

Mono County Privacy Policies

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**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	INDIVIDUAL ACCESS TO PROTECTED HEALTH INFORMATION IN THE DESIGNATED RECORD SET	POLICY NUMBER	1
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 6

Purpose

To establish a process for the employees of the County of Mono (hereinafter "the County") to handle requests from individuals (patients, residents, or clients) or their legal representatives to access or obtain copies of protected health information in designated record sets.

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.

Both California and federal law provide individuals significant rights with respect to accessing their health information.

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:
 - 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);
 - Patient/resident/client billing records; or
 - Records used, in whole or in part, by or for the County to make decisions about individuals.
2. County as Health Plan: Records maintained by or for the County that are for:
 - Enrollment;
 - Payment;
 - Claims adjudication;
 - Case or medical management systems; or
 - Records used, in whole or in part, by or for the County to make decisions about individuals.

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:

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- 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 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. PHI does not include employment records held by County in its role as an employer.

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.

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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.

Policy

In compliance with state and federal laws and regulations, individuals or their legal representatives will be given the opportunity to access and obtain a copy of their PHI in the designated record set with the following exceptions.

Exceptions to right of access:

Individuals or their legal representatives do **not** have the right to access or obtain copies of:

- Information compiled in reasonable anticipation of or for use in civil, criminal, or administrative actions or proceedings;
- Information subject to prohibition by the Clinical Laboratory Improvements Act (CLIA);
- Information that is not part of the designated record set;
- Information in the form of psychotherapy notes;
- PHI created or obtained by a covered health care provider in the course of research that includes treatment, if the individual had agreed to the denial of access when consenting to participate in the research that includes treatment and the health care provider has informed the individual that the right of access will be reinstated upon completion of the research;
- The access is requested by or on behalf of an inmate of a correctional institution, where the covered entity is the correctional institution or a covered health care provider acting under the direction of the correctional institution, and providing such access would jeopardize the health, safety, security, custody or rehabilitation of the inmate or other inmates, or the safety of any officer, employee, or other person at the correctional institution or person responsible for transporting the inmate;
- The records are subject to the Privacy Act, 5 U.S.C. 553a, and the denial of access is allowable under that law; or
- The PHI was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would be reasonably likely to reveal the source of the information.

Procedure

1. Requests for Access

To review or obtain a copy of PHI in the designated record set, an individual or his or her legal representative must submit a written request that includes all required elements for a valid authorization. This may be done by completing the County's form entitled "Request for Access and Copy of Protected Health Information" or through use of another acceptable form submitted

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by the individual or his or her legal representative. In the event an individual's legal representative seeks to review or obtain a copy of the PHI in the designated record set, the legal representative must explain in the written request what information is needed and how it is relevant to his or her duties as the legal representative of the individual.

Original records must be reviewed during normal business hours in the appropriate County facility. Reviews must be done under the direct observation of a member of the County's staff. Individuals reviewing records must provide picture or other adequate identification on request.

2. Timely Action

The County must act on a request to inspect PHI in the designated record set within five (5) working days of receipt of the written request. The County must act on a request to obtain copies of PHI in the designated record set within fifteen (15) calendar days of receipt of the written request or within thirty (30) days of receipt of the written request if accompanied by a request for a fee waiver as provided in Policy #20 of this manual (Clerical and Copy Fees for Protected Health Information). Individuals will be given a written notice that their request to review or obtain copies of their records has been granted.

If the records have been destroyed in accordance with the County's record retention policies, the program/unit manager or his designee will give the individual a written statement explaining why the request cannot be fulfilled.

3. Form of Access

The County will provide a legible paper copy of the portions of the record(s) requested, and in situations where the records are requested by an individual's legal representative, only those records requested and relevant to the person's duties as legal representative of the individual will be provided. Online access will not be provided for computer-based records. Images will be provided on paper printouts or film copies, as appropriate.

A summary format may be provided if the individual or his or her legal representative agrees in writing to accept a summary and pays the fees required for preparing it. The summary must be provided to the individual within ten (10) working days of the request. If additional time to prepare the summary is needed because the individual has been discharged from a County facility within the past ten (10) calendar days or the record is of extraordinary length, the County shall notify the individual of the reason for the delay and the date on which the summary will be provided. In no event will the summary be provided more than thirty (30) calendar days after the request was received.

4. Copy Fees

No fees will be charged to individuals or their legal representatives for retrieving or reviewing records. Fees will be charged for making copies in accordance with the County's fee schedule. (See Policy #20, Clerical and Copy Fees for Protected Health Information.)

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An individual who does not have the ability to pay may be given copies of records in the designated record set upon providing proof of economic need. Such proof may include, but is not limited to, participation in the state Medi-Cal or charity care programs. The manager of the program/unit releasing the information or designee may make this determination, based on information provided by the individual or his legal representative.

The individual or his or her legal representative shall be entitled to copy, at no charge, the relevant portion of the individual's records upon presenting to the County a written request and proof that the records are needed to support an appeal regarding eligibility for one of the following public benefit programs: Medi-Cal, social security disability benefits, Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled. The phrase "relevant portion of the individual's records" means those records regarding services rendered to the individual during the time period beginning with the date of the individual's initial application for public benefits up to and including the date that a final determination is made by the public benefits program with which the individual's application is pending. The individual is entitled to one free copy of the records. Additional copies will be charged as set forth in this policy and procedure.

5. Denial of Access

Individuals or their legal representatives may be denied access to the records under certain circumstances, as outlined below. If the County denies access to some information in the designated record set, it must make other information available if it does not have grounds to deny access to that information.

Reviewable Grounds for Denial: The County may deny an individual's access, provided the individual is given a right to have the denial reviewed, in the following circumstances:

- A licensed healthcare professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person;
- The PHI makes reference to another person (unless the other person is a healthcare provider) and a licensed healthcare professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to the other person; or
- The request for access is made by the individual's legal representative, and a licensed healthcare professional has determined, in the exercise of professional judgment, that the provision of access to such representative is reasonably likely to cause substantial harm to the individual or another person.

If access is denied on these grounds, the individual has the right to have the denial reviewed by a licensed healthcare professional designated by the County who did not participate in the original decision. The County must provide prompt, written notice of the reviewer's decision to the individual and must comply with the reviewer's decision.

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Unreviewable Grounds for Denial: The County may deny an individual access without providing an opportunity for review if:

- The PHI is exempted from the right of access as described in the paragraph entitled "Exemptions to right of access" above;

Written Notice:

When access is denied, The County will provide individuals with timely, written notice of the denial. This notice must be in plain language and include the following:

- The basis for the denial;
- A statement of the individual's right to request a review (for reviewable grounds of denial); and
- A description of how the individual may complain to the County or the U.S. Department of Health and Human Services.

The County will provide written notice by using these form letters:

- Reviewable Denial of Access to Protected Health Information
- Unreviewable Denial of Access to Protected Health Information

6. Required Documentation

The County must document and retain the following:

- The designated record set subject to individual access; and
- The titles of the persons or offices responsible for receiving and processing requests for access by individuals. This information will be provided to the County's Privacy Officer and will be updated as necessary.

All correspondence and associated documentation related to individual access, including denials, must be maintained for six (6) years as required by federal regulation.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 65, No. 250, December 28, 2000 at 82823-82824.

California Health and Safety Code sections 123110(a) and (b), and 123130(a).

COUNTY OF MONO PRIVACY POLICIES

SUBJECT: REQUEST FOR AMENDING PROTECTED HEALTH INFORMATION

POLICY
NUMBER **2**

AUTHORITY: 45 CFR SECTION 164.526

EFFECTIVE DATE: APRIL 14, 2003

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Purpose

To establish a policy regarding requests to amend protected health information that meets HIPAA requirements.

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.

Under both state and federal law, individuals are provided with significant rights with respect to their health information, including the right to request amendment to or to add addendums to their own health information.

Definitions

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

Designated Record Set:

2. County as Health Care Provider: Records maintained by or for the County that are:
 - 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);
 - Patient/resident/client billing records; or
 - Records used, in whole or in part, by or for the County to make decisions about individuals.

3. County as Health Plan: Records maintained by or for the County that are for:
 - Enrollment;
 - Payment;
 - Claims adjudication;
 - Case or medical management systems; or
 - Records used, in whole or in part, by or for the County to make decisions about individuals.

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
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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 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 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. PHI does not include employment records held by County in its role as an employer.

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

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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.

Policy

In compliance with the federal Privacy Rule, individuals will be given the opportunity to request that amendments be made to their PHI. In compliance with state law, individuals may attach a written addendum to their health records if the individual believes those records are incomplete or incorrect. This right applies to PHI in a designated record set for as long and the information is maintained in the designated record set.

Procedure

1. Request for Amendment

An individual must submit the request in writing and give a reason in support of the requested amendment. This may be done by completing the County's form entitled "Request for Modification/Amendment of Protected Health Information" or through use of another acceptable format submitted by the individual.

2. Timely Review

The County shall inform the individual who requests that an amendment be made to his or her PHI of the requirements for properly making such a request. The County shall respond no later than sixty (60) calendar days after the request is received. This deadline may be extended for no more than thirty (30) calendar days by providing the individual with a written statement of the reason for the delay and the date on which the County will complete its action. Any notice that the County will take longer than sixty (60) calendar days to respond must be provided to the individual within sixty (60) calendar days of receiving the request.

3. Grounds for Denial of Amendment

The County may deny an individual's request for an amendment to his or her PHI as follows:

- The PHI was not created by the part of the County subject to the Privacy Rule. The information may be amended, however, if the individual provides a reasonable basis on which to believe that the originator of the PHI is no longer available to act on the requested amendment.

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- The PHI is not part of the designated record.
- The PHI would not otherwise be available to the individual for inspection. (See Policy # 1, Individual Access to Protected Health Information in the Designated Record Set.)
- The PHI that the individual has asked to be amended is accurate and complete.

4. Amending or Identifying Request and Notice to Individual

The County will inform the individual whether the amendment has been accepted or denied.

- If accepted in whole or in part, the County will do the following:
 - o Identify the records that are affected by the amendment and append or otherwise provide a link to the location of the amendment.
 - o Seek the individual's agreement to have the amended information shared with and then make reasonable efforts to provide a copy of the amendment within a reasonable time to the following:
 - i. Persons or entities identified by the individual as having received the PHI and as needing the amendment; and
 - ii. Persons or entities that the County knows have the PHI that is subject to amendment.
- If denied in whole or in part, the County must give the individual a statement of denial written in plain language. The written denial must include:
 - o The basis of denial as allowed under Section 3 of this Policy and Procedure, "Grounds for Denial of Amendment";
 - o A statement that the individual may submit a written statement of reasonable length disagreeing with the denial and explaining how the individual may file that written statement;
 - o How the individual may make a complaint; and
 - o A statement that, if the individual does not submit a statement of disagreement, the individual may request that the County provide the individual's request for amendment and the denial with any future disclosures of the PHI that is the subject of the amendment request.
- If an individual has requested an amendment to his or her PHI and when providing that PHI to other persons or entities in the future, the County may prepare and place in the designated record along with the individual's written statement a rebuttal

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statement to the individual's statement. The County shall provide a copy of the rebuttal statement to the individual who submitted the statement of disagreement.

5. Future Disclosures of Amendment Information

In the event an individual has requested an amendment to his or her PHI and when the County provides that PHI to other persons or entities in the future, the County will provide either the information included in the designated record pertaining to the amendment request (e.g. amended record, individual's written statement of disagreement and County's rebuttal, or individual's request and County's denial), or at the County's election, an accurate summary of information relating to the requested amendment.

6. Notice to County by Other Entities of Amended PHI

If a part of the County that is subject to the Privacy Rule is informed by another covered entity of an amendment to an individual's designated record, the County must identify the records that are affected by the amendment and append or otherwise provide a link to the location of the amendment.

7. Documentation

The County must document and retain the titles of the persons or offices responsible for receiving and processing requests for amendments by individuals. This information will be provided to the County's Privacy Officer and will be updated as necessary.

All correspondence and associated documentation related to amendments, including denials, must be maintained for six (6) years as required by federal regulation.

8. Right to an Addendum

Under California law, and notwithstanding the above-described right to request amendment, any adult patient may provide his or her health care provider with a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item in the patient's record and shall clearly indicate in writing that the patient wishes the addendum to be made a part of his or her record.

The health care provider shall attach the addendum to the patient's records and shall include that addendum whenever the health care provider makes a disclosure of the allegedly incomplete or incorrect portion of the patient's records to any third party.

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REFERENCES

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

California Health and Safety Code Section 123111.

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SUBJECT:	ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION	POLICY NUMBER	3
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 6

Purpose

To ensure that the County of Mono (hereinafter "the County") responds appropriately to individuals who request an accounting of the disclosures of their 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 the 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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Definitions (cont'd.)

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. PHI does not include employment records held by County in its role as an employer.

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 a individual from one provider to another.

Policy

The County will track disclosures of PHI, as required by federal regulations, and provide accountings of such disclosures to individuals upon request.

The following disclosures of an individual's PHI do **not** have to be tracked or accounted for if the disclosure was an appropriate disclosure within one of the following areas:

- Disclosures made for treatment, payment, or other health care operations (see Policy # 4, Use and Disclosure of Protected Health Information to Carry Out Treatment, Payment and Health Care Operations);
- Disclosures made to the individual about the individual (see Policy # 1 Individual Access to Protected Health Information in the Designated Record Set);
- Disclosures authorized by the individual (see Policy # 9, Authorization for Use and Disclosure of Protected Health Information);
- Disclosures made for national security or intelligence purposes (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Disclosures to correctional institutions or law enforcement officials for individuals who were imprisoned or in police custody (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);

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- Disclosures made prior to April 14, 2003;
- Disclosures that do not identify individuals (see Policy # 21, Limited Data Sets and De-identification of Protected Health Information);
- Disclosures that are part of a limited data set (see Policy # 21, Limited Data Sets and De-identification of Protected Health Information); and
- Disclosures that are incidental to another permitted use or disclosure.

The following disclosures of PHI will be tracked by the County for accounting purposes:

- Disclosures that are required by law (including reports of suspected adult abuse/neglect, suspected child abuse/neglect, domestic violence, communicable diseases, animal bites, and disclosures relating to workers' compensation and to law enforcement) (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Disclosures for judicial or administrative proceedings (including responses to subpoenas and court orders) (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required); and
- Disclosures made for research, unless authorized by the individual or his legal representative (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required).
- Disclosures made for public health activities (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required).

Simplified accounting procedures may be used in cases involving 50 or more records when an Institutional Review Board (IRB) or Privacy Board has waived the requirement for the individual's authorization.

Procedure

1. Contents of Accounting

The accounting will be in writing and include the following information for each disclosure:

- Date of the disclosure;
- Name of the person or entity who received the PHI and the address, if known;
- A brief description of the PHI disclosed; and
- A brief statement of the purpose for the disclosure. (In lieu of a statement, the County may, at its option, provide a copy of the written request for disclosure.)

Unless otherwise specified in the request for an accounting, all disclosures within the previous six (6) years for which the County must account will be provided in the accounting. If the individual asks for an accounting covering a period of less than the previous six (6) years, the County will provide an accounting as appropriate.

2. Handling Requests for Accounting

All requests for accountings for disclosure will be handled through the program/unit's Health
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Information Management or similar function. Disclosures for which an accounting must be made will be recorded into the program/unit's computer database or by using the County's form "Mono County Disclosures of Protected Health Information" for each disclosure. These records will be maintained for at least six (6) years from the date of the disclosure.

3. Fees

The first accounting in any 12-month period will be provided without charge. The actual cost incurred by the County will be charged for each subsequent accounting requested during the 12-month period. The County, however, will inform the individual in advance of the fee and provide the individual with an opportunity to withdraw or modify the request for the subsequent accounting so that the individual may avoid or reduce the applicable fee.

4. Multiple Disclosures

If the County has made multiple disclosures of PHI to the same person or entity for the same purpose during the accounting period, it may account for these disclosures as follows:

- For the first disclosure, the information described in the "Contents of Accounting" section will be provided;
- For subsequent disclosures, the frequency or number of disclosures will be provided; and
- For the last disclosure in the accounting period, the date of the disclosure will be provided.

The County may only utilize this Multiple Disclosures procedure if the disclosure was for one of the following purposes:

- Uses or Disclosures for Public Health Activities (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Disclosures About Victims of Abuse, Neglect or Domestic Violence (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Uses and Disclosures for Health Oversight Activities (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Disclosures for Judicial and Administrative Proceedings (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Disclosures for Law Enforcement Purposes (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Uses and Disclosures About Decedents (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Uses and Disclosures for Cadaveric Organ, Eye or Tissue Donation Purposes (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);

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- Uses and Disclosures for Research Purposes (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Uses and Disclosures to Avert a Serious Threat to Health or Safety (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Uses or Disclosures for Military and Veterans Activities (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Uses and Disclosures for Protective Services of the President and Others (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Uses or Disclosures for Government Programs Providing Public Benefits (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Disclosures for Workers' Compensation (see Policy # 13 Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- Disclosures to the Secretary of the U.S. Department of Health and Human Services to investigate or determine the County's compliance with 45 Code of Federal Regulations Part 160, subpart C (see Policy # 7, Disclosures to the Secretary of the United States Department of Health and Human Services).

5. Requests for Accounting

Requests for accounting of disclosures must be made in writing. The individual or his legal representative will be asked to complete the County form "Mono County Accounting of Disclosures Request Form."

6. Response Time

The County shall respond no later than sixty (60) days after the request is received. This deadline may be extended for no more than thirty (30) days by providing the individual with a written statement of the reason for the delay and the date on which the County will complete its action. Any notice that the County will take longer than sixty (60) days to respond must be provided to the individual within sixty (60) days of receiving the request.

7. Special Procedures Where Records are Released for Research Purposes

In cases involving 50 or more records when an IRB or Privacy Board has waived the requirement for the individual's authorization (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required), the County may meet the accounting requirement by the individual with the following:

- Name of the study or protocol;
- A description, in plain language, of the research protocol or other research activity, including the purpose of the research and the criteria for selecting particular records;

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- A brief description of the PHI that was disclosed;
- The date or period of time during which the disclosures occurred, or may have occurred, including the date of the last disclosure during the accounting period;
- The name, address and telephone number of the entity that sponsored the research and of the researcher to whom the information was disclosed; and
- A statement that the individual's PHI may or may not have been disclosed for a particular protocol or other research activity.

If the information was made available as provided in this section and the County believes that it is reasonably likely that the individual's PHI was disclosed for the research protocol or activity, the County will assist the individual in contacting the person or entity that sponsored the research and the researcher.

8. Temporary Suspension of Accounting Rights

The County may temporarily suspend an individual's right to obtain an accounting of disclosures made to a health oversight agency or law enforcement official, if requested by the agency or official. The agency or official must provide a written statement that such an accounting to the individual would be reasonably likely to impede the agency's activity and specify a time period for which the suspension is required. If the agency or official makes the representation orally, the County must:

- Document the statement, including the agency's or official's identity who made the statement;
- Temporarily suspend the individual's right to the accounting of the disclosures subject to the statement; and
- Limit the temporary suspension to no longer than thirty (30) days from the date of the oral statement, unless a written statement as provided for in this section is submitted to the County during that time.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 65, No. 250, December 28, 2000, at 82826.

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002, at 53243 - 53247.

"Accounting and Tracking Disclosures of Protected Health Information," a practice brief published by the American Health Information Management Association, 2001.

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SUBJECT:	REQUESTS FOR RESTRICTION OF USES & DISCLOSURES FOR TREATMENT, PAYMENT, & HEALTHCARE OPERATIONS	POLICY NUMBER	4
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 5

Purpose

To ensure that the County of Mono (hereinafter "the County") responds appropriately to individuals who request restrictions on the uses and disclosures of their protected health information for treatment, payment, and healthcare 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.

