

2.2.13 Handling Protected Health and Personally Identifiable Information

(a) Policy

California Department of Corrections (CDCR) California Correctional Health Care Services (CCHCS) workforce members shall remain compliant with federal and state privacy requirements for Protected Health Information (PHI) and Personally Identifiable Information (PII). PHI and PII maintained by CCHCS is private and confidential, and CCHCS workforce members shall not use or disclose PHI or PII, except as permitted or required by law, and as outlined in this policy.

(b) Responsibility

- (1) The Chief Privacy Officer is responsible for the oversight and monitoring of this procedure.
- (2) All CCHCS workforce members shall be responsible for day-to-day operations and compliance within this policy.

(c) Procedure

(1) Use and Disclosure of PHI for Non-Treatment, Payment or Health Care Operations Purposes

(A) CCHCS workforce members shall not use or disclose PHI for Non-Treatment, Payment or Health Care Operations (TPO) purposes, unless the disclosure is pursuant to a valid written authorization from the patient or the personal representative of the patient, or unless the disclosure meets an exception listed as follows:

1. California Health and Human Services Agency, California Office of Health Information Integrity, [Statewide Health Information Policy Manual \(SHIPM\)](#), Chapter 2, Section 2.1.0, Authorizations; Section 2.2.14, Treatment, Payment and Health Care Operations (TPO); or Section 2.3.0 Specially Protected Information, and is processed by a qualified Health Information Management (HIM) staff.

(2) Use and Disclosure of PHI for Treatment, Payment or Health Care Operations Purposes

(A) CCHCS workforce members shall only use or disclose PHI without patient authorization as follows:

1. For TPO activities of CCHCS patients.
2. For treatment activities of another health care provider, such as a health care provider that the primary provider is consulting with regarding a patient's care (i.e., consulting provider).
3. To another covered entity (health care organization) or health care provider for its payment activities.
4. To another covered entity for its health care operations activities, if CCHCS workforce members and the other covered entity has or had a relationship with the patient who is the subject of the PHI being requested, and the disclosure is for the following purposes:
 - a. When conducting quality assessment and improvement activities including development of clinical guidelines.
 - b. When conducting population-based activities related to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives, and related functions that do not include treatment.
 - c. When conducting responsibilities related to reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, contractor performance, health plan performance, conducting training programs in which students and trainees in areas of health care learn under supervision to practice or improve their skills, accreditation, for certification and licensing, or credentialing activities.
 - d. When conducting approved health care fraud and abuse detection or compliance by CCHCS or another federal or state agency.
5. CCHCS workforce members shall limit PHI use and disclosure to the minimum necessary amount of information required to complete the desired task pursuant to the Health Care Department Operations Manual (HCDOM), Section 2.2.4, Minimum Necessary Use and Disclosure of Protected Health Information.
6. Designated HIM staff pursuant to the HCDOM, Article 3, Section 2.3.4, Release of Information, shall process routine requests for all or a subset of patients PHI.

(3) Government/Custody/Law Enforcement Inquiries

(A) Government/Custody/Law Enforcement is not permitted to have direct access to patient records or the patient's complete health record in the same manner as health care staff. Custody staff may obtain basic, limited

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES
Health Care Department Operations Manual

information about a patient's condition to ensure appropriate safeguards for patient safety, transportation needs, and to ensure staff and institution security are maintained.

(B) Routine requests by custody for PHI shall be requested through the local HIM, and processed by designated HIM staff in accordance with the following:

