

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

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

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**SUBJECT: Use & Disclosure of Protected Health Information to Carry Out Treatment, Payment, and Health Care Operations**

**NO: HHSa-L-8**  
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**DATE: July 27, 2007**

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

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**PURPOSE:** To establish a policy on the use and disclosure of an individual's (patient's/resident's/client's) protected health information (PHI) for treatment, payment, and health care operations.

**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).*

*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; and
- 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.

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

*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;
- Utilization review activities.

*Protected Health Information (PHI):* Individually identifiable health information that is transmitted or maintained by electronic or 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.

*Psychotherapy Notes:* Notes recorded in any medium by a mental health professional documenting or analyzing the contents of conversations during a private, joint, family, or group counseling session that are filed separately from the rest of the individual's medical record.

Psychotherapy notes **exclude:**

- Medication prescription and monitoring records;
- Counseling session start and stop times;
- Modalities and frequency of treatment;
- Results of clinical tests; and
- Summaries of diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

*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; or
- Referral of an individual from one provider to another.

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**POLICY:** In compliance with state and federal laws and regulations, the County will permit use and disclosure of PHI for treatment, payment, or health care operations. Since these uses and disclosures are permitted under federal and state privacy laws, no consent or authorization from the individual (patient/resident/client) is needed. Special procedures, however, do apply to psychotherapy records and notes.

The County will not condition the provision of treatment to an individual on signing an authorization except for research-related treatment.

**PROCEDURES:**

1. County Use and Disclosure

- The County will use or disclose PHI for its own treatment, payment, or health care operations.
- The County will disclose PHI for treatment activities of a health care provider.
- The County will disclose PHI to another covered entity or a health care provider for the payment activities of the entity that receives the PHI.
- The County will disclose PHI to another covered entity for health care operation activities of the entity that receives the PHI, if each entity either has or had a relationship with the individual who is the subject of the PHI being requested, the PHI pertains to such relationship, and the disclosure is:
  - o For the purpose of:
    - i. Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating 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;
    - ii. Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care professionals, accreditation, certification, licensing, or credentialing activities; or

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- o For the purpose of health care fraud and abuse detection or compliance.
2. Special Procedures Relating to Psychotherapy Records
- Federal and state law provides special protections to psychotherapy records and notes.  
(See Policy HHSa-L-10, Use and Disclosure of Psychotherapy Notes.)
3. Accounting of Disclosures
- In compliance with federal regulations, uses and disclosures of PHI for treatment, payment, and health care operations will **not** be included in any accounting of disclosures provided to the individual or his/her legal representative.

**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