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.

**COUNTY OF MONO
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SUBJECT:	REQUESTS FOR RESTRICTION OF USES & DISCLOSURES FOR TREATMENT, PAYMENT, & HEALTHCARE OPERATIONS	POLICY NUMBER	4
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Definitions (cont'd.)

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. PHI does not include employment records held by County in its role as an employer.

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.

Procedure

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. A request to restrict uses or disclosures will be reviewed very carefully by County and will only be granted if County is certain that it can be met.

**COUNTY OF MONO
PRIVACY POLICIES**

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2. Form of requests

All requests for restrictions must be in writing, using the County form "Restriction of Use and Disclosures Request Form."

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 Mono 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 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, so 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 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.

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
- 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.

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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 # 7, Disclosures to the Secretary of the United States Department of Health and Human Services);
- For certain public health activities (see Policy # 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 # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For health agency oversight activities (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For judicial or administrative proceedings (see Policy # 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 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For certain disclosures about decedents (see Policy # 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 # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For certain research activities (see Policy # 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 # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For certain military or veterans activities (see Policy # 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 # 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 # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
- For medical suitability determinations; and

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- For certain eligibility functions relating to government programs providing public benefits (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required).

REFERENCES

Federal Privacy Regulations, 45 CFR Subtitle A, Subchapter C, Parts 160 and 164, Vol. 65, No. 250, December 28, 2000, pp. 82822 - 82823.

"The California Patient Privacy Manual," California Healthcare Association, October 2002, Second Edition.

COUNTY OF MONO PRIVACY POLICIES

SUBJECT:	REQUEST FOR CONFIDENTIAL COMMUNICATIONS	POLICY NUMBER	5
AUTHORITY:	45 CFR SECTION 164.522(b)		
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 2

Purpose

To establish a process for the employees of the County of Mono (hereinafter "the County") to accommodate reasonable requests by individuals (patients, residents, or clients) to receive communications of protected health information from the County by alternative means.

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.

Definitions

Note: The definitions below are in compliance with 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 health care to an individual.

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

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. PHI does not include employment records held by County in its role as an employer.

Policy

In compliance with state and federal laws and regulations, the health care provider and health plan components of the County subject to the HIPAA Privacy Rule will permit individuals to

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request and will accommodate reasonable requests by individuals to receive communications of PHI from the County by alternative means or at alternative locations than is customary.

Procedure

1. The County will require that individuals submit written requests for a confidential communication.
2. The County will condition the provision of a reasonable accommodation on the following:
 - When appropriate, information as to how payment, if any, will be handled; and
 - Specification of an alternative address or other method of contact.
3. A health care component of the County may not require an explanation from the individual as to the basis for the request as a condition of providing communications on a confidential basis.
4. A health plan component of the County may require that a request contain a statement that disclosure of all or part of the information to which the request pertains could endanger the individual.
5. Request for confidential communications will be referred to the individual designated by the program or facility for handling such requests.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT: PROVIDING THE NOTICE OF PRIVACY PRACTICES

POLICY
NUMBER **6**

EFFECTIVE DATE: APRIL 14, 2003

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Purpose

To ensure that the County of Mono (hereinafter "the County") appropriately provides individuals (patients/residents/clients) with a notice of privacy practices.

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.

Definitions

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

Correctional Institution: Any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. Other persons held in lawful custody includes juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.

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;
- 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. PHI does not include employment records held by County in its role as an employer.

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 a individual from one provider to another.

Policy

Individuals have the right to receive adequate notice of the uses and disclosures of their PHI that may be made by the County. The County will also inform individuals of their rights and the County's legal duties with respect to PHI through a notice of privacy practices ("notice").

Exception: A notice of privacy practices does not have to be provided to an individual incarcerated in or otherwise confined to a correctional institution. For the County, this includes individuals in the custody of the Sheriff's Department and Juvenile Detention.

Procedure

9. Contents of the Notice

The County's notice will be in plain language and will include the following elements:

a. *Header*

The notice will contain the following header:

"THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY."

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b. *Use and Disclosures of PHI*

The notice will contain the following:

- A description and example of the types of uses and disclosures of PHI that the County is permitted to make for treatment, payment, and healthcare operations.
- A description of each of the other purposes (other than treatment, payment, and healthcare operations) for which the County is permitted or required to use or disclose PHI without the individual's written authorization.
- A statement that other uses and disclosures of an individual's PHI will be made only with the individual's written authorization, and that the individual may revoke the authorization at any time in writing (except to the extent that the County has taken action in reliance on the authorization).
- A separate statement if the County elects to contact the individual for appointment reminders, to provide information regarding treatment alternatives or other health related benefits or services, or to raise funds for the County that may be of interest to the individual.

c. *Individual rights*

The notice will contain a statement of the individual's rights with respect to PHI and how he/she may exercise the right to:

- Inspect and obtain copies of PHI;
- Request amendments to PHI;
- Receive an accounting of disclosures of PHI;
- Request restrictions on certain uses and disclosures of PHI including a statement that the County is not required to agree to a requested restriction;
- Receive confidential communications of PHI; and
- Obtain a paper copy of the notice upon request (even if the individual has agreed to receive the notice electronically).

d. *County duties*

The notice will explain that, under law, the County must:

- Maintain the privacy of PHI and provide individuals with notice of its legal duties and privacy practices;
- Abide by the terms of the notice currently in effect;
- State in the notice that the County reserves the right to change the terms of its notice and to make the new notice provisions effective for all PHI it maintains; and
- State how the County will provide individuals with a revised notice.

e. *Complaints*

The notice will explain that individuals may file a complaint with the County and/or the Secretary of United States Department of Health and Human Services if they believe

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PRIVACY POLICIES**

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their privacy rights have been violated, including a description of how to file a complaint, and a statement that the individual will not be retaliated against for filing a complaint.

- f. *Contact information*
The notice will contain the title and telephone number of the County Privacy Officer and identify that person as the contact for further information.
- g. *Effective date*
The notice will contain its effective date, which will not be earlier than the date on which the notice was printed or published.
- h. *Optional elements*
If the County decides to limit uses or disclosures even more than the law requires, it will explain this in the notice.
- i. *Layered Notice*
The County may develop a summary notice that may be used as a face sheet for the more detailed notice.
- j. *Font size*
In compliance with California law effective January 1, 2003, all information produced about patients' rights will be printed in at least 12 point font.

10. Providing the Notice

a. *County as a health care provider*

The County will:

- Provide the notice no later than the first date of the first service delivery, except as provided below under "special circumstances." If the first service is delivered electronically, the notice will be sent electronically, automatically and contemporaneously. The notice will be provided at the point of registration for health care services.
- Make the notice available for individuals to take with them.
- Post the notice in a clear and prominent location where it is reasonable to expect individuals to be able to read the notice.
- Post the notice prominently on any web site containing information about the County's health care services and make the notice available electronically through the County's internet web site.
- Upon revision, make the revised notice available upon request and post the revised notice.

b. *County as a health plan*

The County will:
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- Provide notice no later than April 14, 2004, to individuals then covered by any County health plan.
- Provide the notice to all new individuals at the time of enrollment in the health plan.
- Notify all individuals then covered by the plan every three years of the availability of the notice and how to obtain the notice.

c. *General provisions applicable to the County as a health care provider and as a health plan*

The County may provide the notice to an individual by email, if the individual agrees to such electronic notice. (If the County knows the email transmission has failed, it will provide a paper copy of the notice.) An individual who receives such an electronic notice retains the right to obtain a paper copy of the notice from the County upon his or her request.

In compliance with the provisions of Title VI of the Civil Rights Act of 1964, the County will distribute the notice to individuals with limited English proficiency in their primary language, or provide interpreter services if the notice is not available in the individual's language.

The notice will be maintained as a separate document and will not be combined with any other document.

11. Obtaining an Acknowledgement of Receipt

Except in the case of an emergency treatment situation, the County will make a good faith effort to obtain written acknowledgment that the individual received the notice. If the individual refuses to sign the acknowledgment, County staff will document the efforts taken and the reason why the acknowledgment was not obtained.

12. Special Circumstances

There may be situations in which the notice must be provided to someone other than the individual. These situations include, but are not limited to:

Individuals who are permanently incapacitated: If an individual lacks decision-making capacity, the notice will be provided to the individual's legal representative, or if none exists or is reasonably known of, the individual's next of kin. The individual who receives the notice will be asked to sign the acknowledgement of receipt.

Individuals who are temporarily incapacitated or requiring emergency treatment: If an individual temporarily lacks decision-making capacity or there is an emergency treatment situation, the notice of privacy practices will be held, along with other documents for the individual's signature, until the individual regains decision-making capacity and is able to sign the acknowledgement of receipt or within a reasonably practicable time after the emergency treatment situation.

Minors who are unable to consent to treatment on their own behalf: The notice of privacy practices will be provided to the legal guardian or parent who is the minor's personal

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	PROVIDING THE NOTICE OF PRIVACY PRACTICES	POLICY NUMBER	6
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representative.

Retail pharmacy patients: If the County pharmacy provides medication prescriptions to individuals who have not been registered in the County healthcare system, the notice of privacy practices will be provided to the person who picks up the individual's prescription. A pre-addressed, postage-paid card will be included with the notice to obtain the individual's acknowledgement of receipt of the notice and the County pharmacy will document in the individual's record that the notice was provided. *Note:* The notice and acknowledgement form will not be provided to individuals who are incarcerated in correctional institutions.

13. Revisions to the Notice of Privacy Practices

The County will promptly revise and distribute its notice whenever there is a material change to the uses or disclosures, individual's rights, the County's legal duties, or other privacy practices stated in the notice. The County will distribute the notice within sixty (60) days to all individuals then covered by the applicable plan. Except when required by law, a material change to any term of the notice may not be implemented prior to the effective date of the notice in which the material change is reflected.

14. Retention of Documentation

A copy of each version of the notice will be retained for six (6) years by the County Privacy Officer. Signed and unsigned acknowledgments will be filed with the individual's medical record and will be retained in accordance with County policies for record retention.

REFERENCES

"The California Patient Privacy Manual," California Healthcare Association, October 2002, Second Edition.

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 65, No. 250, December 28, 2000 at 82820 - 82822.

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002, at 53238 - 53240.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	DISCLOSURES TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES 45 CFR PART 160.310	POLICY NUMBER	7
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 3

Purpose

To establish a process for the employees of the County of Mono (hereinafter "the County") to identify when disclosure of an individual's (patient's, resident's, or client's) protected health information (PHI) may be required to be provided to the Secretary of the Department of Health and Human Services.

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.

Definitions

Note: The definitions below are in compliance with 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 health care to an individual.

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

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. PHI does not include employment records held by County in its role as an employer.

Secretary: The Secretary of the United States Department of Health and Human Services (HHS) or any other officer or employee of HHS to whom the authority involved has been delegated.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	DISCLOSURES TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES 45 CFR PART 160.310	POLICY NUMBER	7
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Policy

In compliance with state and federal laws and regulations, the County will cooperate with the Secretary's investigations and reviews. The County will also provide records and reports and permit them access to relevant information.

Procedure

The County will take responsibility for the following:

1. Provide Records and Compliance Reports:

The covered components of the County will keep such records and submit such compliance reports, in such time and manner and containing such information, as the Secretary may determine to be necessary to enable the Secretary to ascertain whether the covered component has complied with or is complying with the applicable requirements of 45 C.F.R. Part 160 and the applicable standards, requirements, and implementation specifications of subpart E of 45 C.F.R. Part 164.

2. Cooperate with Complaint Investigations and Compliance Reviews:

The covered components of the County will cooperate with the Secretary, if the Secretary undertakes an investigation or compliance review of the policies, procedures, or practices of a covered component to determine whether it is complying with applicable requirements of 45 C.F.R. Part 160 and the standards, requirements, and implementation specifications of subpart E of 45 C.F.R. Part 164.

3. Permit Access to Information:

- A. The covered components of the County will permit access by the Secretary during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays) to its facilities, books, records, accounts, and other sources of information, including PHI, that are pertinent to ascertaining compliance with the applicable requirement of 45 C.F.R. Part 160 and the standards, requirements, and implementation specifications of subpart E of 45 C.F.R. Part 164. If the Secretary determines that exigent circumstances exist, such as when documents may be hidden or destroyed, the County will permit access by the Secretary at any time and without notice.
- B. If any information required of the covered component of the County under this policy is in the exclusive possession of any other agency, institution, or person and the other agency, institution, or person fails or refused to furnish the information, the County must certify and set forth what efforts it has made to obtain the information.

**COUNTY OF MONO
PRIVACY POLICIES**

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REFERENCES

45 C.F.R. Part 160.310, Vol. 67, No. 157, August 14, 2002.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	USE & DISCLOSURE OF PROTECTED HEALTH INFORMATION TO CARRY OUT TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS	POLICY NUMBER	8
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EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 4
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Purpose

To ensure that employees of the County of Mono (hereinafter "the County") understand when uses and disclosures of PHI are permitted 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.

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.

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.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	USE & DISCLOSURE OF PROTECTED HEALTH INFORMATION TO CARRY OUT TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS	POLICY NUMBER	8
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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. PHI does not include employment records held by County in its role as an employer.

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 a individual from one provider to another.

Policy

In compliance with state and federal laws and regulations, the County may 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 (see Policy #10, Use & Disclosure of Psychotherapy Notes), alcohol and drug patient records (see Policy #11, Use & Disclosure of Alcohol and Drug Patient Records), and HIV/AIDS records (see the attached document "A Brief Guide to California's HIV/AIDS Law").

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

**COUNTY OF MONO
PRIVACY POLICIES**

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Procedure

1. County Use and Disclosure

- The County will use or disclose PHI for its own treatment, payment, or health care operations.
- The County may disclose PHI for treatment activities of a health care provider.
- The County may disclose PHI to another covered entity or a health care provider for the payment activities of the entity that receives the PHI.
- The County may 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:
 - For a purpose of:
 - 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;
 - 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
 - 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 # 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.

**COUNTY OF MONO
PRIVACY POLICIES**

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REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	AUTHORIZATION FOR USE & DISCLOSURE OF PROTECTED HEALTH INFORMATION	POLICY NUMBER	9
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 6

Purpose

To assist County of Mono (hereinafter "the County") employees in understanding when written authorization from the individual (patient/resident/client) or his or her legal representative is required for the use and disclosure of 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.

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 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 health care to an individual.

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; or
- Utilization review activities.

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PRIVACY POLICIES**

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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. PHI does not include employment records held by County in its role as an employer.

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

In compliance with state and federal laws and regulations, the County will obtain written authorization from the individual or his or her legal representative for uses and disclosures of PHI unless the County is allowed or required to disclose the information without an authorization. Instances where PHI may be or is required to be disclosed and where an authorization is not required are set forth in the following policies and procedures:

- Disclosures to the Secretary of the United States Department of Health and Human Services, Policy # 7;
- Uses and Disclosure of Protected Health Information to Carry Out Treatment, Payment and Other Health Care Operations, Policy # 8; and
- Uses and Disclosures for Which an Authorization or Opportunity Agree or Object is Not Required, Policy # 13.

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

Procedure

1. Authority to Grant Authorization

Authority to grant authorization for use or disclosure of PHI resides with:

- The individual, if the individual is a competent adult or a minor authorized under applicable state law to control the use or disclosure of his or her PHI, including where the minor is:
 1. Married or previously married;
 2. Self-sufficient (15 years or older, not living at home, manages own financial affairs);

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3. Not married, but treatment is related to the minor's pregnancy, except sterilization;
4. Not married, but treatment is related to pregnancy termination;
5. On active duty with the Armed Forces;
6. Twelve (12) years or older and treatment is for a communicable reportable disease or condition;
7. Twelve (12) years or older and treatment is for rape;
8. Treated for sexual assault;
9. Twelve (12) years or older and treatment is for alcohol or drug abuse;
10. Twelve (12) years or older receiving outpatient mental health treatment;
- A parent or legal guardian on behalf of a minor child if the minor child is not authorized under applicable state law to control the use or disclosure of his or her PHI; or
- The individual's legal representative if the individual is deceased or lacks the ability to authorize the disclosure on his or her own behalf. (See Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required.)

2. Valid Authorizations

A valid authorization must contain at least the following elements:

- A description of the information to be used or disclosed that identifies the information in a specific and meaningful way;
- The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure;
- The name or other specific identification of the person(s), or class of persons, to whom the facility may make the requested use or disclosure;
- A description of each purpose of the requested use or disclosure. The statement "at the request of the individual" is sufficient when the individual initiates the authorization and chooses not to describe the purpose of the request;
- An expiration date or expiration event that relates to the individual or the purpose of the use or disclosure. The statement "end of the research study," "none," or similar language is acceptable if the authorization is for research;
- A statement of the individual's right to revoke the authorization in writing and the exceptions to the right to revoke, along with a description of how the individual may revoke the authorization;
- A statement that the County may not condition treatment on whether the individual signs the authorization, unless the authorization involves participation in a research study;
- A statement that the information used or disclosed pursuant to the authorization may be subject to re-disclosure by the recipient and no longer protected by the federal privacy regulations;
- Be handwritten by the same person who signs it or be in typeface of at least 12 point;
- Signature of the individual and date;
- If the authorization is signed by a personal representative of the individual, a description of the representative's authority to act for the individual; and
- Advise the individual signing of the right to receive a copy of the authorization.

**COUNTY OF MONO
PRIVACY POLICIES**

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The authorization must be written in plain language.

Additional requirements for particular conditions and procedures:

- Psychotherapy notes: If the authorization seeks the disclosure of psychotherapy records, please refer to Policy # 10, Use and Disclosure of Psychotherapy Notes.
- HIV and AIDS related test results: A separate authorization is required for each separate disclosure of test results. Also see Policy # 14, Use and Disclosure of Information Regarding HIV/AIDS status.
- Substance abuse records: The authorization must accompany the records released along with a statement that prohibits the receiving person or entity from further disclosing the records unless the authorization or subsequent authorization expressly permits the further disclosure or that disclosure is specifically allowed under federal and state law. Also see Policy # 11, Use and Disclosure of Alcohol and Drug Patient Records.

If the County asks the individual for written authorization for use or disclosure of protected health information, the individual must be given a copy of the completed authorization form.

The County will document and retain any signed authorization for at least six (6) years, in compliance with federal law and regulation.

3. Outside Authorizations

A written authorization provided by the individual or an outside requester is acceptable if it contains all of the elements described in the "Valid Authorizations" section above. If the authorization is missing one or more of the required elements, the individual or his or her legal representative will be asked to sign the County's form for "Authorization to Use or Disclose Protected Health Information."

4. Combined Authorizations

An authorization for use or disclosure of PHI may **not** be combined with any other document to create a compound authorization **except** as follows:

- An authorization for the use or disclosure of PHI created for research that includes treatment of the individual may be combined.

5. Invalid Authorizations

An authorization is not valid if the document has any of the following defects:

- The expiration date has passed or the expiration event is known by the County to have occurred;
- The authorization has not been filled out completely;
- The authorization is known by the County to have been revoked;
- The authorization lacks a required element, as described in the "Valid Authorizations" section above; or
- Any material information in the authorization is known by the County to be false.

**COUNTY OF MONO
PRIVACY POLICIES**

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6. Timeframes for Authorizations

The individual's authorization to use or disclose PHI must be obtained **at or after** the date of service.

Unless the individual specifies an earlier expiration date or event, the County will honor an authorization for up to six (6) months after the date it was signed by the individual or his legal representative. If the authorization is for research, the expiration date may state "end of the research study," "none," or similar language.

7. Retrieval/Copy Fees

Fees will be charged for retrieving records and making copies in accordance with the County's fee schedule. (See Policy # 20, Clerical and Copy Fees for Protected Health Information.)

