

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

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)
Key Words: privacy, restrictions, use, disclosure**

**SUBJECT: Requests For Restriction of Uses &
Disclosures For Treatment, Payment,
& Healthcare Operations**

**NO: HHS-L-4
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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 to respond to individuals (patients/residents/clients) or their legal representatives who request restrictions on the uses and disclosures of the individuals protected health information for treatment, payment, and healthcare operations.

BACKGROUND: County departments 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).

Health Care Operations: Any of the following activities:

- Internal performance improvement activities, excluding research;
- Reviewing the competence or qualifications of health care professionals;
- Underwriting, premium rating, and other activities related to health insurance contracting;
- Medical review, legal services, and auditing;
- Business planning and development; or
- Business management and general administrative activities.

Individually Identifiable Health Information: Information that is created or received by the County, 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 health care to an individual.

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

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Payment: Activities undertaken to obtain or provide reimbursement for health care services, including:

- Billing, claims management, and collection activities;
- Review of health care services for medical necessity, coverage, appropriateness, or charge justification; or
- Utilization review activities.

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 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.

Treatment: Provision, coordination, or management of health care and related services by one or more health care providers, including:

- Management of care by a provider with a third party;
- Consultation between health care providers relating to a individual;
- Referral of a individual from one provider to another

POLICY: Individuals or their legal representatives will be permitted to request restrictions on uses and disclosures of their PHI that is contained within the designated record set. The County is not required to agree to these restrictions, but will consider all requests and may agree to those it can reasonably accommodate.

PROCEDURES:

1. Permitted requests

An individual may request restrictions on the use or disclosure of PHI in a designated record set maintained by the County. Such restrictions may include the use and disclosure of information for treatment, payment, and healthcare operations, as well as withholding of information from family or friends involved in the individual's care. A determination to restrict uses or disclosures must be made very carefully to ensure that the request can be met.

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2. Form of requests

All requests for restrictions must be in writing, using the County form "Request for Restrictions on Use or Disclosure of Protected Health Information."

3. Approval process

Requests for restrictions must be referred to the supervisor, manager or chief responsible for records in the facility/unit/program ("records manager"). The records manager will review the request with the County of San Diego Privacy Officer before a final decision is made to grant or deny the request.

4. Granting the restriction

The records manager, in consultation with the County Privacy Officer, must ensure that the request can be met and that the designated record set is flagged in accordance with County procedures. The County may inform others of the existence of a restriction, when appropriate, as long as it does not result in the disclosure of the restricted information. A restriction is only binding on the covered component of the County (and its business associates as necessary and appropriate) and is not binding on other entities to which information may be further disclosed.

5. Denying the restriction

If the records manager, in consultation with the County Privacy Officer, determines that the facility/program/unit is not able to meet the request and provide the level of restriction requested by the individual, he/she must notify the individual of the denial in writing, following the County's standard format for "Denial of Request for Restrictions."

6. Required documentation and retention

The records manager must document the response on the individual's written request and file the request and any written correspondence with the individual's medical or billing record.

7. Terminating a restriction

The County may terminate its agreement to a restriction, if:

- The individual agrees to or requests the termination in writing;
- The individual orally agrees to the termination and such agreement is documented; or

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- The County informs the individual that it is terminating its agreement to a restriction, except that such termination is only effective with respect to PHI created or received after it has so informed the individual.

8. Medical emergencies

An agreed-upon restriction may only be broken in a medical emergency. If restricted information is given to another provider for use in emergency treatment, the other provider must be asked to not further use or disclose the information.

9. Uses or disclosures to which restrictions are not applicable:

Restrictions do not apply to the following uses or disclosures:

- Disclosures to the Secretary of the United States Department of Health and Human Services allowed or required by law (see Policy HHSa-L-7, Disclosures to the Secretary of the United States Department of Health and Human Services);
- Inclusion in the facility directory (see Policy HHSa-L-11, Facility Directories);
- For certain public health activities (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For reporting abuse, neglect or domestic violence (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For health agency oversight activities (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For judicial or administrative proceedings (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For disclosures for law enforcement purposes (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For certain disclosures about decedents (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For certain cadaveric organ, eye or tissue purposes (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For certain research activities (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For certain workers compensation related activities (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);

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- For certain military or veterans activities (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For certain national security and intelligence activities (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For protective services for the President and others (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For medical suitability determinations; and
- For certain eligibility functions relating to government programs providing public benefits (see Policy HHSa-L-13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required).

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