1. State entities are permitted to disclose health information, without patient authorization, for any of the following specialized government functions:
 - a. Correctional institutions and other law enforcement custodial situations listed below. If the disclosure of health information is made to authorized correctional or law enforcement officials with lawful custody of the patient, and the health information is needed, according to the law enforcement official or representatives of the correctional institution, to do any of the following:
 - 1) Provide health care to the patient.
 - 2) Ensure the health and safety of the patient or other inmates as stated in the [SHIPM](#), Chapter 2, Section 2.2.13, Specialized Government Functions.
 - 3) Ensure the health and safety of officers, employees, and other individuals at the correctional institution.
 - 4) Ensure the health and safety of individuals responsible for transporting or transferring of patient from one institution, facility, or setting to another.
 - 5) Enforce the law on the premises of the correctional institution.
 - 6) Administer and maintain the safety, security, and good order of the correctional institution.
 2. State entities shall verify the identity of federal officials or correctional and law enforcement representatives (Refer to the SHIPM, Chapter 3, Section 3.1.7, Verification of Identity [Person or Entity Authentication]).
 3. State entities shall ensure only the minimum amount of health information necessary to achieve the purpose is disclosed (Refer to the SHIPM, Chapter 2, Section 2.7.0, Minimum Necessary).
 4. Accounting of disclosures. State entities shall document, track, and maintain information concerning disclosures of health information. This tracking shall document what, when, why and to whom disclosures are made (Refer to the SHIPM, Chapter 5, Section 5.1.0, Accounting of Disclosures).
 5. State entities shall disclose health information to law enforcement officials in response to the following (Refer to the SHIPM, Chapter 2, Section 2.2.6, Law Enforcement):
 - a. A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer.
 - b. A grand jury subpoena.
 - c. An administrative request, including an administrative subpoena or summons; a civil or an authorized investigative demand; or similar process authorized under law provided that:
 - 1) The information sought is relevant and material to a legitimate law enforcement inquiry.
 - 2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.
 - 3) De-identified information could not reasonably be used.
 - 4) The request, or a separate document, indicates that the requirements (Section (d)(3)(B)1. through 3. above) have been satisfied.
 - d. Identification and location purposes. State entities are permitted to disclose health information in response to a law enforcement official's written or oral requests for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person limited to the following information:
 - 1) Name and address
 - 2) Date and place of birth
 - 3) ABO blood type and Rh factor
 - 4) Social Security Number
 - 5) Type of injury
 - 6) Date and time of treatment
 - 7) Date and time of death (if applicable)
 - 8) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars and tattoos

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES
Health Care Department Operations Manual

- e. Victims of a crime. When not otherwise required by law, disclosure of health information in response to a law enforcement official's written or oral request for information about a patient who is or suspected to be the victim of a crime is permitted if:
 - 1) The patient agrees to the disclosure.
 - 2) The patient's agreement cannot be obtained because of incapacity or other emergency circumstances, provided that all of the following are met:
 - a) The law enforcement official represents that the information is needed to determine whether a violation of law by a person other than the victim has occurred, and that the information is not intended to be used against the victim;
 - b) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the patient is able to agree to the disclosure, and
 - c) The disclosure is in the best interests of the patient as determined by the entity making the disclosure.
 - 3) If it is suspected that the patient may be a victim of child abuse or neglect, elder abuse or neglect, or domestic violence (Refer to the SHIPM, Chapter 2, Section 2.2.16, Victims of Abuse, Neglect, or Domestic Violence).
 - f. Decedents. Disclosure of health information to a law enforcement official about a patient who has died if there is suspicion that death may have resulted from criminal conduct (Refer to the SHIPM, Chapter 2, Section 2.2.1, Decedents).
 - g. Crime on the premises. Disclosure of health information to a law enforcement official if there is a reasonable and honest belief that it constitutes evidence of criminal conduct.
 - h. During an emergency. If a state entity that is a covered health care provider is providing emergency health care in response to a medical emergency that is not on its own premises, then disclosure of health information is permitted to a law enforcement official if doing so appears necessary to alert the law enforcement official to:
 - 1) The commission and nature of a crime,
 - 2) The location of such crime or of the victim(s) of such crime, and
 - 3) The identity, description, and location of the perpetrator of such crime.
- (C) If the state entity believes that the medical emergency is the result of abuse, neglect, or domestic violence of the patient in need of emergency health care, refer to the SHIPM, Chapter 2, Section 2.2.16, Victims of Abuse, Neglect or Domestic Violence.

(4) External or Media Inquiries

- (A) CCHCS workforce members shall forward all media inquiries regarding the release of patient PHI or PII to the CCHCS Office of Communications at (916) 691-6714 or via email at Lifeline@cdcr.ca.gov.
- (B) CCHCS workforce members shall refer patient health care inquiries from external entities (e.g., legislative, advocacy groups) to the Health Care Correspondence and Appeals Branch (HCCAB) by emailing CCHCSHCCAB@cdcr.ca.gov. HCCAB shall provide responses to external inquiries pursuant to the HCDOM, Section 2.3.15, Headquarters Patient Health Care Inquiry Response.
- (C) Inquiries for PHI and PII are not subject to the California Public Records Act as outlined by the HCDOM, Section 5.1.2, California Public Records Act Requests.