8. Record of Authorization and Disclosure

Following disclosure of information, the signed authorization form should be filed with the individual's record along with a notation of what specific information was disclosed, the date of the disclosure, and the printed name and signature of the employee who made the disclosure. This information will be kept for at least six (6) years.

9. Revocation of Authorizations

An individual may revoke his or her authorization in writing at any time, **except** to the extent the County has already taken action in reliance on the authorization. (For example, if the County has already used or disclosed information to an outside party based on the individual's prior authorization, this use or disclosure is allowed by the authorization because the authorization was valid at the time of the use or disclosure. Once the authorization is revoked, it cannot be used for any future uses or disclosures of PHI.)

An individual or his or her legal representative who wishes to revoke his authorization will be asked to complete the County form entitled "Revocation of Authorization to Use or Disclose Protected Health Information."

REFERENCES

Brandt, Mary D. "Maintenance, Disclosure, and Redisclosure of Health Information," published by the American Health Information Management Association, 1993.

"Consent Requirements for Medical Treatment of Minors," published by the California Healthcare Association, 2001.

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 65, No. 250, December 28, 2000 at 82798 – 82829.

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PRIVACY POLICIES**

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Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002 at 53219 - 53226.

"Required Content for Authorizations to Disclose," a Practice Brief published by the American Health Information Management Association, November – December 2001.

"The California Patient Privacy Manual," published by the California Healthcare Association, February 2002.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT: USE & DISCLOSURE OF PSYCHOTHERAPY NOTES

POLICY
NUMBER **10**

EFFECTIVE DATE: APRIL 14, 2003

PAGE 1 OF 3

Purpose

To ensure that employees of the County of Mono (hereinafter "the County") understand when written authorization from the individual (patient/resident/client) or his legal representative is required for use and disclosure of psychotherapy notes.

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.

Definitions

Note: The definitions below are in compliance with the 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.

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.

Psychotherapy Notes: Notes recorded in any medium by a mental health professional

April 14, 2003

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PRIVACY POLICIES**

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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.

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. PHI does not include employment records held by County in its role as an employer.

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.

Policy

In compliance with state and federal laws and regulations, individuals or their legal representatives may under certain circumstances be given the opportunity to access and obtain a copy of their psychotherapy notes. The use and disclosure of psychotherapy notes will be restricted as set forth in this policy and procedure.

Procedure

Use or disclosure of protected psychotherapy notes requires a valid authorization except under the following conditions:

- To carry out the following treatment, payment or healthcare operations:
 1. Use by originator of the psychotherapy notes for treatment;
 2. Use or disclosure by the County for its own use in training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family or individual counseling; or

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PRIVACY POLICIES**

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3. Use or disclosure by the covered entity to defend a legal action or other proceeding brought by the individual.
- Authorization is not needed for uses or disclosures required by law:
 1. To the Secretary of the United States Department of Health and Human Services (see Policy # 7, Disclosure to the Secretary of the United States Department of Health and Human Services);
 2. That relate to disclosures about victims of abuse or neglect (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
 3. That are for judicial or administrative proceedings (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required); or
 4. That are for law enforcement purposes (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required).
 5. Disclosures for health oversight activities relating to the note's originator (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
 6. Disclosures to the coroner or medical examiner (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required); or
 7. Disclosures to avert a serious threat to the health or safety of a person or the public (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required).
 8. Unlike other health information, insurance companies, ERISA certified employee benefit plans, and managed care companies that administer benefits will not be able to require patients to release the information from psychotherapy notes as a condition of coverage or payment;

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164 Vol. 67, No. 157, August 14, 2002.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	USE & DISCLOSURE OF ALCOHOL AND DRUG PATIENT RECORDS	POLICY NUMBER	11
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 3

Purpose

To ensure that employees of the County of Mono (hereinafter "the County") understand when written authorization from the individual (patient/resident/client) or his legal representative is required for use and disclosure of alcohol and drug patient records.

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.

Definitions

Note: The definitions below are in compliance with the 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.

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

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- 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. PHI does not include employment records held by County in its role as an employer.

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.

Policy

In compliance with state and federal laws and regulations, individuals or their legal representatives will be given the opportunity to access and obtain a copy of their alcohol and drug patient records and the use and disclosure of alcohol and drug patient records will be restricted as set forth below.

Procedure

The County will not use or disclose protected alcohol and drug patient records without a valid authorization from the client/patient or his representative except under the following conditions:

To carry out the following treatment, payment or healthcare operations:

1. Use by originator of the alcohol and drug patient record for treatment;
2. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

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3. Use or disclosure by the County for its own use in training programs in which students, trainees, or practitioners in alcohol and drug treatment learn under supervision to practice or improve their skills in group, joint, family or individual counseling; or
4. Use or disclosure by the covered entity to defend a legal action or other proceeding brought by the individual.
5. Disclosure to medical personnel to the extent necessary to meet a bona fide medical emergency.

Authorization is not needed for the following uses or disclosures which are required by law:

1. To the Secretary of the United States Department of Health and Human Services (see Policy # 7, Disclosure to the Secretary of the United States Department of Health and Human Services);
2. That relate to disclosures about victims of abuse or neglect (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
3. That are for judicial or administrative proceedings authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required); or
4. That are for law enforcement purposes (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required).
5. Disclosures for health oversight activities relating to the note's originator (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required);
6. Disclosures to the coroner or medical examiner (see Policy # 13, Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required); or
7. Disclosures to avert a serious threat to the health or safety of a person or the public (see Policy # 13 Uses and Disclosures for Which an Authorization or Opportunity to Agree or Object is Not Required).

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol 67, No 157, August 2002.

Code of Federal Regulations, Title 42, Chapter 1, Subchapter A, Part 2, August 1, 1996.

California Health and Safety Code Section 11977.

**COUNTY OF MONO
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SUBJECT:	ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS FOR PROTECTED HEALTH INFORMATION	POLICY NUMBER	12
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 5

Purpose

The intent of this policy is to establish criteria for safeguarding confidential information and to minimize the risk of unauthorized access, use or disclosure. This document contains guidance for developing procedures to implement this policy.

Definitions

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.

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. PHI does not include employment records held by County in its role as an employer.

Policy

1. General

Mono County must take reasonable steps to safeguard protected health information from any intentional or unintentional use or disclosure that is in violation of the privacy policies. Information to be safeguarded may be in any medium, including paper, electronic, oral and visual representations of confidential information.

2. Safeguarding confidential information – Mono County workplace practices

a. Paper

- i. Each Mono County workplace will store files and documents containing PHI in locked rooms or storage systems.
- ii. In workplaces where lockable storage is not available, Mono County staff must take

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reasonable efforts to ensure the safeguarding of confidential information.

- iii. Each Mono County workplace will ensure that files and documents containing PHI awaiting disposal or destruction in desk-site containers, storage rooms, or centralized waste/shred bins, are appropriately labeled, are disposed of on a regular basis, and that all reasonable measures are taken to minimize access.
- iv. Each Mono County workplace will ensure that shredding of files and documents containing PHI is performed on a timely basis, consistent with record retention requirements.

b. Oral:

- i. Mono County staff must take reasonable steps to protect the privacy of all verbal exchanges or discussions of confidential information, regardless of where the discussion occurs.
- ii. Each Mono County workplace designated as a covered component shall make enclosed offices and/or interview rooms available for the verbal exchange of confidential information.
 - Exception: In work environments structured with few offices or closed rooms such as facilities with open office environments, uses or disclosures that are incidental to an otherwise permitted use or disclosure could occur. Such incidental uses or disclosures are not considered a violation provided that Mono County has met the reasonable safeguards and minimum necessary requirements.
- iii. Each Mono County workplace must foster employee awareness of the potential for inadvertent verbal disclosure of PHI.

c. Visual:

- i. Mono County staff must ensure that observable PHI is adequately shielded from unauthorized disclosure on computer screens and paper documents.
 - A. Computer screens: Each Mono County workplace must make every effort to ensure that PHI on computer screens is not visible to unauthorized persons.
 - B. Paper documents: Mono County staff must be aware of the risks regarding how paper documents are used and handled, and must take all necessary precautions to safeguard PHI contained in paper documents.

3. Safeguarding confidential information – Mono County administrative safeguards

- a. Implementation of role-based access and the Minimum Necessary Policy will promote

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administrative safeguards.

- i. Role Based Access (RBA) is a form of security allowing access to data based on job function in accordance with Mono County security procedures. Employees of covered components within County shall be assigned to an RBA group that will give members access only to the minimum necessary information to fulfill their job functions.
- b. Conducting internal reviews periodically will permit Mono County to evaluate the effectiveness of safeguards.
 - i. Mono County managers and supervisors will use the Mono County Safeguards Assessment Tool to conduct annual reviews in order to evaluate and improve the effectiveness of their current safeguards.
- c. Development and implementation of department-wide security policies will enhance administrative safeguards.
 - i. Mono County staff will be required to sign a document that constitutes a formal commitment to adhere to the department-wide security policies.

Guidance for Procedure Development

The following guidelines should be used in developing procedures to implement this policy.

1. Safeguarding confidential information – Mono County workplace practices
 - a. Paper
 - i. Files and documents being stored that contain PHI:
 - A. Lockable desks, file rooms, open area storage systems must be locked.
 - B. Where Mono County has desks, file rooms, and/or open area storage systems that are not lockable, reasonable efforts to safeguard PHI must be implemented.
 - v. Files and documents awaiting disposal/destruction:
 - A. Desk-site containers: The Mono County workplace will ensure that documents containing PHI awaiting disposal are stored in containers that are appropriately labeled and are properly disposed of on a regular basis.
 - B. Storage rooms containing documents that contain PHI awaiting disposal: Each Mono County workplace will ensure that storage rooms containing PHI are locked after business hours or when authorized staff are not present.
 - C. Centralized waste/shred bins: Each Mono County workplace will ensure that all centralized bins or containers for disposed PHI are clearly labeled "confidential", sealed, and placed in a lockable storage room.
 - D. Each Mono County workplace having access to PHI that does not have lockable storage rooms or centralized waste/shred bins must implement reasonable

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procedures to minimize access to PHI.

- vi. Shredding of files and documents authorized consistent with record retention requirements:
 - A. Mono County staff: Must ensure that shredding is done timely, preferably on a daily or weekly basis.
 - B. Outside contractors: Mono County must ensure that such entity is under a written contract that requires safeguarding of confidential information throughout the destruction process.

b. Oral

- vii. Mono County staff must take reasonable steps to protect the privacy of all verbal exchanges or discussions of PHI, regardless of where the discussion occurs, and should be aware of risk levels.
 - A. Locations of verbal exchange with various risk levels:
 - I. Low risk: interview rooms, enclosed offices and conference rooms.
 - II. Medium risk: employee-only areas, telephone and individual cubicles.
 - III. High risk: public areas, reception areas and shared cubicles housing multiple staff where clients are routinely present.

c. Visual:

Mono County staff must ensure that observable PHI is adequately shielded from unauthorized disclosure.

Computer screens: Mono County offices must ensure that PHI on computer screens is not visible to unauthorized persons. Suggested means for ensuring this protection include:

- Use of polarized screens or other computer screen overlay devices that shield information on the screen from persons not the authorized user;
- Placement of computers out of the visual range of persons other than the authorized user;
- Clearing information from the screen when not actually being used;
- Locking-down computer work stations when not in use; and
- Other effective means as available.

Paper documents: Mono County staff must be aware of the risks regarding how paper documents are used and handled, and must take all necessary precautions to safeguard confidential information.

Mono County staff must take special care to ensure the protection and safeguarding of, and the minimum necessary access to, paper documents containing PHI that are located on:

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Desks;
Fax machines;
Photocopy machines;
Portable electronic devices (e.g., laptop computers, palm pilots,
etc.);
Computer printers; and
Common areas (e.g., break rooms, stairwells, restrooms,
elevators, etc.).

3. Safeguarding confidential information – Mono County administrative safeguards
- a. Role Based Access (RBA): Roles will be created and defined based on the information Mono County owns and where it is located and how it is used and why. A determination of who should have access to the specific data will be established.
 - i. Mono County managers and supervisors will decide the role of each of their staff and request exceptions based on the needs of their office.
 - ii. Managers are responsible for allowing access to enough information for their staff to do their jobs while holding to the minimum necessary standard.

 - b. Mono County managers and supervisors will:
 - i. Follow the instructions given to safeguard confidential information;
 - ii. Conduct a thorough assessment of the uses and protection of PHI;
 - iii. Foster a more secure atmosphere and enhance the belief that protecting privacy is key to achieving Mono County goals.
 - iv. Managers will update the safeguards in place each year, seeking to achieve reasonable administrative, technical and physical safeguards.

 - c. Utilize the Security Policies to augment safeguard procedures.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	USES AND DISCLOSURES FOR WHICH AN AUTHORIZATION OR OPPORTUNITY TO AGREE OR OBJECT IS NOT REQUIRED <u>45 CFR Part 164.512</u>	POLICY NUMBER	13
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 15

Purpose

To establish a process for the employees of the County of Mono (hereinafter "the County") to be aware of when it is required to (or when it may in its discretion) use or disclose an individual's protected health information without the written authorization of the individual or the opportunity for the individual to agree or object. The following areas are covered in this policy:

1. Uses and Disclosures Required by Law
2. Uses and Disclosures for Public Health Activities
3. Disclosures About Victims of Abuse, Neglect or Domestic Violence
4. Uses and Disclosures for Health Oversight Activities
5. Disclosures for Judicial and Administrative Proceedings
6. Disclosures for Law Enforcement Purposes
7. Uses and Disclosures About Decedents
8. Uses and Disclosures for Cadaveric Organ, Eye or Tissue Donation Purposes
9. Uses and Disclosures for Research Purposes
10. Uses and Disclosures to Avert a Serious Threat to Health or Safety
11. Uses and Disclosure for Specialized Government Functions
12. Disclosures for Workers' Compensation

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.

Definitions

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

Abuse, Neglect, or Domestic Violence: The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm or pain or mental anguish, or deprivation by an individual including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being.

Correctional Institution: Any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. Other persons held in lawful custody includes juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others

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awaiting charges or trial.

Health Oversight Activities: The watchful care or management of health care systems and government health benefit programs.

Individually Identifiable Health Information: Information that identifies an individual (or could reasonably be used to identify an individual) that:

- Is created or received by the County;
- 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.

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. PHI does not include employment records held by County in its role as an employer.

Public Health Authority: An agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

Public Health Activities: Activities for the purpose of preventing or controlling disease, injury, or disability. Activities include reporting disease/injury, births, deaths, public health surveillance, public health investigations, and public health information.

Policy

The County is required by state and federal laws to use or disclose PHI for a variety of purposes which are outlined below. Such use or disclosure does not require patient authorization or consent. In addition, there are some circumstances in which the County **may** use or disclose PHI without obtaining client or patient consent. Those circumstances are described below as well as in Policy #9 of this manual (Authorization for Use and Disclosure of Protected Health April 14, 2003

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Information), and Policy #8 (Use and Disclosure of Protected Health Information to Carry out Treatment, Payment, and Health Care Operations).

Procedure

1. Uses and Disclosures Required by Law

The County may use or disclose PHI to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law. Categories of disclosures required by law for which an authorization or opportunity to agree or object is not required are limited to disclosures for public health activities, disclosures about victims of abuse, neglect or domestic violence, disclosures for health oversight activities, disclosures for judicial and administrative purposes, and disclosures for law enforcement purposes. The requirements for those disclosures are set forth in this policy.

2. Uses and Disclosures for Public Health Activities

a. Permitted Disclosures

The County may disclose PHI to:

- i. A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;
- ii. A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;
- iii. A person subject to the jurisdiction of the Food and Drug Administration:
 - To report adverse events (or similar reports with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations if the disclosure is made to the person required or directed to report such information to the Food and Drug Administration;
 - To track products if the disclosure is made to a person required or directed by the Food and Drug Administration to track the product;
 - To enable product recalls, repairs, or replacement (including locating and notifying individuals who have received products of product recalls, withdrawals, or other problems); or
 - To conduct post marketing surveillance to comply with requirements or at the direction for the Food and Drug Administration;

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- iv. A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition as required by law; or
- v. An employer, about an individual who is a member of the workforce of the employer, if:
 - The County provides health care to the individual:
 - To conduct an evaluation relating to medical surveillance of the workplace; or
 - To evaluate whether the individual has a work-related illness or injury;
 - The disclosed PHI consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance;
 - The employer needs such findings in order to comply regarding illness or injury or workplace-related medical surveillance; and
 - The County of Mono provides written notice to the individual that PHI was disclosed to the employer:
 - By giving a copy of the notice to the individual at the time the health care is provided; or
 - If the health care is provided on the work site of the employer, by posting the notice in a prominent place at the location where the health care is provided.

- b. Permitted Uses
If the covered component of the County is also a public health authority, the covered component is permitted to use PHI in all cases in which it is permitted to disclose such information for public health activities as required by law.
- c. County health care providers that are subject to compliance with the Privacy Rule will report public health activities, as required by local and state law.
- d. Designated individuals within each facility, in accordance with the facility's operating policies, will make these reports. All reports that identify individual patients/clients/residents will be tracked for inclusion in an accounting of disclosures, if requested by the individual or his/her legal representative.

3. Disclosures About Victims of Abuse, Neglect or Domestic Violence

a. The County may be required or allowed by law to disclose PHI about an individual whom the County reasonably believes to be a child or adult victim of abuse, neglect or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence. The County may disclose the PHI as follows:

- i. To the extent the disclosure is required by law and the disclosure complies with

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- and is limited to the relevant requirements of such law;
- ii. If the individual agrees to the disclosure: or
 - iii. To the extent the disclosure is expressly authorized by statute or regulation and:
 - i. The County, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or potential victims; or
 - ii. If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the PHI for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.
- b. Where the County makes a disclosure of PHI about an individual whom the County reasonably believes to be a child or adult victim of abuse, neglect or domestic violence to a government authority, the County must promptly inform the victim that such a report has been or will be made, except if:
- i. The County in the exercise of professional judgment, believes that informing the individual would place the individual at risk of serious harm; or
 - ii. The County would be informing a person who is responsible for the victim and believes the person is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interest of the victim as determined by the County, in the exercise of professional judgment.
- c. Designated individuals within each County department or unit, in accordance with the department or unit's operating policies, will make the required reports. All reports that identify individual patients/clients/residents will be tracked for inclusion in an accounting of disclosures. (See Policy # 3, Accounting of Disclosures of Protected Health Information.)
4. Uses and Disclosures for Health Oversight Activities
- a. The County may disclose PHI to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:
- i. The health care system;
 - ii. Government benefit programs for which PHI is relevant to beneficiary eligibility;
 - iii. Entities subject to government regulatory programs for which PHI is necessary for determining compliance with program standards; or
 - iv. Entities subject to civil rights laws for which PHI is necessary for determining compliance.
- b. For the purpose of the disclosures permitted by this Section 4, a health oversight activity

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does not include an investigation or other activity in which the individual is the subject of the investigation or activity and such investigation or other activity does not arise out of and is not directly related to:

- i. The receipt of health care;
- ii. A claim for public benefits related to health; or
- iii. Qualification for, or receipt of, public benefits or services when an individual's health is integral to the claim for public benefits or services.

c. Notwithstanding the limitations on the disclosures set forth in subsection (b) of this Section 4, if a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, the joint activity or investigation is considered a health oversight activity for purposes of paragraph (d) of this section.

d. If the County is also acting in the capacity of a health oversight agency, the County may use PHI for health oversight activities as otherwise permitted by this Section 4.

