

**County Of San Diego
Health and Human Services Agency (HHSa)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)
Key Words: privacy, limited data set**

**SUBJECT: Limited Data Sets and De-Identification
of Protected Health Information**

**NO: HHSa- L-21
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DATE: July 27, 2007**

**REFERENCE: Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160
and 164.**

PURPOSE: To establish a process on how to prepare limited data sets (LDS) of information and how to de-identify protected health information.

BACKGROUND: County agencies designated as covered components must comply with privacy regulations promulgated under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). They must also comply with California laws and regulations pertaining to the use and disclosure of individually identifiable health information, unless such state laws and regulations are preempted by HIPAA.

HIPAA's privacy regulations outline many detailed requirements protecting the confidentiality of health information and providing individuals significant rights with respect to their health information. Compliance with these regulations is addressed in a series of County policies and procedures.

DEFINITIONS

Note: The definitions below are in compliance with HIPAA and the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule).

Designated Record Set:

1. County as Health Care Provider: Records maintained by or for the County that are used, in whole or in part, by or for the County to make decisions about individuals. This designated record set includes:
 - Patient/resident/client medical records, including images (e.g. radiology films, fetal monitor strips, electrocardiograph (EKG) tracings, electroencephalograph (EEG) tracings, imaged records of procedures, and the like); and
 - Patient/resident/client billing records.

2. County as Health Plan: Records maintained by or for the County that are used, in whole or in part, by or for the County to make decisions about individuals. This designated record set includes the following records:
 - Enrollment;
 - Payment;
 - Claims adjudication; and
 - Case or medical management systems.

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The designated record set **excludes** information compiled by the County that is not used to make decisions about specific individuals, and includes, but is not limited to, information compiled for peer review, quality assurance, and business operations.

Individually Identifiable Health Information: Information that is created or received by the County, that identifies an individual (or could reasonably be used to identify an individual) and that:

- Relates to the past, present, or future physical or mental health or condition of an individual;
- Relates to the provision of health care to an individual; or
- Relates to the past, present, or future payment for the provision of physical or mental health care to an individual

This includes demographic information (such as name, address, date of birth, sex, and race) collected from an individual.

Legal Representative: An individual's legal representative may include the following:

- Conservator of the Person – Court appointed;
- Attorney-in-Fact for Health Care – Holder of a valid Durable Power of Attorney for Health Care;
- Guardian of the Person – Court appointed;
- Parent – Unemancipated minor where the minor does not have the authority to authorize the release of records on his or her own behalf;
- Decedent's Personal Representative – Court appointed;
- Executor of a Decedent's Estate – Court appointed;
- Administrator of a Decedent's Estate – Court appointed;
- Personal Representative – Court appointed; or
- Beneficiary of a Decedent's Estate – Must provide adequate documentation that the person is a beneficiary of the decedent's estate and that no other person has the authority to prevent the release of the PHI.

Note: This policy uses the term "legal representative." That term is meant to be synonymous with the Privacy Rule term "personal representative." This policy uses the term "legal representative" because the term "personal representative" has a separate and distinct legal meaning under California law.

Protected Health Information (PHI): Individually identifiable health information that is transmitted or maintained electronically or by any other medium. PHI does not include educational records of students maintained by federally funded educational agencies or institutions or persons acting for these agencies or institutions. PHI also does not include

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records of (1) students who are 18 years or older or are attending post-secondary educational institutions, (2) maintained by a physical or mental health care provider, (3) that are made, maintained, or used only in connection with the treatment of the student, and (4) that are not available to anyone, except a health care provider or appropriate professional reviewing the record as designated by the student.

POLICY: In compliance with state and federal laws and regulations, the County may use or disclose PHI without patient authorization if it is disclosed as part of a limited data set or de-identified as set forth in the policy and procedure.