(5) Psychotherapy Notes, HIV Test Results, Genetic Testing, Hepatitis C, Substance Use Disorder Treatment and Mental Health Reports

- (A) The use and disclosure of psychotherapy notes, HIV test results, genetic testing, Hepatitis C, substance use treatment and mental health reports are subject to further limitations pursuant to the HCDOM, Section 2.2.2, Use and Disclosure of Protected Health Information Based on Patient Authorization.
- (B) Requests for specially protected health information outlined in this section require a CDCR 7385, Authorization for Release of Protected Health Information, that includes a signature and date for each subset of the requested information.
- (C) Routine requests for specially protected health information outlined in this section require a signed Health Insurance Portability and Accountability Act (HIPAA) compliant authorization or CDCR 7385 for each request.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES
Health Care Department Operations Manual

- (D) All email and portable electronic storage media (including, but not limited to, CDs and thumb drives) containing PHI shall be encrypted when sent to entities outside the CCHCS network, pursuant to the CCHCS Information Security Office Procedure, Microsoft Office 365 Encryption Service, Dated November 17, 2017, on Lifeline, and CDCR Department Operations Manual (DOM), Chapter 4, Article 38, 47110.1-47110.8 and Article 45, 49020.2.
- (E) Various types of disclosures, such as mandated reporting or gathering statistical or population-based information, may or may not require identifying characteristics, such as name, date of birth, address, etc. For this reason, designated Health Information Management workforce members shall redact all identifying information. California Health and Human Services, Data Playbook, provides Data De-Identification Guidelines 45 C.F.R. 164.154.

(6) Access to PHI and PII of the Deceased

A written authorization, Release of Information (ROI) from the appointed legal representative is required before information may be disclosed. A signed release of information form is not valid or permitted based on a prior authorization from the patient. Exceptions to the written authorization requirement are limited to certain law enforcement, coroner, research functions, or individuals involved in or relevant to the patient's care, organ procurement, and funeral functions. All other cases require a signed ROI from the decedent's representative. Refer to 45 CFR 164.502(g)(4) for further guidelines.

(7) Health Records Procedures

Designated HIM staff, pursuant to the HCDOM Article 3, Section 2.3.4, shall perform the routine disclosure of all or part of a patient's health record, subsequent to a HIPAA compliant authorization or CDCR 7385 for each request.

(8) Use and Disclosure of PII

- (A) CCHCS PII of workforce members and inmates is private and confidential and shall be maintained securely by CCHCS. PII shall only be accessed, disclosed or obtained, as allowed or required by law.
- (B) CCHCS workforce members shall use the minimum necessary PII to conduct business in compliance with federal and state law.
- (C) CCHCS workforce members shall not use or disclose PII except as permitted or required by this policy or as otherwise permitted or required by law.
- (D) The purposes for which PII is collected shall be specified at or prior to the time of collection. Information owners and CCHCS workforce members shall not disclose, use, or make available personal information collected from individuals for purposes other than those for which it was originally collected.

(9) General Use and Disclosure of PII

- (A) CCHCS workforce members shall only disclose PII in a manner that would not link the information disclosed to the individual to whom it pertains unless the information is disclosed as follows:
 - 1. To the individual to whom the information pertains.
 - 2. With the prior written voluntary consent of the individual to whom the record pertains, when consent has been obtained, within 30 days before the disclosure, or in the time limit agreed to by the individual in the written consent.
 - 3. To the duly appointed guardian, conservator or the person legally authorized to represent the individual.
 - 4. To a governmental entity when required by federal or state law.
 - 5. As permitted or required by law.
 - 6. To a person who has provided the agency with advance, adequate written assurance that the information shall be used solely for statistical research or reporting purposes, and only if the information to be disclosed is in a form that shall not identify any individual.
 - 7. If the notification is not prohibited by law, to any person pursuant to a valid subpoena, or court order, or other compulsory legal process.
 - 8. All email and portable electronic storage media (including, but not limited to, CDs and thumb drives containing PII shall be encrypted when sent to entities outside the CCHCS network pursuant to the CCHCS Information Security Office Procedure, Microsoft Office 365 Encryption Service, Dated November 17, 2017, on Lifeline, and CDCR DOM Chapter 4, Article 38, 47110.1-47110.8 and Article 45, 49020.
 - 9. Various types of disclosures, such as mandated reporting or gathering statistical or population-based information, shall not include identifying characteristics, such as name, date of birth, address, etc. For this

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES
Health Care Department Operations Manual

reason, designated Health Information Management workforce members shall redact all identifying information. California Health and Human Services, Data Playbook, provides Data De-Identification Guidelines 45, Code of Federal Regulations, 164.154a.

(B) CCHCS workforce members shall limit PII use and disclosure to the minimum necessary amount of information required to complete the desired task.