5. Disclosures for Judicial and Administrative Proceedings

The County may disclose PHI in the course of any judicial or administrative proceeding:

- a. In response to an order of a court or administrative tribunal, provided that the County discloses only the PHI expressly authorized by such order; or
- b. In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
 1. The County receives satisfactory assurance, as described in this section, from the party seeking the information that reasonable efforts have been made by that party to ensure that the individual whose PHI has been requested has been given notice of the request;
 2. The County receives satisfactory assurance, as described in this section, from the party seeking the information that reasonable efforts have been made by the party to secure a "qualified protective order" that meets the requirements set forth in this section; or
 3. The County may disclose PHI without receiving satisfactory assurance, if the County makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of satisfactory assurances as described in this section.

c. Satisfactory Assurances

1. The County will have received satisfactory assurances from the party seeking PHI if the covered entity receives from the party a written statement and accompanying

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documentation demonstrating that:

a. The party requesting the information has made a good faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address);

b. The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual to raise an objection to the court or administrative tribunal; and

c. The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:

1. No objections were filed; or

2. All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

d. A subpoena that complies with the Notice to Consumer or Notice to Employee (in the case of medical records regarding an employee of County) requirements set forth in California Code of Civil Procedure section 1985.3 and 1985.6, respectively, shall meet the satisfactory assurances requirement of this section.

2. The County will have received satisfactory assurances from a party seeking PHI, if the County received from such party a written statement and accompanying documentation demonstrating that:

a. The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or

b. The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal. The term "qualified protective order" means for purposes of this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

1. Prohibits the parties from using or disclosing the PHI for any purpose other than the litigation or proceeding for which such information was requested; and

2. Requires the return to the County the PHI or the destruction of the PHI (including all copies made) at the end of the litigation or proceeding.

c. The provisions of this section do not supersede other uses or disclosures for which an authorization or opportunity to agree or object is not required.

6. Disclosures for Law Enforcement Purposes

The County may disclose PHI for a law enforcement purpose to a law enforcement official as follows:

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a. Pursuant to Process and as Otherwise Required by Law - The County may disclose PHI:

1. As required by law, including laws that require the reporting of certain types of wounds or other physical injuries, except for laws relating to public health activities and reports of abuse, neglect or domestic violence (see this policy and procedure for specific procedures relating to these disclosures);

2. In compliance with and as limited by the relevant requirements of:

- A. A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
- B. A grand jury subpoena; or
- C. An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:

i. The information sought is relevant and material to a legitimate law enforcement inquiry;

ii. The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and

iii. De-identified information could not reasonably be used.

b. Limited Information for Identification and Location Purposes: Except for disclosures required by law and as otherwise permitted by this section, the County may disclose PHI in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:

1. The County only discloses the following information:

- A. Name and address;
- B. Date and place of birth;
- C. Social security number;
- D. ABO blood type and rh factor;
- E. Type of injury;
- F. Date and time of treatment;
- G. Date and time of death, if applicable; and
- H. A description of distinguishing physical characteristics, including

height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos; and

2. The disclosure is not contrary to California law.

Except as permitted by this section, the County may not disclose for the purposes of identification or location under this section any PHI related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

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c. Victims of a Crime: Except for disclosures required by law and as otherwise permitted by this section, the County may disclose PHI in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures relating to public health activities and reports of abuse, neglect or domestic violence (see this policy and procedure for specific procedures relating to these disclosures), if:

1. The individual agrees to the disclosure; or
2. The County is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:
 - A. The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;
 - B. The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure;
 - C. The disclosure is in the best interests of the individual as determined by the County, in the exercise of professional judgment; and
 - D. The disclosure is not prohibited by California law.

d. Decedents: The County may disclose PHI about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the County has a suspicion that such death may have resulted from criminal conduct.

e. Crime on Premises. The County may disclose to a law enforcement official PHI that the County believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the County.

f. Reporting Crime in Emergencies.

1. If the County provides emergency health care in response to a medical emergency, other than an emergency on the premises of a component of the County that is a health care provider providing health care that includes the type of care related to the emergency, the County may disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to:
 - A. The commission and nature of a crime;
 - B. The location of such crime or of the victim(s) of such crime; and
 - C. The identity, description, and location of the perpetrator of such crime.
2. If the covered component of the County that is a health care provider believes that the medical emergency described in this section on reporting crime in emergencies is the result of abuse, neglect, or domestic violence of the

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individual in need of emergency health care, this section on reporting crime in emergencies does not apply and the procedures for reporting abuse, neglect or domestic violence in this policy and procedure should be followed.

7. Uses and Disclosures About Decedents

a. **Coroners and Medical Examiners:** The County may disclose PHI to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law. Where the County also performs the duties of a coroner or medical examiner, it may use PHI for the purposes described in this paragraph.

b. **Funeral Directors:** The County may disclose PHI to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If necessary for funeral directors to carry out their duties, the County may disclose the PHI prior to, and in reasonable anticipation of, the individual's death.

8. Uses and Disclosures for Cadaveric Organ, Eye or Tissue Donation Purposes

The County may use or disclose PHI to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue for the purpose of facilitating organ, eye or tissue donation and transplantation.

9. Uses and Disclosures for Research Purposes

In the course of conducting research, researchers may obtain, create, use, and/or disclose individually identifiable health information. Under the Privacy Rule, covered components of the County are permitted to use and disclose PHI for research with individual authorization, or without individual authorization under limited circumstances as set forth in the Privacy Rule.

a. *Research uses and disclosure with individual authorization.* The County may use or disclose PHI for research purposes when a research participant authorizes the use or disclosure of individually identifiable health information. When specific authorization has been obtained, documentation of an Institutional Review Board (IRB) Waiver of Authorization is not required. (See Policy # 9, Authorizations for Use and Disclosure of Protected Health Information.)

b. *Permitted uses and disclosures without authorization.* A covered component of the County may use or disclose PHI for research, regardless of the source of funding of the research, provided that:

1. *There is Board approval of a waiver of authorization.* The County will obtain documentation that an alteration to or waiver, in whole or in part, of the individual authorization for use or disclosure of

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PHI has been approved by either:

- A. An IRB established in accordance with state and federal law.
 - B. A privacy board that:
 - i. Has members with varying backgrounds and appropriate professional competency as necessary to review the effect of the research protocol on the individual's privacy rights and related interests;
 - ii. Includes at least one member who is not affiliated with the County, not affiliated with any entity conducting or sponsoring the research, and not related to any person who is affiliated with any of such entities; and
 - iii. Does not have any member participating in a review of any project in which the member has a conflict of interest.
2. *Reviews preparatory to research.* The covered components of the County will obtain from the researcher representations that:
- A. Use or disclosure is sought solely to review PHI as necessary to prepare a research protocol or for similar purposes preparatory to research;
 - B. No PHI is to be removed from the County by the researcher in the course of the review; and
 - C. The PHI for which use or access is sought is necessary for the research purposes.
3. *Research on Phi of decedents.* The County will obtain from the researcher:
- A. Representation that the use or disclosure sought is solely for research on the PHI of decedents;
 - B. Documentation, at the request of the covered component, of the death of such individuals; and
 - C. Representation that the PHI for which use or disclosure is sought is necessary for the research purposes.
- c. *Documentation of waiver approval.* For a use or disclosure to be permitted based on documentation of approval of an alteration or waiver, the documentation must include all of the following:
- 1. *Identification and date of action.* A statement identifying the IRB or privacy board and the date on which the alteration or waiver of authorization was approved;
 - 2. *Waiver criteria.* A statement that the IRB or privacy board has determined that the alteration or waiver, in whole or in part, of authorization satisfies the following criteria:
 - A. The use or disclosure of PHI involves no more than a

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minimal risk to the privacy of individuals, based on, at least, the presence of the following elements;

- i. An adequate plan to protect the identifiers from improper use and disclosure;
 - ii. An adequate plan to destroy the identifiers at the earliest opportunity consistent with conduct of the research, unless there is a health or research justification for retaining the identifiers or such retention is otherwise required by law; and
 - iii. Adequate written assurances that the PHI will not be reused or disclosed to any other person or entity, except as required by law, for authorized oversight of the research study, or for other research for which the use or disclosure of PHI would be otherwise permitted;
- B. The research could not practicably be conducted without the waiver or alteration; and
- C. The research could not practicably be conducted without access to and use of the PHI.
- d. *PHI needed.* A brief description of the PHI for which use or access has been determined to be necessary by the IRB or privacy board.
- e. *Review and approval procedures.* A statement that the alteration or waiver of authorization has been reviewed and approved under either normal or expedited review procedures, as follows:
1. An IRB must follow the requirements of the Common Rule, including the normal review procedures.
 2. A privacy board must review the proposed research at convened meetings at which a majority of the privacy board members are present, including at least one member who satisfies the criterion stated above, and the alteration or waiver of authorization must be approved by the majority of the privacy board members present at the meeting, unless the privacy board elects to use an expedited review procedure.
 3. A privacy board may use an expedited review procedure if the research involves no more than minimal risk to the privacy of the individuals who are the subject of the PHI for which use or disclosure is being sought. If the privacy board elects to use an expedited review procedure, the review and approval of the alteration or waiver of authorization may be carried out by the chair of the privacy board, or by one or more members of the privacy board as designated by the chair.

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- f. *Required signature.* The chair or other member, as designated by the chair, of the IRB or the privacy board, as applicable, must sign the documentation of the alteration or waiver of authorization.

10. Uses and Disclosures to Avert a Serious Threat to Health or Safety

a. The County may, consistent with applicable law and standards of ethical conduct that may apply to the type of PHI at issue (e.g. psychotherapy records), use or disclose PHI, if the County, in good faith, believes the use or disclosure:

1. Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or
2. Is necessary for law enforcement authorities to identify or apprehend an individual:
 - A. Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or
 - B. Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

b. A use or disclosure under this section may not be made if the County learns of the information:

1. In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure under this section, or counseling or therapy; or
2. Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy to affect the propensity to commit the criminal conduct that is the basis for the disclosure under this section.

c. A disclosure made because of a statement by an individual admitting participation in a violent crime that the County reasonably believes may have caused serious physical harm to the victim shall contain only the statement that the individual has admitted participation in a violent crime that the County reasonably believes may have caused serious physical harm to the victim and may only include the disclosure for the following PHI:

1. Name and address;
2. Date and place of birth;
3. Social security number;
4. ABO blood type and rh factor;
5. Type of injury;
6. Date and time of treatment;
7. Date and time of death, if applicable; and
8. A description of distinguishing physical characteristics.

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11. Uses and Disclosure for Specialized Government Functions

a. Military and Veterans Activities.

1. Armed Forces personnel: The County may use and disclose the PHI of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, if the appropriate military authority has published by notice in the **Federal Register** the following information:

- A. Appropriate military command authorities; and
- B. The purposes for which the PHI may be used or disclosed.

2. Foreign military personnel: The County may use and disclose the PHI of individuals who are foreign military personnel to their appropriate foreign military authority for the same purposes for which uses and disclosures are permitted for Armed Forces personnel under the notice published in the **Federal Register** pursuant to this section.

b. National Security and Intelligence Activities: The County may disclose PHI to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act (50 U.S.C. 401, *et seq.*) and implementing authority (e.g., Executive Order 12333).

c. Protective Services for the President and Others: The County may disclose PHI to authorized federal officials for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056, or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or to for the conduct of investigations authorized by 18 U.S.C. 871 and 879.

d. Correctional Institutions and Other Law Enforcement Custodial Situations:

1. The County may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual PHI about such inmate or individual, if the correctional institution or such law enforcement official represents that such PHI is necessary for:

- A. The provision of health care to such individuals;
- B. The health and safety of such individual or other inmates;
- C. The health and safety of the officers or employees of or others at the correctional institution;
- D. The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;
- E. Law enforcement on the premises of the correctional institution; and
- F. The administration and maintenance of the safety, security, and good order of the correctional institution.

2. A correctional institution that is subject to the Privacy Rule may use PHI of

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individuals who are inmates for any purpose for which such PHI may be disclosed. Inclusion of this paragraph within this policy is not an admission that or evidence of whether the County considers any of its correctional institutions to be subject to the Privacy Rule. That determination is documented elsewhere as required by the Privacy Rule.

3. For the purposes of this section, an individual is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.

e. **Government Programs Providing Public Benefits**

1. A health plan that is a government program providing public benefits may disclose PHI relating to eligibility for or enrollment in the health plan to another agency administering a government program providing public benefits if the sharing of eligibility or enrollment information among such government agencies or the maintenance of such information in a single or combined data system accessible to all such government agencies is required or expressly authorized by statute or regulation.

2. The County, where it is the government agency administering a government program providing public benefits, may disclose PHI relating to the program to another covered entity that is a government agency administering a government program providing public benefits if the programs serve the same or similar populations and the disclosure of PHI is necessary to coordinate the covered functions of such programs or to improve administration and management relating to the covered functions of such programs.

12. Disclosures for Workers' Compensation

The County may disclose PHI as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002.

Notice: This Policy governs the use and disclosure of protected health information to the extent that the information it contains is consistent with state and federal law. If a conflict exists between this Policy and the law in any individual case, the law will control.

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Purpose

To ensure that employees of the County and patients or clients of the County understand the protections that apply to information regarding HIV/AIDS status.

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.

Definitions

Note: The definitions below are in compliance with 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, 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

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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. PHI does not include employment records held by County in its role as an employer.

Policy

The use and disclosure of information regarding HIV or AIDS status is addressed in the attached document "A Brief Guide to California's HIV/AIDS Laws" and in any update to that document produced at a later date and attached to this Policy manual.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002.

A Brief Guide to California's HIV/AIDS Laws 2002

Gray Davis
Governor
State of California

Grantland Johnson
Secretary
California Health and Human Services Agency

Diana M. Bontá, R.N., Dr.P.H.
Director
Department of Health Services

February 2003



A Brief Guide to California's HIV/AIDS Laws, 2002

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Office of AIDS**

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INTRODUCTION

The Department of Health Services, Office of AIDS, is pleased to provide *A Brief Guide to California's HIV/AIDS Laws, 2002*, an annual guide to select Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) codes and regulations. As designated by California Health and Safety Code, Section 100119, the Office of AIDS is the lead agency responsible for coordinating state programs, services, and activities relating to HIV/AIDS. The Office of AIDS is committed to assess, prevent, and interrupt the transmission of HIV, and to provide for the needs of HIV-infected Californians.

A Brief Guide to California's HIV/AIDS Laws, 2002, is designed to introduce the reader, by topic, to California codes and regulations that pertain to HIV/AIDS, but is not intended to address all aspects of HIV/AIDS law or to offer legal advice. The guide focuses on issues and questions frequently raised by individuals concerning HIV/AIDS education, testing, exposure, confidentiality, and discrimination, but does not provide the full text of any referenced law, or reference court decisions that may interpret the laws. Statutes that mention HIV or AIDS are contained in the California Business and Professions, Civil, Education, Family, Government, Health and Safety, Insurance, Labor, Penal, Revenue and Taxation, Vehicle, and Welfare and Institutions Codes, as well as in the California Code of Regulations. A list of these HIV/AIDS-related code sections and regulations, and their corresponding subject matter may be found in Appendix A. Appendix B provides a glossary of select terms used within this document. Although current at the time of this publication, legislative, and/or judicial acts may potentially be amended, deleted, or added to California codes and regulations at any time.

In 2002, Governor Davis signed into law two bills addressing HIV/AIDS. AB 2994 (Wright) relates to the evaluation of California's HIV reporting system, and AB 2064 (Cedillo) establishes training programs for counselors of publicly-funded HIV testing programs, by specified community-based organizations. These new laws will go in effect January 1, 2003, and will be identified as Health and Safety Code Sections 121340 and 120871, respectively. California's regulations for reporting HIV infection by Non-Name Code became effective July 1, 2002. The HIV reporting regulations are published in the California Code of Regulations, Title 17, Division 1, Chapter 4, Subchapter 1, Article 3.5, Sections 2641.5–2643.2.

For more detailed information, California codes and regulations and relevant judicial case reports should be consulted directly. The California Code of Regulations and judicial decisions are accessible at any law library and through most public libraries. Current Senate and Assembly bill information as well as California laws are accessible through the Internet on the Official California Legislative Information Web site <http://www.leginfo.ca.gov>. The Web site for the California Code of Regulations is <http://www.calregs.com>.

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VOLUNTARY HIV TESTING

For most individuals outside the criminal justice system, the decision to test for HIV infection is a voluntary one. In some situations, such as for employment or health insurance, mandatory testing is specifically prohibited. In other situations, such as for pregnant women, testing is voluntary but HIV information and/or testing must be offered. This section discusses those situations, the types of voluntary testing available, and the laws governing consent for testing and disclosure of test results.

PROHIBITIONS AGAINST MANDATORY TESTING

Employment

Health and Safety Code Section 120980 prohibits the use of HIV testing to determine suitability for employment.

Insurance

Health and Safety Code Section 120980 also prohibits insurance providers from using an HIV test as a prerequisite to obtaining insurance. Health and Safety Code Section 1389.1 requires that health insurance applications carry a prominently displayed notice that California law prohibits health care service plans from requiring or using an HIV test as a condition of obtaining coverage. Insurance Code Sections 799-799.10 allow an exception for life and disability income insurance. See "HIV/AIDS and Insurance/ Medical Plans" for greater detail of these sections.

MANDATORY OFFERING OF HIV/AIDS INFORMATION AND/OR TESTING

Marriage

An HIV test is not required prior to obtaining a marriage license in California. However, Family Code Section 358 requires that information concerning AIDS and the availability of HIV testing be distributed to marriage license applicants.

Pregnant Women

Health and Safety Code Section 125107 requires prenatal care providers to offer HIV information and counseling to every pregnant patient for whose prenatal care the provider has primary responsibility. In addition, the provider must offer an HIV test to every pregnant patient unless the patient already has a documented positive test result or AIDS. The provider must document in the patient's medical record that both counseling and testing have been offered.

ANONYMOUS TESTING

In anonymous HIV testing, the identity of the test subject is not linked to the test result. In accordance with Health and Safety Code Sections 120885-120895, anonymous testing is available at Alternative Test Sites (ATS) administered by county health departments. HIV tests at these sites are free and test site counselors do not collect any identifying information (e.g., name, Social Security Number, driver's license, etc.) from test subjects. Instead, test subjects receive a unique number that corresponds to their specimen and test result. Health and Safety Code Section 120895 requires that, at a minimum, individuals testing at an ATS be informed about the validity and accuracy of the HIV antibody test before it is performed, and that the results of this test be given in person.

Anonymous testing is also available in some clinical settings other than an ATS; for example, some family planning and sexually transmitted disease clinics. In addition, anonymous testing is

now available through the use of an in-home collection kit. Using the kit, an individual draws a blood sample, submits it by mail, and receives test results by phone. As with the ATS, the in-home collection kit links the blood sample to the individual using a number rather than a name or any other personal identifier.

CONFIDENTIAL TESTING

In contrast to anonymous testing, confidential testing links the test subject's identity to the test result. However, the confidentiality of test results is specifically protected by California law, which prohibits unauthorized disclosure (see "Disclosure of Test Results"). Confidential testing is available at publicly-funded confidential test sites as well as private health care settings. To protect the privacy of individuals taking an HIV test, Health and Safety Code Section 120975 provides that no person shall be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify any individual who takes an HIV test.

RAPID HIV TESTING

Section 120917 of the Health and Safety Code authorizes participation by the Department of Health Services, Office of AIDS in a rapid HIV test research program conducted with the federal Centers for Disease Control and Prevention. In Department-designated HIV counseling and testing sites, an HIV counselor who is trained by the Office of AIDS may, under identified conditions, perform any HIV test that is classified as waived under the federal Clinical Laboratory Improvement Act. A rapid HIV test is a screening test that produces results quickly enough to allow for same-day results to be given to the patient. Under the rapid HIV test research program, the Department may perform and report clinical test results using a rapid HIV test for diagnosis, prior to test approval by the federal Food and Drug Administration. A second, approved test shall be used to confirm initially reactive test results.

