

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

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

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**SUBJECT: Facility Directories**

**NO: HHSA-L-11**

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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 process for providing the opportunity for individuals (patients/residents/clients) or their legal representatives to object to having their names included in the facility directory.

**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 the HIPAA and the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule).*

*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 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;

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- 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 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 will use allowable PHI to maintain necessary facility directories. Individuals will be given an opportunity to object to having their names included in the facility directory, and where appropriate, the County will address the objection as set forth in this policy and procedure.

**PROCEDURES:**

1. Permitted Uses and Disclosures for Facility Directories

- a. Except as set forth in Sections 2 and 3 of this procedure, the County may use the following PHI to maintain a directory of individuals in a County facility:
  - The individual's name;
  - The individual's location in the facility;
  - The individual's condition described in general terms that does not communicate specific medical information about the individual; and
  - The individual's religious affiliation.

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b. Except as set forth in Sections 2 and 3 of this procedure, the County may disclose the directory and the PHI contained therein as follows:

- To Members of the Clergy; and
- Except for religious affiliation, to other persons who ask for the individual by name.

**2. An Individual's Opportunity to Object**

The County will inform individuals of the PHI that it may include in a directory and the persons to whom it may disclose such information (including disclosures to clergy of information regarding religious affiliation) and provide the individual with the opportunity to restrict or prohibit some or all of the uses or disclosures permitted by Section 1 of this procedure.

**3. Disclosures in Emergency Circumstances**

If the opportunity for individuals to object to uses or disclosures as set forth in Section 2 of this procedure cannot practicably be provided because of an individual's incapacity or an emergency treatment circumstance, the County may use or disclose some or all of the PHI permitted by Section 1 of this procedure for the facility's directory, if such disclosure is:

- a. Consistent with a prior expressed preference of the individual, if any, that is known to the County facility; and
- b. In the individual's best interest as determined by the County, in the exercise of professional judgment.

If a use or disclosure is made under the emergency provisions of this procedure, the County facility must inform the individual or his or her legal representative and provide that person with an opportunity to object to uses or disclosures for directory purposes as required by Section 2 of this procedure, when it becomes practicable to do so.

**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