PROCEDURES:

1. Limited Data Sets

- a. The County may use or disclose a limited data set that meets the requirements of sections 2 and 3 of this policy and procedure if the County enters into a data use agreement with the limited data set recipient as set forth in section 4 of this policy and procedure.
- b. A limited data set is PHI that **excludes** the following direct identifiers of the individual or of relatives, employers, or household members of the individual:
 - i. Names;
 - ii. Postal address information, other than town or city, State, and zip code;
 - iii. Telephone numbers;
 - iv. Fax numbers;
 - v. Electronic mail addresses;
 - vi. Social security numbers;
 - vii. Medical record numbers;
 - viii. Health plan beneficiary numbers;
 - ix. Account numbers;
 - x. Certificate/license numbers;
 - xi. Vehicle identifiers and serial numbers, including license plate numbers;
 - xii. Device identifiers and serial numbers;
 - xiii. Web Universal Resource Locators (URLs);
 - xiv. Internet Protocol (IP) address numbers;
 - xv. Biometric identifiers, including finger and voice prints; and
 - xvi. Full face photographic images and any comparable images.
- c. A limited data set may **include** the following identifiers:
 - i. All elements of dates; and
 - ii. Geographic elements of town, city, and full zip code

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- d. Permitted purposes for uses and disclosures.
- i. The County may use or disclose a limited data set only for the purposes of research, public health, or health care operations.
 - ii. The County may use PHI to create a limited data set that meets the requirements of this policy and procedure, or disclose PHI only to a business associate for such purpose, whether or not the limited data set is to be used by the County.
- e. Data use agreement: The County may use or disclose a limited data set only if it obtains satisfactory assurance, in the form of a data use agreement that is approved by County Counsel. The data use agreement will include the following:
- i. The permitted uses and disclosures of such information by the LDS recipient;
 - ii. The requirement that the LDS recipient may not use or further disclose the PHI in a manner that would violate HIPAA requirements if done by the County;
 - iii. The identity of those permitted to use or receive the LDS; and
 - iv. The requirement that the recipient will:
 - Not use or further disclose the information in the LDS except as permitted by the data use agreement or as required by law;
 - Use appropriate safeguards to prevent use or disclosure in any way other than what is permitted in the data use agreement;
 - Report to the County any use or disclosure of information in the LDS that is not permitted by the data use agreement;
 - Ensure that any agents, including subcontractors, to whom the recipient provides the LDS, agrees to the same restrictions and conditions that apply to the LDS recipient; and
 - Not identify the information in the LDS or contact the Individuals whose PHI is contained in the LDS.

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2. De-Identification

- a. Health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual is not individually identifiable health information.
- b. The County may determine that health information is not individually identifiable health information only if:
 - i. A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable:
 - Applying such principles and methods, determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is a subject of the information. Prior to releasing health information based upon this statistical finding, the individual or program seeking to use or disclose the health information must obtain the written approval of the County of San Diego's Privacy Officer; and
 - Documents the methods and results of the analysis that justify such determination; or
 - ii. The following procedures are followed:
 - The following identifiers of the individual or of relatives, employers, or household members of the individual, are removed:
 - (1) Names;
 - (2) 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 publicly available data from the Bureau of the Census:
 - The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and
 - The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.
 - (3) All elements of dates (except year) for dates directly related to an 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;
 - (4) Telephone numbers;
 - (5) Fax numbers;
 - (6) Electronic mail addresses;
 - (7) Social security numbers;
 - (8) Medical record numbers;

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- (9) Health plan beneficiary numbers;
- (10) Account numbers;
- (11) Certificate/license numbers;
- (12) Vehicle identifiers and serial numbers, including license plate numbers;
- (13) Device identifiers and serial numbers;
- (14) Web Universal Resource Locators (URLs);
- (15) Internet Protocol (IP) address numbers;
- (16) Biometric identifiers, including finger and voice prints;
- (17) Full face photographic images and any comparable images; and
- (18) Any other unique identifying number, characteristic, or code, except as permitted by paragraph (c) of this section; and

- The County 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.
- c. The County may assign a code or other means of record identification to allow information de-identified under this section to be re-identified by the County, provided that:
- i. The code or other means of record identification is not derived from or related to information about the individual and is not otherwise capable of being translated so as to identify the individual; and
 - ii. The County does not use or disclose the code or other means of record identification for any other purpose, and does not disclose the mechanism for re-identification.

QUESTIONS/INFORMATION: Privacy Officer of the County of San Diego

SUNSET DATE: This policy will be reviewed for continuance by July 27, 2010.

Approved: _____


Jean M. Shepard, Director
Health and Human Services Agency