CONSENT REQUIRED FOR TESTING

In General

Except in the case of a treating physician and surgeon, Health and Safety Code Section 120990 requires written consent for HIV testing. The statute requires a treating physician and surgeon to obtain informed consent for HIV testing. Health and Safety Code Section 120990 requires specific consent for HIV testing - a general consent for medical care is not sufficient.

At an Alternative Test Site

Health and Safety Code Section 120990 does not apply to tests performed at an ATS, tests on a cadaver, donated body or organs, or blood tested anonymously as part of a scientific investigation. As previously noted, Health and Safety Code Section 120895 requires that individuals testing at an ATS be informed about the validity and accuracy of the antibody test before it is performed.

Incompetent Persons and Minors

In the case of an incompetent person, Health and Safety Code Section 121020 authorizes a parent, guardian, conservator, or other person legally authorized to make health care decisions to give written consent for an HIV test. Minors under the age of 12 are considered not competent to give consent. Minors who are wards of the court may receive written consent from the court.

DISCLOSURE OF TEST RESULTS

Laboratory Test Results

Section 123148 of the Health and Safety Code permits certain laboratory test results to be posted on the Internet or other electronic method if requested by the patient and deemed

appropriate by the health care provider who ordered the test. Consent of the patient is to be obtained in a manner consistent with requirements of Section 56.11 of the Civil Code. The electronic delivery of clinical laboratory test results or any other related results for HIV antibody tests are specifically prohibited under this statute, regardless of authorization.

Written Authorization Requirements

Health and Safety Code Section 120980 requires that persons responsible for the care and treatment of an individual who takes an HIV test obtain written authorization prior to any disclosure of the individual's test results in an identifying manner. This statute requires a separate written authorization for each disclosure, and must state to whom the results will be disclosed. Further, the statute provides for a civil penalty of up to \$1,000 for each negligent unauthorized disclosure and \$1,000-\$5,000 for each willful disclosure. A negligent or willful disclosure that results in economic, bodily, or psychological harm to the test subject is a misdemeanor punishable by imprisonment of up to one year and/or a fine of up to \$10,000.

Physician Exceptions to Written Authorization Requirements

Inclusion of a person's HIV test result in his/her medical record is not considered a disclosure under Health and Safety Code Section 120980. Health and Safety Code Section 120985 permits a physician who orders an HIV test to record the results in the patient's medical record, or otherwise disclose it without written authorization to the patient's health care providers for the purpose of diagnosis, care, or treatment of that patient. Recording or disclosing test results in accordance with Section 120985 does not authorize further disclosure unless otherwise permitted by law. Providers of health care are to be defined as in Civil Code Section 56.05(d), with the exclusion of group practice pre-paid health care service plans.

Partner Notification Exception to Written Authorization Requirements

Health and Safety Code Section 121015 permits (but does not require) a treating physician and surgeon to disclose an individual's confirmed positive HIV test result to the local health officer, the individual's spouse, or any person reasonably believed to be the sexual or needle-sharing partner of the individual. Such disclosure may be made only for the purpose of diagnosis, care, and treatment of the person notified or to interrupt the chain of HIV transmission. The disclosure must not include any identifying information about the HIV-infected individual.

Prior to disclosing an individual's test result, the physician and surgeon must discuss the results with the patient and offer appropriate emotional and psychological counseling, including information on the risks of transmitting HIV and methods of avoiding those risks. Further, the physician and surgeon must inform the patient of the intent to notify partners and must attempt to obtain the patient's voluntary consent for partner notification. Upon notifying a spouse or partner of an HIV-infected person, the physician and surgeon must refer the spouse or partner for appropriate care, counseling, and follow-up.

County health officers may notify a spouse or partner of an HIV-infected individual but cannot identify the person or the physician and surgeon making the report. As with physicians and surgeons, county health officers must refer the spouse or partner for appropriate care and follow-up. Upon completion of partner notification efforts, all records regarding the contacted person maintained by the county health officer, including but not limited to identifying information, must be expunged. For as long as records of contact are maintained, the county health officer must keep confidential the identity and HIV status of the individual tested as well as the identity of the persons contacted.

Other Exceptions to Written Authorization Requirements

Health and Safety Code Section 121010 allows disclosure of an individual's HIV test results without prior authorization to the following:

- the subject of the test or the subject's legal representative, conservator, or other person authorized to consent to the test;
- the test subject's provider of health care (Civil Code Section 56.05) but not a health care service plan;
- an agent or employee of the subject's provider of health care who provides direct care and treatment;
- a provider of health care who procures, processes, distributes, or uses a human body part donated pursuant to the Uniform Anatomical Gift Act; and
- a designated officer of an emergency response employee and from that designated officer to the employee regarding possible exposure to HIV/AIDS.

TRAINING OF HIV TEST COUNSELORS

In 2002, Section 120871 was added to the Health and Safety Code, relating to the training of HIV counselors. This statute requires the California Department of Health Services to authorize the establishment of training programs for counselors for publicly-funded HIV testing programs, by specified community-based nonprofit organizations. Participating organizations are required to follow curriculum content and design for these trainings that is approved by the Department.

MANDATORY HIV TESTING OUTSIDE THE CRIMINAL JUSTICE SYSTEM

PROFESSIONAL BOXERS AND MARTIAL ARTS FIGHTERS

Business and Professions Code Section 18712 requires that any person applying for a new or renewed license as a professional boxer or professional martial arts fighter shall present evidence that he or she has tested negative for HIV within 30 days of the date of the application. All medical information obtained under this Section, including the HIV test result, is confidential. If the State Athletic Commission denies or revokes a license due to a positive HIV test, the stated cause for denial shall be "medical reasons." An applicant or licensee may request a closed hearing to appeal the commission's decision.

MANDATORY HIV TESTING WITHIN THE CRIMINAL JUSTICE SYSTEM

Under some circumstances, individuals accused or convicted of certain crimes may be required to take an HIV test and the results may be disclosed to the crime victim and used to enhance the penalty for certain subsequent crimes. In addition, individuals confined in correctional settings may also be required to take an HIV test under certain circumstances and the test results disclosed to specified persons. These testing and disclosure provisions are exceptions to the general prohibitions against HIV testing and disclosure without consent (see "Voluntary HIV Testing").

CERTAIN SEX OFFENSES OTHER THAN PROSTITUTION

Penal Code Section 1202.1 requires persons convicted of certain sex offenses and minors adjudged wards of the court or placed on probation for such offenses, to submit to an HIV test. These offenses include rape (including statutory and spousal rape), and unlawful sodomy or oral copulation. In addition, testing is required for individuals convicted of lewd or lascivious acts with a child if the court finds there is probable cause to believe that a bodily fluid capable of transmitting

HIV was transferred from the defendant to the victim. The clerk of the court must convey the test results to the Department of Justice and the local health officer. The prosecutor must advise the victim of the right to receive the test results and refer the victim to the local health officer for counseling. The local health officer must release the test results to the crime victim if the victim so requests. The victim, in turn, may disclose the test results as he or she deems necessary to protect his or her health and safety, or the health and safety of his or her family or sexual partner. The local health officer must also disclose the test results to the test subject and provide appropriate counseling. The Department of Justice must disclose the test results of any previously convicted sex offender upon the request of the prosecutor or defense attorney in connection with any subsequent investigation or prosecution of the test subject for prostitution or certain sex crimes.

Penal Code Section 12022.85 provides for a three-year sentence enhancement for a conviction of rape (including statutory and spousal rape), or unlawful sodomy or oral copulation, if the defendant knew that he or she was HIV-positive at the time of the commission of the offense. An HIV test result obtained pursuant to Penal Code Section 1202.1 or Penal Code Section 1202.6 may be used to prove this knowledge.

In contrast to Penal Code Section 1202.1, which requires HIV testing of persons *convicted of* certain sex crimes, Health and Safety Code Section 121055 permits testing of persons, including minors, *charged with* certain sex crimes. These crimes include, but are not limited to, rape (including statutory and spousal rape), unlawful sodomy or oral copulation, and lewd or lascivious acts with a child. At the request of the alleged victim, if the court finds probable cause to believe that a transfer of a bodily fluid took place between the defendant and the alleged victim during the alleged crime, the court shall order the defendant to submit to an HIV test. The test results must be provided to the defendant, the alleged victim, and if the defendant is incarcerated or detained, to the officer in charge and the chief medical officer of the detention facility. Health and Safety Code Section 121065 forbids the use of test results as evidence in any criminal proceeding.

PROSTITUTION

Penal Code Section 1202.6 requires that individuals convicted of prostitution complete instruction in the causes and consequences of AIDS and submit to an HIV test. The test results must be disclosed to the test subject, the court, and the California Department of Health Services (DHS). The court and DHS must maintain the confidentiality of the report; however, DHS must furnish copies of the report to a district attorney upon request.

If an individual has a previous conviction for prostitution or any of the sex offenses listed in Penal Code Section 1202.1(c), tested positive for HIV in connection with that conviction, and was informed of the test results, Penal Code Section 647f elevates any subsequent prostitution conviction from a misdemeanor to a felony.

ASSAULTS ON PEACE OFFICERS, FIREFIGHTERS, EMERGENCY MEDICAL PERSONNEL

Health and Safety Code Section 121060 allows court-ordered HIV testing of any person charged with interfering with the official duties of a peace officer, firefighter, or emergency medical personnel by biting, scratching, spitting, or transferring blood or other bodily fluids on, upon, or through the skin or membranes of the peace officer, firefighter, or emergency medical personnel. The test result must be reported to the accused, each peace officer, firefighter, or emergency medical personnel named in the petition for the test, their employing entities, and if the accused is in custody, the officer in charge and the chief medical officer of the detention facility. Health and Safety Code Section 121065 forbids use of the test results as evidence in any criminal

proceeding and requires that all recipients of the results other than the accused maintain the confidentiality of the accused's identity. An exception is made for disclosures that may be necessary to obtain medical or psychological care or advice.

OTHER CRIMES

Penal Code Section 1524.1 allows, at the request of the crime victim, court-ordered HIV testing of any person charged with a crime. Before issuing a search warrant for the defendant's blood, the court must find that there is probable cause to believe that blood, semen, or other bodily fluids have been transferred from the defendant to the victim and that there is probable cause to believe the defendant committed the alleged offense. A victim may also request HIV testing of the accused in the case of certain alleged sex crimes that are the subject of a police report but have not been charged. This provision applies only if the accused has been charged with some separate sex crime, there is probable cause to believe that the accused committed the uncharged offense, and there is probable cause to believe that blood, semen, or certain other bodily fluids could have been transferred from the accused to the victim.

The prosecutor must advise the victim of the right to request testing and must refer the victim to the local health officer for help in determining whether to make such a request. The local health officer is also responsible for disclosing the test results to the victim and the accused and must offer appropriate counseling to each. The prosecutor may not use the test result to determine whether to file a criminal charge.

INDIVIDUALS IN CUSTODY

Penal Code Sections 7510-7519 establish procedures through which custodial and law enforcement personnel are required to report situations in which they have reason to believe they have come into contact with bodily fluids of an inmate, a person arrested or taken into custody, or a person on probation or parole, in a manner that could result in HIV infection. These reports must be filed with the chief medical officer of the applicable custodial facility. The employee may also request HIV testing of the person who is the subject of the report. The chief medical officer shall order a test only if there is a significant risk that HIV was transmitted.

These sections also permit inmates to file similar requests stemming from contacts with other inmates. In addition, the chief medical officer may order an HIV test in the absence of any incident report or request from an inmate or employee if the medical officer concludes an inmate exhibits clinical symptoms of HIV infection or AIDS. Further, custodial officers or correctional staff may file a report of any observed or reported behavior known to cause the transmission of HIV. The chief medical officer may investigate these reports and require HIV testing of any inmate as deemed necessary as a result of the investigation. Penal Code Section 7540 makes it a misdemeanor to file a false report or request for testing or to use or disclose test results or confidential information in violation of any of the provisions of Sections 7500-7555.

California Code of Regulations, Title 22, Sections 41100-41150 interpret the procedural aspects of Penal Code Sections 7510-7519.

Penal Code Section 7553 permits DHS to conduct periodic anonymous unlinked serologic surveys of all or portions of the inmate population or persons under custody within a city or county.

Health and Safety Code Section 121070 establishes a separate procedure for testing persons in custody. It requires that any medical personnel working in any state, county, or city prison, jail, or

other detention facility who receives information that an inmate has been exposed to or is infected with HIV or has an AIDS-related condition must report that information to the officer in charge of the detention facility. The officer in charge must notify all employees, medical personnel, contract personnel, and volunteers at the facility who have direct contact with the inmate or the inmate's bodily fluids. Those receiving this information must maintain the confidentiality of any personally-identifying data. Any willful unauthorized disclosure is punishable as a misdemeanor.

WARDS OF THE YOUTH AUTHORITY

Welfare and Institutions Code Section 1768.9 requires a person under the jurisdiction of the Department of the Youth Authority to submit to an HIV test if the chief medical officer of the facility determines the person exhibits clinical symptoms of AIDS. A court order may be sought if the person refuses testing. The test subject must receive appropriate counseling and the test results. The chief medical officer may disclose the test results to the facility superintendent or administrators and, if the test results are indicative of HIV infection, to the test subject's known sexual or needle-sharing partners within the facility. Health and Safety Code Section 120995 exempts the Youth Authority from obtaining the test subject's written consent.

PAROLEES AND PROBATIONERS

Penal Code Section 7520 requires correctional officials to notify parole and probation officers when an individual with HIV infection or AIDS is released. The parole or probation officer must then ensure that the parolee or probationer contacts the county health department or a physician and surgeon for information on counseling and treatment options available in the county of release.

Penal Code Section 7521 requires that if the HIV-infected individual has not informed his or her spouse of his or her condition, the parole or probation officer may ensure that the spouse is notified by the chief medical officer of the correctional institution or the physician and surgeon treating the spouse or the parolee or probationer. If a parole or probation officer enlists the assistance of local law enforcement officers in taking a parolee/probationer into custody who is HIV-infected or has AIDS and also has a record of assault on a peace officer, the parole or probation officer must inform the law enforcement officers of the parolee/probationer's condition.

Penal Code Section 7540 makes it a misdemeanor to use or disclose test results or confidential information obtained in violation of Penal Code Section 7520 or 7521. Penal Code Section 7505 provides that Sections 7500-7550 shall be operative only in those cities and/or counties that adopt a resolution affirming that it shall be operative.

EXPOSING ANOTHER PERSON TO HIV

Health and Safety Code Section 120291 states that any person who exposes another to HIV by engaging in unprotected sexual activity is guilty of a felony, when the infected person: 1) knows he/she is infected; 2) has not disclosed his/her HIV-positive status; and 3) acts with the intent to infect the other person with HIV. The felony charge is punishable in the state prison for three, five, or eight years. Unless the victim requests otherwise, the name and any other identifying characteristics of the victim shall remain confidential.

Health and Safety Code Section 120292 denotes the parameters for disclosing identifying information and other records of the diagnosis, prognosis, testing, or treatment relating to HIV in a criminal investigation of a violation of Section 120291. Orders of the court shall not be based on the sexual orientation of the defendant, used to determine the HIV status of a crime victim, or intended to restrict or eliminate anonymous AIDS testing.

OCCUPATIONAL EXPOSURE TO HIV/AIDS

State law requires or allows certain individuals who may have been occupationally exposed to HIV to learn the HIV status of the individual who was the source of the exposure. This section outlines the circumstances in which exposure notification requirements apply.

PREHOSPITAL EMERGENCY MEDICAL PERSONNEL

Health and Safety Code Section 1797.188 and 1797.189 require county health officers to notify prehospital emergency medical care personnel, volunteer or paid, when they have been exposed to a reportable disease, such as AIDS, in the course of providing emergency services or rescues. The exposure must be one capable of transmitting the disease. The notification requirement applies only under specified circumstances in which the exposed personnel's names and phone numbers have been provided to the health facility or the chief medical examiner-coroner at the time a patient is transferred, and that information is subsequently relayed to the county health officer. Further disclosures are prohibited except as otherwise authorized by law. Personnel to whom this statute applies include authorized registered nurses or mobile intensive care nurses, emergency medical technicians, paramedics, lifeguards, firefighters, peace officers, and physicians and surgeons who provide prehospital emergency medical care or rescue services.

FUNERAL DIRECTORS

When an individual with AIDS dies in a health facility or the decedent's body has been in the possession of the chief medical examiner-coroner, Health and Safety Code Sections 1797.188 and 1797.189 require the health facility, the chief medical examiner-coroner, or the county health officer to notify the funeral director removing the body that the decedent had AIDS.

HEALTH CARE PROVIDERS, FIRST RESPONDERS, FORENSIC SCIENTISTS, AND OTHERS WHO MAY BE OCCUPATIONALLY EXPOSED

Health and Safety Code Sections 121130-121140 allow individuals who experience a significant exposure (capable of transmitting HIV) to the blood or other potentially infectious material of a patient, during the course of rendering health care-related emergency response, or other occupationally-related services, to request information on the source patient's HIV status. If the source patient is already known to be HIV-infected, the patient's attending physician may disclose this information to the exposed individual. The attending physician must first attempt to obtain the source patient's consent to release this information, but consent is not required.

If the source patient's HIV status is unknown, and the exposed individual tests HIV negative on a baseline test after exposure, the attending physician of the source patient shall make a good faith effort to locate and obtain the voluntary, written informed consent of the source patient to test existing samples of blood or other tissue for HIV. If the source patient is located, he or she must be provided with medically appropriate pretest counseling. If consent is given for testing, the source patient is to be referred for appropriate post-test counseling and follow-up. The source patient who refuses to provide consent must be informed that the testing of the available blood or tissue sample will proceed without consent and that the test results will be provided to the exposed individual. The source patient may elect not to receive the results of the HIV test. As otherwise required by law, the exposed individual must maintain the confidentiality of the results.

Section 121135 of the Health and Safety Code authorizes, under specified conditions, an HIV test on any available blood or patient sample of a source patient, if the source patient is unable to provide informed consent. The inability to contact the source patient, or legal representative of the source patient, after a good faith effort to do so, shall constitute a refusal to consent, and HIV

testing of available blood or tissue sample may be performed. If the source patient cannot be located after a good faith effort, or if the source patient refuses to give consent, then the available blood or tissue sample may be tested for HIV without consent. If the informed consent of the source patient cannot be obtained because the source patient is deceased, consent to perform an HIV test on any blood or patient sample of the source patient, legally obtained in the course of providing health care services at the time of the exposure event, shall be granted.

Section 121056 of the Health and Safety Code allows a criminalist, toxicologist, forensic pathologist or any employee who conducts DNA or other forensic testing to file an ex parte petition to have a specimen tested for HIV if, within the scope of his or her duties, the person performing the forensic test has skin or membrane contact with blood or other bodily fluids. Before filing the petition to the court, the requesting party must make a reasonable effort to obtain the consent of the person whose specimen is to be tested. Copies of the test results will be sent to the requesting employee, the employing agency, officer or entity, to the person whose specimen was tested, and to the officer in charge and the chief medical officer of the facility where the individual is incarcerated or detained. Under these provisions, the confidentiality of test results shall be maintained, and the use of test results in criminal or juvenile proceedings is prohibited.

HIV-INFECTED INDIVIDUALS AND MEDI-CAL

Numerous statutes mention HIV/AIDS and Medi-Cal (California's Medicaid program). The following specifically addresses drug treatment services.

DRUG TREATMENT SERVICES

Existing law provides for Medi-Cal to establish a program to provide drug treatments to qualified persons infected with HIV. Government Code Section 16531.1 created a continuously appropriated Medical Providers Interim Payment Fund to ensure uninterrupted delivery of health care services to Medi-Cal beneficiaries, and critical drug treatments to persons infected with HIV during any portion of a fiscal year (prior to September 1) in which the state budget has not been signed.

