connection with lead poisoning records, except as determined necessary by the Cabinet Secretary.

Under KRS 211.670, lists maintained by hospitals, and all information collected and analyzed, relating to the Kentucky birth surveillance registry (concerning birth defects, stillbirths, and high risk conditions) are to be held confidential as to the identity of the patient. Violation of this confidentiality is a Class A misdemeanor under KRS 211.991.

Under KRS 213.131, unauthorized disclosure or inspection of vital records is unlawful. Violation of the confidentiality laws for vital statistics is a Class B misdemeanor under KRS 213.991.

Under KRS 199.570, all adoption files and records are confidential and are not open to any person or entity that does not meet the requirements of KRS 199.572, except upon order of the court which entered the judgment of adoption.

Under KRS 205.175, all public assistance communications, both written and oral, generated during the course of business are confidential and privileged. KRS 205.835 prohibits the unauthorized use of information by an employee.

Under KRS 205.730(6), except for allowable disclosures, all child support information related to the location of a parent is confidential.

Under KRS 205.735, all child support information supplied by an employer is confidential.

Under KRS 205.796, no employee or agent of the Commonwealth shall divulge confidential child support records unless the disclosure is authorized in a manner prescribed by KRS 205.715 to KRS 208.800.

Under KRS 205.8465(4), no employee of the state Medicaid Fraud Control Unit, the Office of the Attorney General, the Office of the Inspector General, or the Cabinet for Health and Family Services shall notify the alleged offender of the identity of the person who in good faith makes a report required or permitted by KRS 205.8451 to 205.8483, nor shall the employee notify the alleged offender that a report has been made alleging a violation of KRS 205.8451 to 205.8483 until such time as civil or criminal proceedings have been initiated or a formal investigation has been initiated. Any information or report concerning an alleged offender shall be considered confidential in accordance with the Kentucky Open Records Law, KRS 61.870 to 61.884.

Under KRS 434.853, accessing any computer or computerized information without authorization, or causing any such access without authorization, is a Class B misdemeanor. In addition, under the Computer Fraud and Abuse Act, 18 U.S.C. Section 1030 intentionally accessing a computer without authorization or exceeding authorized access and obtains information is a misdemeanor.

Under KRS 610.340, all juvenile court records are confidential and shall not be disclosed to unauthorized persons unless ordered by a court for good cause.

Under KRS 620.050, all child protective service investigative records are confidential and shall only be released in accordance with the provisions set forth in KRS 620.050.

Under KRS 625.045, any and all records in a voluntary termination action are confidential and shall only be open to inspection with a written order or as authorized by the provisions of KRS Chapter 199.

Under KRS 625.108, any and all records in an involuntary termination action are confidential and shall only be open to inspection with a written order or as authorized by the provisions of KRS Chapter 199.

Under 7 C.F.R. 272.1 (c), all Food Stamp records are confidential and may only be used or disclosed in accordance with the provision set forth in 7 C.F.R. 272.1 (c).

Confidentiality of family planning services is required by 42 C.F.R. § 59. Section 59.11 states: “All information as to personal facts and circumstances obtained by the project staff about individuals receiving services must be held confidential and may not be disclosed without the individual’s consent, except as may be necessary to provide services to the patient or as required by law, with appropriate safeguards for confidentiality. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.” The confidentiality rules applicable to all programs or projects supported in whole or in part by federal financial assistance, whether by grant or by contract, are found at 42 C.F.R. § 50.310, which states: “Information in the records or in the possession of programs or projects which is acquired in connection with the requirements of this subpart may not be disclosed in a form which permits the identification of an individual without the individual’s consent, except as may be necessary for the health of the individual or as may be

necessary for the Secretary [of Health and Human Services] to monitor the activities of those programs or projects. In any event, any disclosure shall be subject to appropriate safeguards which minimize the likelihood of disclosures of personal information in an identifiable form."

Under 42 C.F.R. § 431.305, the following types of information relating to Medicaid applicants and recipients are confidential: "(1) Names and addresses; (2) Medical services provided; (3) Social and economic conditions or circumstances; (4) Agency evaluation of personal information; (5) Medical data, including diagnosis and past history of disease or disability; (6) Any information received for verifying income eligibility and amount of medical assistance payments (see Sec. 435.940ff). Income information received from SSA or the Internal Revenue Service must be safeguarded according to the requirements of the agency that furnished the data, and; (7) Any information received in connection with the identification of legally liable third party resources under Sec. 433.138 of this chapter." Under 42 C.F.R. 431.306, all Medicaid records of applicants and recipients may only be released in accordance with the provisions set forth in 42 C.F.R. 431.306.

Under 45 C.F.R. 205.50, all financial assistance programs' records are confidential and may only be released in accordance with the provisions set forth in 45 C.F.R. 205.50.

Under Internal Revenue Code (6103, 7213, 7213A, 7431) all federal tax information is confidential. Unauthorized inspection is punishable up to $1,000, or imprisonment of not more than one year, or both, together with the costs of prosecution. Unauthorized disclosure of Federal income tax returns or return information is a felony offense and may be punishable by a $5,000 fine, five years imprisonment, or both, plus the cost of prosecution. Regarding criminal penalties for unauthorized disclosure of Social Security Administration (SSA) data with applicable rules and regulations:

Act, 5 U.S.C. Â§ 552a (i)(1) Criminal Penalties.

- Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain **individually identifiable information** the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, **willfully discloses** the material in any manner to any person or agency not entitled to receive it, shall be guilty of a **misdemeanor** and as described below.

- Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

- Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency **under false pretenses** shall be guilty of a **misdemeanor** and fined not more than $5,000.

I understand that other types of information may also be protected by confidentiality, and that if in doubt as to confidentiality, I should not volunteer information before making certain that the information may be disclosed.

By affixing my signature to this document, I acknowledge that I have been apprised of the relevant laws, regulations, and policies concerning access, use, maintenance, and disclosure of confidential information and/or records which shall be made available to me through my employment in the Cabinet for Health and Family Services. I further agree that it is my responsibility to assure the confidentiality of all information that has been issued to me in confidence even after my employment with the agency has ended.

I have read the above, received a copy of the Cabinet's Confidentiality Policy, and understand my responsibilities.

Employee Signature	Date
Supervisor Signature	Date