

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

**SUBJECT: Legal Authority for  
Privacy Decisions**

**NO: HHSA-L-27**

**PAGE: 1 of 2**

**DATE: July 2, 2025**

**REFERENCE:** Health Insurance Portability and Accountability Act; California Probate Code 4711; California Penal Code 11165; California Family Code 6924 – 6928.

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**POLICY:** HHSA programs will ensure the appropriate individual is making decisions related to the privacy of Protected Health Information (PHI). The individual authorized to consent to health care services maintains the rights to the associated PHI.

1. Such decisions lie with the individual, when they are either a competent adult or a minor authorized by state law to control their PHI, including when the minor is:
  - a. Married or previously married.
  - b. Self-sufficient (15 years or older, not living at home, manages own financial affairs).
  - c. Not married, but treatment is related to pregnancy or pregnancy termination (but does not include sterilization).
  - d. On active duty with the armed forces; OR
  - e. The minor is receiving treatment for any of the following:
    - i. (12+) A reportable communicable disease or condition.
    - ii. (12+ with maturity) Outpatient mental health.
    - iii. (12+) Alcohol or drug use
    - iv. (All ages) Rape or sexual assault.
- Note:** Minors who meet consent criteria for specific services retain the right to control their own PHI for those services, regardless of parental involvement.*
2. A parent or legal guardian may make decisions on behalf of a minor child if the minor child is not authorized under applicable state law (above) to control their PHI; or
3. Decision making is held by the individual's legal representative, including a designated Power of Attorney for Health Care, if the individual is deceased or lacks the ability to make decisions on their own behalf.
4. An individual may designate a health care surrogate to make health care decisions by personally informing the County program providing health care. Unless otherwise specified, a surrogate designation is only effective during the course of treatment or for 60 days, whichever is shorter.

**PROCEDURES:** See related procedures and forms at [www.cosdcompliance.org](http://www.cosdcompliance.org).

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**RESPONSIBILITIES:** Privacy laws and regulations, such as the Health Insurance Portability and Accountability Act (HIPAA), outline requirements regarding an individual's rights to their protected information. Various State laws further define the legal authority pertaining to protected information. Compliance with these regulations is addressed in a series of agency policies and procedures maintained by Business Assurance and Compliance.

**DEFINITIONS:** See HHSA Policy L-30 Privacy Definitions.

**QUESTIONS/INFORMATION:** Please contact HHSA Business Assurance and Compliance by email at [Compliance.HHSA@SDCounty.ca.gov](mailto:Compliance.HHSA@SDCounty.ca.gov) or by phone at (619) 237-8571.

Approved: \_\_\_\_\_



Christy Carlson  
Director  
Business Assurance & Compliance