HIV AND WORKERS' COMPENSATION

RELEASE OF MEDICAL INFORMATION

Labor Code Section 3762 and Civil Code Section 56.31 relate to HIV and workers' compensation. With identified exceptions, these statutes prohibit the disclosure or use of medical information regarding the HIV status of an employee who has filed a workers' compensation claim without written authorization from the claimant. Exceptions include: 1) if the patient is an injured worker claiming to be infected with or exposed to HIV through an incident arising out of and in the course of employment; 2) if the diagnosis of the workers' compensation injury would affect the employer's premium; and 3) medical information that a treating medical provider deems is necessary for the employer to have in order to modify the employee's work duties.

DEATH BENEFITS

Sections 5406 - 5406.6 of the Labor Code relate to the statute of limitations for collecting workers' compensation benefits for the death of a health care worker, public safety employee, or certain correctional peace officers from an HIV-related disease. These statutes state that a proceeding to collect benefits must commence within one year from the date of the death, provided that certain events have occurred.

REPORTING OF HIV AND AIDS CASES

On July, 1, 2002, California's regulations to report HIV infection became effective. The regulations, located in the California Code of Regulations (CCR), Title 17, Article 3.5, Division 1, Chapter 4, Subchapter 1, Article 3.5, Sections 2641.5 - 2643.2, require clinical laboratories and health care providers to report HIV infection by Non-Name Code to the local health officer, and mandate that local health officers report unduplicated cases to the Department of Health Services (DHS). California has reported AIDS cases since 1983, in accordance with the federal Centers for Disease Control and Prevention (CDC) guidelines. CCR, Title 17, Section 2500, requires health care providers to report AIDS cases by name to the local health officer. Section 2502 requires local health officers to report to DHS.

Health and Safety Code Section 121025 protects the confidentiality of AIDS-related public health records that were developed or acquired by state or local public health agencies. Any personally-identifying information in these records must remain confidential and cannot be disclosed without written authorization from the person named in the record or his or her guardian or conservator, except to other local state, or federal public health agencies or researchers who need the information to carry out their duties in the investigation, control, or surveillance of disease. Any individuals to whom the information is disclosed are also required to keep the information confidential. No confidential public health record may be required to be disclosed in the context of any civil, criminal, or administrative proceeding.

In 2002, Section 121340 was added to the Health and Safety Code, relating to HIV reporting. This statute requires DHS, in consultation with various entities, to determine, no later than December 31, 2005, whether California's HIV reporting system has achieved compliance with standards and criteria necessary to ensure continued federal funding through the Ryan White CARE Act. The Department is directed to inform the Legislature of its findings and to report all written communication from CDC that indicates that California's system has not or will not meet federal standards and criteria for HIV reporting.

HIV/AIDS AND THE BLOOD SUPPLY

HIV TESTING OF BLOOD DONORS

Health and Safety Code Section 1603.1 requires that all blood and blood components to be used in humans be tested for HIV. Exceptions to the testing requirement are made for:

- blood/blood components used for research or vaccination programs pursuant to an informed consent;
- blood products released for transfusion in emergency circumstances; and
- blood used for autologous purposes.

Blood banks and plasma centers must report the names and other personal identifiers of HIV-infected donors to DHS. Health and Safety Code Section 1603.3 requires that the donors of blood or blood components receive written notice, and sign a written statement confirming the notification, that their blood or blood components will be tested for HIV. The notice must also indicate that the names of HIV-infected donors will be included on the Blood Donor Deferral Register, without listing the reason for deferral.

Health and Safety Code Section 1621.5 makes it a felony, punishable in prison for two, four, or six years, for any person who knows that he or she is infected with HIV to donate blood, breast milk, semen, body organs, or other tissues. Exemptions include those who are mentally incompetent, who donate blood for an autologous donation, and who self-defer their blood at a blood bank. In a criminal investigation for a violation of this section, the results of an HIV blood test may only be released pursuant to a search warrant, a judicial subpoena, or a court order.

TRANSFUSION-RELATED AIDS CASES

Health and Safety Code Section 1603.1 requires physicians and hospitals to report immediately to the county health officer all transfusion-related AIDS cases. In addition, hospitals must report to the local health officer and DHS, as soon as practicable, the names and other personal identifiers of all confirmed "AIDS carriers." The county health officer must investigate the transfusion-associated AIDS cases and, if possible, trace the source of the transfused blood. The local health officer may report the name of the HIV-infected blood donors to blood banks. Further, the local health officer must report the names of "AIDS carriers" to the DHS Donor Deferral Register, without identifying the reason for deferral.

Twice a month DHS shall update the Donor Deferral Register, which shall include the names and other personal identifiers of all blood donors who test positive for HIV and all confirmed cases of AIDS. Without identifying the reason for the deferral, DHS must provide to blood banks and plasma centers a list of all individuals who are indefinitely deferred from donating blood.

HIV/AIDS EDUCATION AND SCHOOLS

Section 51201.5 of the Education Code states that the school districts shall provide guidance as to course content on AIDS prevention and ensure that all pupils in grades 7 to 12, inclusive, receive AIDS prevention instruction from adequately trained instructors. Pupils are to receive instruction once in junior high or middle school, and once in high school. Section 51553 of the Education Code relating to sex education requires that all public elementary classes that teach sex education and discuss sexual intercourse provide factual and medically-accurate information that emphasizes that abstinence from sexual intercourse is the only protection that is 100 percent effective against pregnancy, sexually transmitted diseases, and AIDS when transmitted sexually.

Sections 51554 and 51555 of the Education Code prohibit pupils in kindergarten to grade 12 from receiving instruction on sexually transmitted diseases, AIDS, and human sexuality unless the parent/guardian has been notified at the beginning of the school year, or at the time of the pupil's enrollment. If AIDS-related instruction is scheduled after these occurrences, written notification must be provided to the parent 10-15 days prior to instruction. If parents are not properly informed, or the parent sends a written request that the pupil be excused, the pupil shall not receive instruction, and shall not be punished for nonparticipation in such courses.

FACILITATING THE ADOPTION OF HIV-POSITIVE CHILDREN

Welfare and Institution's Code Section 16135 facilitates the adoption of court-dependent children who are HIV-positive by establishing a program for special training and services to adoptive families. Participating counties shall provide training to adoptive parents that includes a curriculum of infant and early childhood development issues specific to: 1) caring for a child who tests HIV-positive, 2) special medical needs and disabilities, and 3) HIV/AIDS in children.

HIV/AIDS AND INSURANCE/MEDICAL PLANS

ELIGIBILITY

Health and Safety Code Section 121025 protects the confidentiality of public health records related to persons with AIDS. This Section also prohibits the use of such records to determine the insurability of any person. In addition, Health and Safety Code Section 120980 prohibits the use of the results of an HIV test for determination of insurability, except for life and disability insurance under certain conditions. Similarly, Insurance Code Section 799.09 prohibits a life or disability income insurer from requiring an HIV test if results of the test would be used for determining eligibility for hospital, medical, or surgical insurance coverage, or eligibility for coverage under a nonprofit hospital service plan or health care service plan. However, Insurance Code Sections 799-799.10 allow insurers to refuse to grant a life or disability income policy on the basis of a positive HIV test. An insurer that requires an HIV test for life or disability insurance must secure written informed consent, pay for the test, and provide a list of available counseling resources. The insurer may not use the marital status or the known or suspected homosexuality or bisexuality of an applicant as a condition for determining whether to require an HIV test. If an insurer does require an HIV test, the insurer must disclose the test results to the applicant's designated physician or to the applicant.

USE OF AN HIV TEST

Insurance Code Section 10291.5 requires that disability insurance policies that cover hospital, medical, or surgical expenses must include a prominent notice that California law prohibits requiring or using an HIV test as a condition of obtaining health insurance.

AIDS VACCINE

The Board of Administration of the Public Employees' Retirement System is authorized to contract with carriers for health benefits plans and to approve health benefits offered by employee organizations in order to provide health benefits coverage to specified public employees. In 2001, Section 22793.2 was added to the Government Code, Section 1367.45 to the Health and Safety Code, and Section 10145.2 to the Insurance Code regarding coverage for an AIDS vaccine that is approved for marketing by the federal Food and Drug Administration and recommended by the United States Public Health Service. All three statutes state that plans or policies shall not be required to provide coverage for AIDS vaccine clinical trials or for investigational new drug application. Section 1367.45 of the Health and Safety Code further specifies that every individual or group health care service plan contract that is issued, amended, or renewed on or after January 1, 2002, that covers hospital, medical, or surgery expenses shall provide coverage for an approved vaccine. Insurance Code Section 10145.2 contains similar language for specified policies that are issued, amended, or renewed on or after July 1, 2002.

ACCESS TO HIV/AIDS SPECIALISTS

Health and Safety Code, Section 1374.16 specifies that HIV/AIDS be interpreted broadly as a condition or disease that requires specialized medical care. It provides for 'standing referrals' to maximize access of an HIV-infected medical plan enrollee to providers with demonstrated expertise in the field. This statute shall become inoperative on January 1, 2004, or the date of adoption of an accreditation or designation by an agency of the state or federal government or by a voluntary national health organization of an HIV or AIDS specialist, whichever date is earlier.

HIV/AIDS AND DISCRIMINATION

Federal and state statutes prohibit discrimination in employment, housing, and public accommodations against individuals with a disability, including persons with HIV infection.

FEDERAL LAW

Discrimination against a person with a disability, including HIV infection, is prohibited in a variety of ways by federal law. The most comprehensive federal legislation is the Americans with Disabilities Act of 1990 (ADA [42 U.S.C. §12101-12213]) which prohibits discrimination against disabled individuals in employment, public services, and public accommodations. Under the ADA, an individual is considered to be disabled if that person has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Individuals with clinical HIV disease or AIDS meet the definition of disabled. A split in opinion among courts in the United States has occurred regarding whether persons with asymptomatic HIV infection meet this definition.

All employers with 15 or more employees must meet the requirements of the ADA. The ADA regulates when employers may inquire into an applicant's disability status and requires employers to keep employees' medical records separate from their personnel files. Employers must reasonably accommodate the needs of an otherwise qualified disabled employee in the performance of the essential functions of his or her job. Similarly, the ADA requires all businesses and public services to reasonably accommodate the needs of otherwise qualified disabled persons in the provision of services.

STATE LAW

California law incorporates the requirements of the federal ADA and also establishes independent state grounds for prohibiting discrimination against disabled persons, including those with HIV infection.

Civil Code Sections 51 and 54 provide that a violation of applicable provisions of the federal ADA shall also constitute a violation of the California Civil Code.

Civil Code Section 51 et seq. (the Unruh Civil Rights Act) prohibits business establishments from discriminating against disabled persons. Civil Code Section 54 et seq., protects disabled individuals from discrimination in the use of public accommodations including but not limited to medical and hospital facilities, public transportation, adoption agencies, private schools, and hotels. They further guarantee equal access to housing accommodations offered for rent, lease, or compensation.

Government Code Section 12900 et seq., (California Fair Employment and Housing Act) prohibits discrimination in employment or housing accommodations based on disability. Fair Employment and Housing Commission regulations (California Code of Regulations, Title 2, Section 7293.5 et seq.) establish that disabled persons include individuals with HIV infection or AIDS, or who are perceived as having AIDS. In addition, as noted previously, Health and Safety Code Section 120980 prohibits using HIV test results for determining an individual's suitability for employment. Similarly, Health and Safety Code Section 121025 prohibits use of public health records pertaining to AIDS to determine employability. In addition, Civil Code Section 1710.2 provides that when transferring real property, owners or their agents need not disclose that a former occupant was HIV-infected.

APPENDIX A

California Codes and Regulations Sections Specifically Mentioning HIV or AIDS

Business and Professions Code

<i>Section</i>	<i>Description</i>
32	AIDS education for health care professionals
1680	Dental professionals required to follow California Health and Safety Act of 1973 (CalOSHA) infection control standards, guidelines, and regulations
2221.1	Physicians, surgeons, and podiatrists required to follow CalOSHA infection control standards, guidelines, and regulations
2660	Physical therapists required to follow CalOSHA infection control standards, guidelines, and regulations
2761	Nurses required to follow CalOSHA infection control standards, guidelines, and regulations
2878	Vocational nurses required to follow CalOSHA infection control standards, guidelines, and regulations
3527	Physicians' assistants required to follow CalOSHA infection control standards, guidelines, and regulations
3750	Respiratory therapists required to follow CalOSHA infection control standards, guidelines, and regulations
4521	Psychiatric technicians required to follow CalOSHA infection control standards, guidelines, and regulations
4955	Acupuncturists required to follow CalOSHA infection control standards, guidelines, and regulations
18712	HIV testing for licensing of professional boxers and martial arts fighters

Civil Code

<i>Section</i>	<i>Description</i>
56.31	Prohibition on disclosure or use of information regarding a patient's HIV status in a workers' compensation claim
1710.2	Real property owners not obligated to disclose that previous occupant was HIV-infected

Education Code

<i>Section</i>	<i>Description</i>
51201.5	AIDS prevention education in schools
51229	Abstinence education in schools as a means to prevent AIDS
51229.8	In-service training for teachers and school employees who provide AIDS prevention instruction
51265	AIDS instruction for educators
51553 - 51555	AIDS instruction in school sex education classes

Family Code

Section
358

Description

AIDS information for marriage license applicants

Government Code

Section
12900 et seq.

Description

HIV/AIDS employment and housing discrimination

16531.1

Fund to allow payment to Medi-Cal providers for HIV drug-treatment services when the state budget has not been signed

22793.2

Health care coverage: AIDS vaccine

Health and Safety Code

Section
135 - 138

Description

Office of Women's Health as a clearinghouse for information on women and AIDS

439.905

Research on effectiveness of RU-486 in treating AIDS

1250.4

HIV/AIDS testing and treatment for correctional inmates and Youth Authority wards

1250.11

Guidelines for preventing transmission of HIV in health care settings

1337.1

AIDS education programs in skilled nursing and intermediate care facilities

1367.45

Health care coverage: AIDS vaccine

1374.16

HIV/AIDS defined as a condition or disease that requires specialized medical care

1389.1

Health insurance applications must state that an HIV test may not be required or used as a condition for obtaining health insurance

1562.5

HIV training for administrators of adult residential facilities and program directors of social rehabilitation facilities

1568.01 - 1568.092

Residential care facilities for persons with HIV/AIDS

1603.1 - 1603.4

HIV testing of donated blood and blood components; reporting of transfusion-related AIDS cases

1621.5

Donation of blood, breast milk, semen, body organs, or other tissues by persons knowingly infected with HIV/AIDS is a felony

1644.5

HIV screening of donors of tissue for transplantation

1760 - 1761.8

Pediatric day health and respite care facilities for children with HIV

1797.175

AIDS training for prehospital (emergency medical) personnel

7155.5

HIV screening of anatomical gift donors

11362.5 - 11362.9

Use of marijuana by people with AIDS and the Marijuana Research Act of 1999

11757.59

AIDS testing and counseling services for alcohol and drug abusing pregnant and parenting women and their infants

Health and Safety Code (continued)

<i>Section</i>	<i>Description</i>
11998 - 11998.3	State drug and alcohol abuse master plan to include AIDS information
11999 - 11999.3	State-funded HIV/AIDS education and prevention outreach programs to intravenous drug users exempt from prohibitions on discussion of responsible but unlawful use of drugs or alcohol
38070 - 38081.1	Administrative provisions applicable to the CA AIDS Program (Section 120800 et seq.)
100117	Legislative findings and declarations regarding the AIDS pandemic
100119	DHS, Office of AIDS designated as lead agency for coordinating state HIV/AIDS programs
100236	Advance payments to local health departments for specified services, including funding for HIV education and prevention
100237	Inclusion of HIV/AIDS in studies with women and minorities as subjects
101300 - 101310	Local public health service contract options for AIDS programs
110403	Advertising of AIDS drugs
111605	Approvals for AIDS-related drugs
120290	Willful exposure of another person to any contagious, infectious, or communicable disease is a misdemeanor
120291	Acting with specific intent to infect another person with HIV is a felony; victim identity protection
120292	Disclosure of identifying information, diagnosis, testing, and treatment information relating to HIV in a criminal investigation for violation of Section 120291
120775	HIV and AIDS definitions
120800 - 120871	California AIDS Program
120800	Legislative intent
120805	Duties of Department of Health Services
120815	Funding of residential AIDS shelters
120820	Confidentiality of personal data
120825	Duties of Department of Health Services Director
120830	Pilot projects of care initiated through block grant program
120835	Private health insurance premiums of participants in pilot care projects
120840	AIDS mental health project
120845	Pilot programs in AIDS-related substance abuser programs
120850	AIDS research funding allocation for University of California
120855	Home and community-based services
120860	Prevention, education, testing, and counseling programs for women and children
120865	Review of programs; target populations; unmet and projected needs; report
120870	Alkyl nitrites sales
120871	HIV tests, counselors, and training
120875 - 120895	AIDS Information
120875	AIDS information for school districts
120880	AIDS information to employees of school districts

Health and Safety Code (continued)

<i>Section</i>	<i>Description</i>
120885	Legislative declarations on testing for HIV antibodies separate from blood donation
120890	Designation of counties for alternative testing sites
120895	Provisions governing operation of alternative test sites; anonymity of testing
120900-120915	Early intervention projects
120917	Authorization for DHS, Office of AIDS to conduct rapid HIV test research with CDC
120920	Inclusion of the benefits of early intervention within information and education grants
120925 - 120935	Provision of Azidothymidine (AZT)
120950 - 120968	HIV Treatment (AIDS Drug Assistance Program)
120975 - 121020	Mandated Blood Testing and Confidentiality to Protect Public Health
120975	Prohibition against identification of individuals testing for HIV antibodies
120980	Unauthorized disclosures, penalties, damages, prohibited use of results
120985	Disclosure of test results to health care providers
120990	Written consent of test subjects; exceptions
120995	Certain actions and testing exempted from confidentiality provisions
121000	Disclosure and consent in medical testing of prisoners
121005	Liability of state department, blood bank, or plasma center
121010	Disclosure to certain persons without written consent
121015	Disclosure to spouse, sexual partners, needle sharers, county health officer
121020	Consent for incompetent persons
121025 - 121035	AIDS Public Health Records Confidentiality Act
121050 - 121070	AIDS Public Safety and Testing Disclosure
121050	Purpose
121055	Disclosure in connection with certain sexual crimes
121056	Disclosure of test results to individuals who conduct forensic testing
121060	Disclosure in connection with assaults on officers
121065	Guidelines for testing in connection with provisions of this Chapter
121070	Disclosures in connection with custodial facilities
121075 - 121125	AIDS Research Confidentiality Act
121130 - 121140	AIDS Exposure Notification
121130	Legislative intent
121132	Definitions
121135	Testing and disclosing guidelines -health care providers/first responders
121140	Liabilities and penalties
121150 - 121180	AIDS Research and Workshop Grants
121200 - 121225	AIDS Vaccine Research and Development Grant Program
121250 - 121280	AIDS Vaccine Development
121300 - 121335	AIDS Clinical Trial Grant Award for the Prevention of Maternal Transmission of HIV
121340	HIV reporting requirements
121362	Confidentiality of HIV test results in connection with reports on tuberculosis patients

Health and Safety Code (continued)

<i>Section</i>	<i>Description</i>
122420	Inclusion of information on HIV/hepatitis C co-infection in DHS outreach, education, training, and care programs
123148	Electronic posting of laboratory results for HIV antibody tests is prohibited
125107	Offering of HIV testing and counseling to pregnant women
129755	Seismic safety standards for federally owned facilities providing services to persons with HIV infection

Insurance Code

<i>Section</i>	<i>Description</i>
790 - 790.10	Payment of AIDS-related insurance claims
799 - 799.10	Life and disability income insurance and AIDS risks
10145.2	Health care coverage: AIDS vaccine
10291.5	Disability insurance applications to include notice of prohibition of HIV testing for health insurance