(10) Information Collection and Minimum Necessary Use of PII

(A) Information owners shall collect the least amount of PII required to fulfill the purposes for which it is collected.

(B) Information owners shall obtain personal information only through lawful and transparent means and to the greatest extent practicable directly from the individual who is the subject of the information.

(11) Information Security and Incident Breaches

If there is an incident or breach regarding an unlawful disclosure of PHI or PII, it must be reported to the Information Security Officer immediately using an Information Security Incident Report. The instructions for reporting security incidents and the required reporting form are available on Lifeline through the following links:

<http://lifeline/ExecutiveOperations/InformationTechnology/InformationSecurity/Documents/CCHCS%20Security%20Incident%20Reporting%20Procedures.pdf>

<http://lifeline/ExecutiveOperations/InformationTechnology/InformationSecurity/Documents/CCHCS%20Information%20Security%20Incident%20Form.pdf>

(12) Training Resource: Learning Management System

CCHCS workforce members shall refer to the CCHCS Privacy Awareness Training and the Information Security Awareness Training regarding the safeguarding of data and equipment, available through the Learning Management System (LMS) at <https://www.cchcstraining.com>.

(13) Training Requirements and Contact Information

(A) Privacy Awareness and Information Security Awareness Training shall be completed for new CCHCS employees and contracted CCHCS workforce members through LMS prior to accessing PHI and PII maintained by CCHCS, and annually thereafter.

(B) Access to CCHCS systems containing PHI or PII, shall be revoked for CCHCS workforce members that do not complete the annual training.

(C) For questions or clarification, contact the Privacy Office at Privacy@cdcr.ca.gov or 1-877-974-4722.

References

- California Code of Regulations, Title 22 Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 160, Subpart A, Section 160.103 – Definitions
- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 160, Subpart A, Section 160.103 – Definitions
- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 164, Subpart E, Section 164.501 – Definitions, Section 164.502 – Uses and Disclosures of Protected Health Information: General Rules, and Section 164.506 – Uses and Disclosures to Carry out Treatment, Payment, or Health Care Operations, 164.512(f)(1) – (f)(6) – Standard: Disclosures for law Enforcement Purposes
- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 164, Subpart E, Section 164.512, Uses and Disclosures for which an Authorization or Opportunity to Agree or Object is Not Required
- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 164, Subpart E, Section 164.514, Other Requirements Related to Uses and Disclosures of Protected Health Information
- California Penal Code, Part 2, Title 12, Chapter 3.5, Sections 1543 – 1545
- California Civil Code, Division 1, Part 2.6, Chapter 2, Section 56.10
- California Civil Code, Division 3, Part 4, Chapter 1, Section 1798.24(d) – (f)
- California Health and Safety Code, 130303
- Statewide Health Information Policy Manual, Section 2.3.0, Specially Protected Information
- California Health and Human Services, California Office of Health Information Integrity, Statewide Health Information Policy Manual, Chapter 2, Section 2.1.0, Authorizations
- California Health and Human Services, California Office of Health Information Integrity, Statewide Health Information Policy Manual, Chapter 2, Section 2.2.14, Treatment, Payment and Health Care Operations (TPO)

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES
Health Care Department Operations Manual

- California Health and Human Services, California Office of Health Information Integrity, Statewide Health Information Policy Manual, Chapter 2, Section 2.3.0 Specially Protected Information.
- Health Care Department Operations Manual, Chapter 2, Article 2, Section 2.2.2, Use and Disclosure of Protected Health Information Based on Patient Authorization
- Health Care Department Operations Manual, Chapter 2, Article 2, Section 2.2.3, Enforcements, Sanctions, and Penalties for Violations of Individual Privacy
- Health Care Department Operations Manual, Chapter 2, Article 2, Section 2.2.4, Minimum Necessary Use and Disclosure of Protected Health Information
- Health Care Department Operations Manual, Chapter 2, Article 2, Section 2.2.6, Use and Disclosure of Protected Health Information: Special Exceptions
- Health Care Department Operations Manual, Chapter 2, Article 2, Section 2.2.8, De-Identification of Patient Information and Use of Limited Data Sets
- Health Care Department Operations Manual, Chapter 2, Article 2, Section 2.2.9, Business Associate Use and Disclosure of Protected Health Information
- Health Care Department Operations Manual, Chapter 2, Article 3, Section 2.3.4, Health Information Management, Release of Information
- Health Care Department Operations Manual, Chapter 2, Article 3, Section 2.3.15, Headquarters Patient Health Care Inquiry Response

Revision History

Effective: 04/2022