Labor Code

<i>Section</i>	<i>Description</i>
5406 - 5406.6	Statute of limitations for collecting HIV-related workers' compensation death benefits for certain workers

Penal Code

<i>Section</i>	<i>Description</i>
647f	Prostitution is a felony for persons previously convicted of prostitution or other sex offenses and found to be HIV-infected
1001.10 - 1001.11	AIDS education program in drug abuse and prostitution cases
1202.1- 1202.6	AIDS testing for persons convicted of sex offenses and prostitution
1463.23	County use of fines for certain offenses to provide AIDS education program for drug abuse and prostitution cases
1524.1	HIV testing of criminal defendants when there is probable cause to believe transmission of HIV from the defendant to the victim could have occurred
2692	Contracting for housing, care, and treatment of Department of Corrections inmates with HIV/AIDS
4018.1	HIV/AIDS information for county jail inmates sentenced for drug-related offenses
5008.1	HIV/AIDS information for inmates of state correctional facilities
7500 - 7555	HIV testing of prisoners
7552	Education and prevention program for correctional, custodial, and law enforcement agencies
7553	Periodic anonymous serologic HIV surveys of county/city inmates
7554	Reporting of occupational exposure to HIV among peace officers

Penal Code (continued)

<i>Section</i>	<i>Description</i>
7555	Current HIV testing, reporting, and notification provisions for law enforcement personnel extended to January 1, 2005
11225 - 11235	Injunction, abatement, and prevention of bathhouses permitting conduct capable of transmitting AIDS
12022.85	Sentence enhancement for persons convicted of committing sex offenses while knowingly infected with HIV

Revenue and Taxation Code

<i>Section</i>	<i>Description</i>
6363.3	Organizations that provide hospice services to persons with HIV disease are included in the definition of nonprofit organization

Vehicle Code

<i>Section</i>	<i>Description</i>
5071	Red ribbon special interest license plate funds

Welfare and Institutions Code

<i>Section</i>	<i>Description</i>
903.8	AIDS information for foster parents
1123	HIV/AIDS information for wards of the Youth Authority
1768.9	HIV testing of wards of the Youth Authority
5328	Disclosure to emergency response employees regarding exposure to HIV from recipients of mental health services
14083.5	Hospital contracting and bidding procedures for treating Medi-Cal beneficiaries with AIDS
14088.85	Primary case management for Medi-Cal beneficiaries with HIV
14105.43 - 14105.435	Inclusion of HIV/AIDS-related drugs on Medi-Cal list of contract drugs
14132 - 14132aa	Home and community-based services and congregate living facilities for Medi-Cal beneficiaries with AIDS
14137.6	Treatment of Medi-Cal beneficiaries associated with investigational HIV/AIDS drugs
14148.9 - 14148.91	Reporting the number of HIV-infected infants born in certain high-risk populations
14503.5	HIV/AIDS information for recipients of state-funded family planning services
16135	Training and services to facilitate the adoption of HIV-positive and other specified children
16525 - 16525.4	Services for HIV-positive children in foster care (pilot project)
16800.5 - 16818	Audits of state-funded, county-operated AIDS programs
16915	County expenditure for indigent health care for persons with AIDS

California Code of Regulations Applicable to HIV or AIDS

<i>Title & Section</i>	<i>Description</i>
8: 5193	Occupational exposure to blood or other potentially infectious material
9:7141 - 7143	Disclosure of HIV test results of Department of Rehabilitation applicants and clients
16:1633	HIV infection control requirements for osteopaths
17:1004	HIV reporting requirements for blood banks and plasma centers
17:1230	Approval of laboratories for use of HIV antibody test
17:2500 - 2511	Reporting requirements for certain diseases and conditions (including AIDS)
17:2641.5 - 2643.20	HIV reporting regulations
22:41102 - 41150	HIV testing of inmates in correctional facilities

APPENDIX B

Glossary of Selected Terms

Acquired Immunodeficiency Syndrome (AIDS)

A disease of the immune system caused by HIV, and characterized by failure of the body's immune system to protect against infections and certain cancers. People with AIDS often suffer infections of the lungs, brain, eyes and other organs, and frequently suffer debilitating weight loss and diarrhea.

Autologous

In blood donation, referring to a situation where the donor and the recipient are the same individual.

California Codes

California legislative statutes that are numbered and grouped into similar categories are called codes. For example, health issues are grouped together in the Health and Safety Codes, and Penal Codes are the body of statutes dealing with crimes and their punishment. The terms code and statute are often used interchangeably.

Chaptered Bill

A bill is chaptered by the Secretary of State after it has passed through both houses of the Legislature.

Et Seq

Abbreviation for et sequens (Latin) meaning, "and the following."

Ex parte

On behalf of only one party, without notice to any other party. For example, a request for a search warrant is an ex parte proceeding, since the person subject to the search is not notified of the proceeding and is not present at the hearing.

Felony

A serious crime, generally punishable by a penalty of imprisonment for more than one year.

Human Immunodeficiency Virus (HIV)

HIV is the virus that causes AIDS. California law distinguishes between simply being infected with HIV (testing positive) and having AIDS. Federal Centers for Disease Control and Prevention (CDC) criteria define when a person with HIV infection can be diagnosed as having AIDS.

Misdemeanor

A charge less serious than a felony, usually punishable by a fine or imprisonment for less than one year.

Regulations

Regulations are enacted through an administrative process overseen by the Office of Administrative Law, an independent agency within the Executive Branch. Regulations may be needed to implement, interpret, or make specific a statute or code section. Regulations must be authorized by statute and they have the force of law. Collectively, California regulations form the California Code of Regulations.

Statute

A statute is a law that has been enacted by the legislature. Statutes that deal with related issues are numbered and grouped together into codes. California statutes are chaptered bills.



**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT: **MARKETING**

POLICY
NUMBER **15**

EFFECTIVE DATE: **APRIL 14, 2003**

PAGE **1 OF 3**

Purpose

To establish a process for the employees of the County of Mono (hereinafter "the County") on how to handle the marketing of products to individuals where protected health information may be used or disclosed.

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.

Definitions

Note: The definitions below are in compliance with 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, 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.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT: **MARKETING**

POLICY
NUMBER **15**

EFFECTIVE DATE: **APRIL 14, 2003**

PAGE **2 OF 3**

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.

Marketing:

(1) To make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless the communication is made:

(i) To describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, the County, including communications about: the entities participating in a health care provider network or health plan network; replacement of, or enhancements to, a health plan; and health-related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits.

(ii) For treatment of the individual; or

(iii) For case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual.

(2) An arrangement between the County and any other entity whereby the County discloses PHI to the other entity, in exchange for direct or indirect remuneration, for the other entity or its affiliate to make a communication about its own product or service that encourages recipients of the communication to purchase or use that product or service.

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. PHI does not include employment records held by County in its role as an employer.

Policy

In compliance with state and federal laws and regulations, the County may use or disclose PHI for marketing if the individual provides a valid authorization allowing the use or disclosure or there is an applicable exception as set forth in this policy and procedure.

Procedure

The County must obtain an authorization for any use or disclosure of PHI for marketing, except if the communication is in the form of:

**COUNTY OF MONO
PRIVACY POLICIES**

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POLICY
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- A. A face-to-face communication made by a covered entity to an individual; or
- B. A promotional gift of nominal value provided by the covered entity to the individual.

If the marketing involves direct or indirect remuneration to the County from a third party, the authorization must state that such remuneration is involved.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	MINIMUM NECESSARY USES OF PROTECTED HEALTH INFORMATION	POLICY NUMBER	16
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 3

Purpose

To ensure that employees of the County of Mono (hereinafter "the County") understand how to apply the "minimum necessary" standard to uses of protected health information.

Background

County agencies designated as healthcare 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.

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 identifies an individual (or could reasonably be used to identify an individual) that:

- Is created or received by the County;
- 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.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	MINIMUM NECESSARY USES OF PROTECTED HEALTH INFORMATION	POLICY NUMBER	16
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Definitions (cont'd.)

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. PHI does not include employment records held by County in its role as an employer.

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.

Policy

Only staff members with a legitimate "need to know" may access or use PHI. Each staff member may only access or use the minimum information necessary to perform his/her designated duties regardless of the extent of access authorized or available. This includes all activities related to treatment, payment and healthcare operations conducted by or on behalf of the County.

Procedure

1. County staff members acting on behalf of the County's healthcare components must always use only the minimum amount of information necessary to accomplish the intended purpose of the use, access or disclosure.
2. With respect to system access, individual privacy will be supported through authorization, access, and audit controls and will be implemented for all systems that contain individually identifiable health information. Within the permitted access, a staff member may only access the information needed to perform his/her job duties.

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PRIVACY POLICIES**

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3. Each staff member is responsible for completing all required ongoing education related to patient privacy and patient rights.
4. Each staff member is responsible for compliance with the County's code of conduct and all County policies relating to PHI.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 65, No. 250, December 28, 2000 at 82819.

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002 at 53195 – 53199.

"The California Patient Privacy Manual," published by the California Healthcare Association, February 2002.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	MINIMUM NECESSARY DISCLOSURES OF PROTECTED HEALTH INFORMATION	POLICY NUMBER	17
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 7

Purpose

To ensure that employees of the County of Mono (hereinafter "the County") understand how to apply the "minimum necessary" standard to disclosures of 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.

Definitions

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

Disclosure: Release, transfer, or provision of access to protected health information outside the County

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.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	MINIMUM NECESSARY DISCLOSURES OF PROTECTED HEALTH INFORMATION	POLICY NUMBER	17
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Definitions (cont'd.)

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. PHI does not include employment records held by County in its role as an employer.

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 a individual from one provider to another.

Policy

The County will make reasonable efforts to limit the amount of PHI requested, used or disclosed to that which is minimally necessary to meet the user's needs.

Minimum necessary standards will **not** be applied to the following:

- Disclosures to or requests by a healthcare provider for treatment or to the individual;
- Uses or disclosures made to the individual as part of the individual's request to access his or her PHI (see Policy # 1, Individual Access to Protected Health Information in the Designated Record Set) or as part of the individual's request to amend his or her PHI (see Policy # 2, Request for Amending Protected Health Information);
- Uses or disclosures made pursuant to a valid authorization (see Policy # 9, Authorization for Use and Disclosure of Protected Health Information);
- Disclosures to the Secretary of Health and Human Services for enforcement compliance (see Policy # 7, Disclosures to the Secretary of the United States Department of Health and Human Services);
- Uses or disclosures that are required by law (see Policy # 13, Uses and Disclosures for Which an Authorization or an Opportunity to Agree or Object is Not Required); and
- Uses or disclosures that are otherwise required for compliance with the HIPAA Privacy Rule.

**COUNTY OF MONO
PRIVACY POLICIES**

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Procedure

1. Disclosures of Minimally Necessary PHI

Based on a review of its routine disclosures, the County has developed criteria to limit the amount of PHI disclosed to the information reasonably necessary to meet the requester's needs. A table of routine requests and disclosures is provided in Exhibit A. Any requests not included in this table will be handled as non-routine disclosures, as outlined in the next section.

- If a request does not indicate the specific information needed, a standard "abstract" of information will be disclosed.

2. Non-Routine Disclosures to External Requesters

All non-routine requests for disclosures will be referred to the program/unit manager or designee for review. Criteria to be considered in determining the amount of information to be disclosed are provided in Exhibit B.

3. Redisclosure of Information from Other Healthcare Providers

In some cases, the County may be in possession of copies of individuals' PHI from other healthcare providers, particularly in the case of individuals who are transferred to the County for continuing care.

Redisclosure of PHI from other healthcare providers will be treated as a disclosure of PHI created by the County and will be based on this policy and procedure.

When asked to provide certified copies of medical records, the County will only certify information it has created or incorporated into the County record. The County will not certify records from another provider, as it cannot attest to the accuracy of those records. The County may, however, certify that the records provided were records in its possession.

4. Requests for Entire Medical Records

The County will not disclose an entire designated record set except when the entire record is specifically requested and the disclosure is not subject to the minimum necessary standard or unless the disclosure is justified as the amount that is reasonably necessary to accomplish the purpose of the disclosure.

5. Reliance on Representations By Individual or Entity Requesting PHI

The County may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when:

- a. Making a disclosure to a public official as allowed by these policies and procedures and

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PRIVACY POLICIES**

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the HIPAA Privacy Rule (see Policy # 13, Uses and Disclosures for Which and Authorization or Opportunity to Agree or Object is Not Required) where the public official represents that the information requested is the minimum necessary for the stated purpose(s);

b. The information is requested by another entity subject to the HIPAA Privacy Rule;

c. The information is requested by a professional who is a member of the County's workforce or is a business associate of the County and the disclosure is for the purpose of providing professional services to the County, if the person represents that the information requested is the minimum necessary for the stated purpose(s); or

d. Documentation or representations that comply with the research provisions of these policies and procedures have been provided by a person requesting the information for research purposes.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 65, No. 250, December 28, 2000 at 82819.

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002 at 53195 – 53199.

"Implementing the Minimum Necessary Standard," a practice brief published by the American Health Information Management Association, October 2002.

"Redisclosure of Patient Health Information," a practice brief published by the American Health Information Management Association, 2001.

Exhibit A

**COUNTY OF MONO
MINIMUM NECESSARY DISCLOSURES OF PROTECTED HEALTH INFORMATION**

ROUTINE REQUESTS AND DISCLOSURES—Individual Requests

REQUESTER	AUTHORIZATION REQUIRED?	PURPOSE	DISCLOSURES*
Adult Protective Services	No: Disclosure required by law	Report suspected adult abuse or neglect, as required by law	Information required by law
Ambulance company	No: Disclosure for payment	Obtain demographics and insurance information for billing	Face sheet with patient demographics and insurance information
Attorney	Yes, unless a valid subpoena or court order is issued	Evaluate individual's medical condition in support of a lawsuit	Specific information requested
Children's Protective Services	No: Disclosure required by law	Report suspected child abuse or neglect, as required by law	Information required by law
Coroner	No: Disclosure required by law	Investigate a suspicious death	Specific information requested
Public Health	No: Disclosure required by law	Report animal bites and communicable diseases, as required by law	Information required by law
Department of Justice	No: Disclosure required by law	Report firearms prohibitions for patients who have been involuntarily committed for psychiatric care	Information required by law
Department of Licensure	No: Disclosure required by law	Respond to complaint investigations	Information required by state investigator
Department of Motor Vehicles	No: Disclosure required by law	Notify if patient under conservatorship has driving privileges suspended by a court	Information required by law
Disability determination	Yes	Evaluate individual's medical condition in support of disability benefits	Specific information requested
Employer	Yes	Evaluate drug usage for pre-employment screening	Drug test results
Insurance company	No: Disclosure for payment	Substantiate care provided for payment	Specific information requested
Life insurance company	Yes	Evaluate individual's medical condition for issuance of a life insurance policy	Discharge summary(ies) for specified period of time.
Ombudsman	No: Disclosure required by law	Evaluate patient incidents (abuse, falls, significant weight loss)	Information required by law
Receiving facility for patient transfer	No: Disclosure for treatment	Provide information for continuity of care	Information required by law
Regional Immunization Registry	No: Disclosure required by law	Track immunizations by individual child	Information required by law
School	Yes	Evaluate child's medical condition for school activities	Letter from physician or discharge summary
Social Security Administration	No: Disclosure required by law	Report admission to and discharge from geriatric treatment facility	Information required by law
Workers' Compensation	No: Disclosure required by law; also for payment	Evaluate individual's medical condition for benefits	Discharge summary; other information as requested and allowed by state law

* Documents listed are those typically found in an inpatient medical record. Documents with similar content should be disclosed from other types of records, such as outpatient or emergency department records.

**COUNTY OF MONO
MINIMUM NECESSARY DISCLOSURES OF PROTECTED HEALTH INFORMATION**

ROUTINE REQUESTS AND DISCLOSURES—Group Disclosures

REQUESTER	AUTHORIZATION REQUIRED?	PURPOSE	DISCLOSURES
Bureau of Narcotic Enforcement	No: Disclosure required by law	Track Schedule C-II narcotic prescriptions	Information required by law
Collection agency	No: Disclosure for payment/healthcare operations	Obtain payment on past due accounts	File of patient names, addresses, dates of service, and amount owed
Employer	No: Disclosure of de-identified data	Evaluate utilization	Plan summary information (aggregate information not individually identifiable)
Office of Statewide Health Planning (OSHPP)	No: Reporting required by law	Evaluate healthcare trends	Information required by law
State Cancer Registry	No: Reporting required by law	Evaluate incidence and survival of cancer cases	Information required by law

Exhibit B

COUNTY OF MONO

MINIMUM NECESSARY DISCLOSURES OF PROTECTED HEALTH INFORMATION

CRITERIA FOR EVALUATING NON-ROUTINE REQUESTS AND DISCLOSURES

In evaluating non-routine requests, the County will assess the reasonableness of the request, using the following criteria:

CRITERION	POINTS FOR CONSIDERATION
Specificity of request	If the request is general, narrow the disclosure to specific documents or periods of time that would fit the purpose of the request.
Purpose of request	If there is a clearly stated purpose, disclosures should relate to the purpose. If there is no clearly stated purpose, it may be necessary to ask the requester for clarification of the specific information needed.
Impact to patient	Could the disclosure potentially harm the individual, such as introduce discrimination based on health status? Would the disclosure help the individual?
Use of de-identified information	Could the requester's needs be met with de-identified or aggregate information that does not identify specific individuals?
Technology available to limit disclosure	Are there ways to limit the amount of information disclosed, using existing technology?
Cost of limiting disclosure	If there is a way to limit the amount of information disclosed, is the cost involved reasonable?
Other factors	Are there any other factors or circumstances that should be considered in determining the most appropriate way to respond to this request?

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT: COMPLAINT PROCESS FOR PRIVACY ISSUES

POLICY
NUMBER **18**

EFFECTIVE DATE: APRIL 14, 2003

PAGE 1 OF 5

Purpose

To establish a process for the employees of the County of Mono (hereinafter "the County") to handle complaints relating to privacy issues from individuals (patients, residents, or clients) or their legal representatives.

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.

Definitions

Note: The definitions below are in compliance with 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, 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.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	COMPLAINT PROCESS FOR PRIVACY ISSUES	POLICY NUMBER	18
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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. PHI does not include employment records held by County in its role as an employer.

Policy

In compliance with state and federal laws and regulations, the County will provide a process for individuals (patients, residents, or clients) or their legal representatives to make complaints concerning the County's privacy policies and procedures. Any workforce member who receives a privacy-related complaint from an individual is responsible for promptly forwarding the complaint to The County of Mono Privacy Officer.

The Privacy Officer will receive privacy-related complaints and provide information about matters covered in the County's Notice of Privacy Practices and related policies and procedures.

The Privacy Officer will document all complaints received and the disposition of each complaint.

Procedure

Who can make a complaint?

Individuals whose PHI the County maintains or other persons may file complaints about suspected violations of the policies and procedures of the County's covered components regarding:

- Disagreements with the covered component's privacy policies and procedures;
- Suspected violations in the use or disclosure of PHI;
- Denials of access to PHI;
- Denials of amendments to PHI; and
- Retaliatory or intimidating actions.

Members of the workforce or business associates may report a suspected violation of the Privacy Rule by a member of the workforce. They may also file their complaint with the Secretary of the U.S. Department of Health and Human Services.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT: COMPLAINT PROCESS FOR PRIVACY ISSUES

POLICY
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Note: Covered components of the County and their business associates will not be considered to have violated the privacy requirements when a whistleblower discloses PHI provided that:

- The workforce member or business associate believes in good faith that the County has engaged in unlawful conduct or the conditions endanger patients, workers or the public;
- The workforce member or business associate discloses the PHI to a health oversight agency or an attorney retained on behalf of the workforce member; or
- A workforce member is the victim of a criminal act and discloses PHI to a law enforcement officer about the perpetrator.

Types of Complaints

Individuals may file complaints concerning:

- Disagreements with the County's privacy policies and procedures;
- Suspected violations in the use or disclosure their PHI;
- Denials of access to their PHI;
- Denial of amendments to their PHI; or
- Retaliatory or intimidating actions.

From employees concerning:

- Misuse of PHI or process problems involving employees within the County.

The County of Mono, Privacy Officer will have the authority to:

- Investigate privacy-related complaints throughout the County;
- Have access to employee records and individual client records as needed;
- Make recommended business process changes or negotiate other resolutions with all sections or divisions of the County to resolve complaints; and
- Mitigate or suggest actions to mitigate harmful effects resulting from violations of the Privacy Rule.

There are limited types of complaints that the Privacy Rule requires be handled by the County's covered component. These include:

- The County/employee has inappropriately disclosed PHI;
- The County/employee has inappropriately used PHI;
- The County/employee has inappropriately disposed of PHI;
- The County/employee has denied access to PHI;
- The County/ employee has denied an amendment to PHI; and
- The County's privacy policies and practices violate HIPAA requirements.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT: COMPLAINT PROCESS FOR PRIVACY ISSUES

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Timing

An individual filing a complaint has 180 days from the date he or she becomes aware of the suspected violation to file a complaint with the Secretary of the U.S. Department of Health and Human Services. Individuals who wish to file a privacy-related complaint with the County are encouraged to do so as soon as they become aware of a suspected violation, to facilitate investigation of the complaint and corrective action.

Retaliatory Actions

The County will not take retaliatory actions against individuals and others who file a complaint; testify, assist or participate in an investigation, compliance review or other hearing; or oppose any act or practice that they believe is unlawful under the privacy regulations. (See Policy #19 Enforcement, Sanctions and Penalties for Violations of Privacy Rule).

Informing the Individual

In collaboration with the Privacy Officer, the covered components of the County will inform the individual within 30 calendar days of filing the complaint about the results of the investigation, and what changes have been made to prevent further violations of the HIPAA privacy requirements.

Sanctions

The County will take appropriate actions against members of its workforce who fail to comply with the privacy policies and procedures of the covered components. The County will document the sanctions that are applied. (See Policy #19, Enforcement, Sanctions and Penalties for Violations of Privacy Rule).

Mitigation

During the investigation of a violation, the Privacy Officer will document any resulting harmful effects that are identified.

The Privacy Officer, in consultation with legal counsel, will take steps, as reasonably practicable, to mitigate the harmful effects of the violation. These steps may include, but are not limited to:

- Suspending any further use or disclosure of PHI that may be in violation of the County's privacy-related policies or of state and federal privacy laws and regulations;
- Sanctions against workforce members in accordance with the County's disciplinary policies; and
- Termination of business associate arrangements.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT: COMPLAINT PROCESS FOR PRIVACY ISSUES

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Privacy Officer

The Privacy Officer for the County of Mono is:

Stacey Simon, Deputy County Counsel
P.O. Box 2415
452 Old Mammoth Road, Suite J-3
Mammoth Lakes, CA 93541
(760)924-1700

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT: ENFORCEMENT, SANCTIONS AND PENALTIES FOR
VIOLATIONS OF THE PRIVACY RULE

POLICY
NUMBER **19**

EFFECTIVE DATE: **APRIL 14, 2003**

PAGE **1 OF 6**

Purpose

To ensure that employees of the County of Mono (hereinafter "the County") comply with the privacy rule and the duties and obligations set forth in this policy and procedure manual, the County is mandated to specify enforcement, sanction, penalty and disciplinary actions that result from a violation of the County policies.

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.

A covered entity is required to have and apply appropriate sanctions against members of its workforce who fail to comply with the privacy policies and procedures established by the covered entity. Federal law, California Law, and County policies protecting the privacy of protected health information must be followed. Failure to follow these laws and policies may result in criminal prosecution, imposition of civil liability, and disciplinary action.

Policy:

1. General

- a. All employees, volunteers, interns and members of the Mono County workforce ("Mono County employees") must guard against improper uses or disclosures of any Mono County client or participant's protected health information.
 - i. Mono County employees who are uncertain if a disclosure is permitted are advised to consult with a supervisor or with the Mono County Privacy Officer prior to making any disclosure.
- b. All employees are required to be aware of their responsibilities under the Mono County privacy policies.
 - i. Mono County employees will be expected to sign a Privacy Program Statement of Understanding indicating that they have been informed of the business practices in Mono County relating to the privacy of protected health information, and that they understand their responsibilities to ensure the Privacy rights of health care clients and participants.
- c. Supervisors are responsible for assuring that Mono County employees who have access to confidential information, whether it be electronic, written, hard copy, or verbal, are informed of their responsibilities.
- d. Mono County employees who violate Mono County policies and procedures,

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	ENFORCEMENT, SANCTIONS AND PENALTIES FOR VIOLATIONS OF THE PRIVACY RULE	POLICY NUMBER	19
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including those regarding the safeguarding of an individual's protected health information, are subject to disciplinary action up to and including discharge from employment.

- e. Mono County employees who violate Mono County policies and procedures regarding the safeguarding of an individual's protected health information may be subject to legal action by the individual whose privacy rights have been violated and may be required by a court of law to pay monetary damages, penalties, and fees.
- f. Mono County employees who knowingly and willfully violate state or federal law for improper use or disclosure of protected health information are subject to criminal investigation and prosecution and prosecution for civil monetary penalties.
- g. Mono County will be subject to administrative penalties, including federal funding penalties, from the United States Department of Health and Human Services if it fails to enforce privacy safeguards.

2. Documentation

- a. Mono County shall document each violation of any of the privacy laws or policies and shall document any sanctions applied, if any. Any corrective action or mitigation measures taken shall also be documented. Documentation of a disciplinary action taken against a Mono County will be included in the employee's personnel record in the same manner as any other documented disciplinary action.
- b. Documents must be retained for at least six (6) years, or as otherwise required by state law. The Privacy Officer shall be contacted at any time a document is prepared pursuant to this section, and shall be provided a copy of the document upon request.

3. Mitigation Measures

- a. Mono County must mitigate, to the extent practicable, any harmful effect that is known to Mono County of a use or disclosure of protected health information in violation of its policies and procedures, by any individual or entity, including, but not limited to, Mono County employees and Mono County's business associates.
- b. If a Mono County employee becomes aware of any violation of the privacy policies and procedures, or of any harmful effect to a client from a possible violation of the policies or procedures, the employee shall immediately notify a supervisor or the Mono County Privacy Officer so that any possible harmful effect can be promptly mitigated.

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	ENFORCEMENT, SANCTIONS AND PENALTIES FOR VIOLATIONS OF THE PRIVACY RULE	POLICY NUMBER	19
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4. Prohibition Against Retaliation

- a. Mono County, and any Mono County employee, shall not intimidate, threaten, coerce, discriminate, or take any form of retaliatory action against:
 - i. Any individual for the exercise by the individual of any right under, or for participation by the individual in any process established by, the Mono County policies and procedures, including the filing of a complaint with Mono County, the United States Department of Health and Human Services, or any other agency or entity;
 - ii. Any individual for testifying, assisting, cooperating, or participating in any investigation, compliance review, proceeding, or hearing relating to the Mono County policies and procedures; or
 - iii. Any individual who opposes any unlawful act or practice provided that the individual has a good faith belief that the act or practice being opposed is unlawful and the manner of such opposition is reasonable and does not involve a use or disclosure of protected health information in violation of the Mono County privacy policy.

5. Disclosures by Whistleblowers and Workforce Member Crime Victims

- a. A Mono County employee or a business associate shall not be in violation of the privacy policies and procedures if they disclose protected health information, provided that:
 - i. The Mono County employee or business associate believes in good faith that the covered entity has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services, or conditions provided by the covered entity potentially endangers one or more patients, workers, or the public; and
 - ii. The disclosure is to:

(A) A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of the covered entity or to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by the covered entity; or

(B) An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to the possible unlawful conduct.

- b. Mono County will not be considered to have violated the privacy policies and procedures if a member of its workforce who is a victim of a criminal act discloses protected health information to a law enforcement official; provided that:

**COUNTY OF MONO
PRIVACY POLICIES**

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i. The protected health information disclosed is about the suspected perpetrator of the criminal act; and

ii. The protected health information is limited to the following information:

- (A) Name and address;
- (B) Date and place of birth;
- (C) Social Security Number;
- (D) ABO blood type and rh factor;
- (E) Type of injury;
- (F) Date and time of treatment;
- (G) Date and time of death, if applicable; and
- (H) A description of distinguishing physical characteristics including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars, or tattoos.

6. Waiver of Rights

- a. Mono County may not require an individual to waive their rights to file a complaint with the Mono County Privacy Officer or with the any federal or state agency as a condition of the provision of treatment, payment, enrollment in a health plan, or eligibility of benefits.

Guidance in Understanding This Section

a. Examples of Violations

- i. Sharing protected health information with others, including co-workers or other government employees not entitled to the information, family and friends, marketers, media, members of the public;
- ii. Using protected information to send a birthday or other card or notice, or to contact or locate an individual using private information;
- iii. Posting a list of patients on the internet;
- iv. Not securing information as required or following the safeguard procedures that may include shredding of documents, locking cabinets, shielding monitors, and other safeguard procedures;
- v. Allowing others access to protected health information by not being discreet when orally communicating protected information or by leaving information visible to the general public or other patients or co-workers.

**COUNTY OF MONO
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b. Examples of Penalties or Sanctions

- i. The penalty or sanction will depend on the nature of the violation. Intentional acts such as sharing protected health information about someone you do not like, or selling information to a marketer, will be treated more severely than an unintentional disclosure. A first time careless unlawful disclosure will be treated less severely than repeated unlawful disclosures.
- ii. Criminal penalties under HIPAA may be severe, and may include substantial fines and imprisonment. Criminal penalties may be up to \$50,000 and one year in prison for obtaining or disclosing protected health information in an unlawful manner; up to \$100,000 and five years in prison for obtaining protected health information by false pretenses; up to \$250,000 and ten years in prison for obtaining and disclosing protected health information with the intent to sell, transfer, or use for commercial advantage, personal gain, or malicious harm.
- iii. California law allows an individual whose confidential health information has been unlawfully disclosed the right to sue, and the right to recover payment of compensatory damages, punitive damages, attorney's fees and costs.
- iv. California law provides for imposition of an administrative fine or civil penalty for negligent disclosure of confidential health information in the amount of twenty-five hundred dollars (\$2,500) per violation. An intentional violation of the confidentiality laws may result in a civil penalty of up to twenty-five thousand dollars (\$25,000) per violation. Violating the privacy laws for financial gain may result in a penalty in the amount of two-hundred fifty thousand dollars (\$250,000) per violation.
- v. Violation of the California medical privacy laws may be criminally prosecuted, and upon conviction may result in fines and incarceration.
- vi. Violations of the privacy laws or policies and procedures will result in discipline, that will range from written reprimand to discharge.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol 67, No 157, August 2002. (See, 45 CFR 164.530(e),(f), (g), (h); 45 CFR 164.502(j); 45 CFR

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164.512(f)(2)(i))

Code of Federal Regulations, Title 42, Chapter 1, Subchapter A, Part 2, August 1, 1996

California Civil Code Sections 56.35, 56.36.

Mono County Code Section 2.68.230

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	CLERICAL & COPY FEES FOR PROTECTED HEALTH INFORMATION	POLICY NUMBER	20
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 3

Purpose

To outline the fee schedule for the County of Mono (hereinafter "the County") that applies to requests from individuals (patients/residents/clients), their legal representatives, and other external requesters to access or obtain copies of protected health information in designated record sets.

Background

County agencies designated, as healthcare 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.

In accordance with the privacy regulations and California law, individuals have the right, in certain circumstances, to receive copies of health information about themselves that is maintained by the County. When such copies are requested, the County may charge reasonable fees to cover its costs to retrieve documents, make copies, or compile summaries.

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: Records used by the County to make decisions about individuals. The County's designated record set is limited to the following:

- Patient/resident/client medical records;
- Patient/resident/client billing records; or
- Images, including but not limited to radiology films, fetal monitor strips, electrocardiograph (EKG) tracings, electroencephalograph (EEG) tracings, and other imaged records of procedures.

The designated record set **excludes** other information compiled by the County for non-patient care purposes, including but not limited to information compiled for peer review, quality assurance, and business operations that is not used to make decisions about individuals.

Individually Identifiable Health Information: Information that identifies an individual (or could reasonably be used to identify an individual) that:

- Is created or received by the County;
- 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

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	CLERICAL & COPY FEES FOR PROTECTED HEALTH INFORMATION	POLICY NUMBER	20
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- 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.

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. PHI does not include employment records held by County in its role as an employer.

Policy

In compliance with state and federal law and regulation, the County will charge a reasonable, cost-based fee to individuals and their legal representatives to cover the cost of copying protected health information, any reasonable clerical costs, or the cost of preparing a summary of the information. Fees will also be charged to other outside requesters.

There is no charge for individuals and their legal representatives to review PHI without obtaining copies. There is no charge for copies sent to other healthcare providers for treatment purposes.

The fee charged shall be that contained in the County fee schedule (as approved by the Board of Supervisors) which is in place at the time the request is made.

Procedure

1. Waiver of Fees for Patients with Economic Need

An individual who does not have the ability to pay may be given copies of records in the designated record set without charge upon providing proof of economic need. Such proof may include, but is not limited to participation in the state Medi-Cal or charity care programs.

The supervisor of the facility, program, or unit releasing the information or his designee may make this determination, based on information provided by the individual or his legal representative.

An individual will be entitled to a copy, at no charge, of the relevant portion of their medical record, upon presenting to the provider a written request and proof that the records are needed

**COUNTY OF MONO
PRIVACY POLICIES**

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to support an appeal regarding eligibility for a public benefit program (e.g., Medi-Cal, social security disability insurance benefits, and Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits).

"Relevant portion of the patient's records" means those records regarding services rendered to the patient during the time period beginning with the date of the patient's initial application for public benefits up to and including the date that a final determination is made by the public benefits program with which the patient's application is pending.

Records requested pursuant to this section shall be provided within thirty (30) days after receipt of a written request.

2. Pre-Payment

Facilities, programs, or units may establish their own criteria for requesters who are required to pay retrieval and copy fees prior to obtaining the requested information unless and until a County-wide policy is implemented.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 65, No. 250, December 28, 2000, August 14, 2002.

California Health and Safety Code Section 123110, subdivisions (b) and (d).

**COUNTY OF MONO
PRIVACY POLICIES**

SUBJECT:	LIMITED DATA SETS ANDS DE-IDENTIFICATION OF PROTECTED HEALTH INFORMATION	POLICY NUMBER	21
EFFECTIVE DATE:	APRIL 14, 2003	PAGE	1 OF 5

Purpose

To establish a process for the employees of the County of Mono (hereinafter "the County") on how to prepare limited data sets 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.

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:

3. County as Health Care Provider: Records maintained by or for the County that are:
 - 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);
 - Patient/resident/client billing records; or
 - Records used, in whole or in part, by or for the County to make decisions about individuals.
1. County as Health Plan: Records maintained by or for the County that are for:
 - Enrollment;
 - Payment;
 - Claims adjudication;
 - Case or medical management systems; or
 - Records used, in whole or in part, by or for the County to make decisions about individuals.

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

**COUNTY OF MONO
PRIVACY POLICIES**

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- 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.

Limited Data Set: A limited data set is protected health information that excludes the following direct identifiers of the individual or of relatives, employers, or household members for 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 license plate numbers; (x) Certificate/license numbers; (xi) Vehicle identifiers and serial numbers, including Locators (URLs); (xii) Device identifiers and serial numbers; (xiii) Web Universal Resource including finger and voice prints; and (xiv) Full face photographic images and any comparable images.

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. PHI does not include employment records held by County

April 14, 2003

**COUNTY OF MONO
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in its role as an employer.

Policy

In compliance with state and federal laws and regulations, the County may use or disclose PHI if it is disclosed as part of a limited data set or de-identified as set forth in the policy and procedure.

Procedure

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. 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.
- c. 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.

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:
 - 1. A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable:
 - i. 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 Mono's Privacy Officer; and
 - ii. Documents the methods and results of the analysis that justify such

**COUNTY OF MONO
PRIVACY POLICIES**

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- determination; or
2. The following procedures are followed:
- i. The following identifiers of the individual or of relatives, employers, or household members of the individual, are removed:
- A. Names;
 - B. 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:
 - 1. The geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and
 - 2. The initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.
 - C. 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;
 - D. Telephone numbers;
 - E. Fax numbers;
 - F. Electronic mail addresses;
 - G. Social security numbers;
 - H. Medical record numbers;
 - I. Health plan beneficiary numbers;
 - J. Account numbers;
 - K. Certificate/license numbers;
 - L. Vehicle identifiers and serial numbers, including license plate numbers;
 - M. Device identifiers and serial numbers;
 - N. Web Universal Resource Locators (URLs);
 - O. Internet Protocol (IP) address numbers;
 - P. Biometric identifiers, including finger and voice prints;
 - Q. Full face photographic images and any comparable images; and
 - R. Any other unique identifying number, characteristic, or code, except as permitted by paragraph (c) of this section; and
- ii. 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:
- 1. 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
 - 2. The County does not use or disclose the code or other means of record

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identification for any other purpose, and does not disclose the mechanism for reidentification.

REFERENCES

Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164, Vol. 67, No. 157, August 14, 2002.

Notice: These twenty-one Mono County Privacy Policies govern the use and disclosure of protected health information to the extent that the Policies are consistent with state and federal law. If a conflict exists between the Policies and the law in any individual case, the law will control.

**COUNTY OF MONO – HEALTH CARE PROVIDER
NOTICE OF PRIVACY PRACTICES**

ACKNOWLEDGEMENT OF RECEIPT

By signing this form, you acknowledge receipt of the Notice of Privacy Practices of the County of Mono. Our Notice of Privacy Practices provides information about how we may use and disclose your protected medical/health information. We encourage you to read it in full.

Our Notice of Privacy Practices is subject to change. If we change our notice, you may obtain a copy of the revised notice by contacting any staff person involved in your care.

If you have any questions about our Notice of Privacy Practices, please contact the:

**Privacy Officer
Office of the Mono County Counsel
452 Old Mammoth Road, Suite J-3
P.O. Box 2415
Mammoth Lakes, California 93546
(760) 924-1700**

I acknowledge receipt of the Notice of Privacy Practices of the County of Mono

Signature (Patient/Parent/Conservator/Guardian)

Date

Inability to Obtain Acknowledgement

To be completed only if no signature is obtained. If it is not possible to obtain the client's acknowledgement, describe the good faith efforts made to obtain the client's acknowledgement, and the reasons why the acknowledgement was not obtained:

Staff Member's Signature

Name and Title Printed

Date

MONO COUNTY

NOTICE OF PRIVACY PRACTICES

This Notice Describes How Health Information About You May Be Used and Disclosed and How You Can Get Access to This Information. Please Review Carefully.

Mono County provides several types of health services including paramedic, mental health, alcohol and drug and public health services. Staff providing these services collect and record information about you in order to provide these services. This information, called "protected health information" (PHI), is protected by Federal and State law. Mono County is committed to the protection of the privacy of this information.

Mono County May Use and Disclose Information Without Your Authorization in the Following Situations:

For Treatment

- The Paramedics and staff of the Mental Health Program may use or disclose information with other health care providers who are involved in your medical treatment.
- Information from alcohol and drug treatment records or information about HIV/AIDS status may only be shared between staff providing alcohol and drug services or staff providing HIV services respectively.

For Payment

Mono County may use or disclose information to get payment or to pay for the health care services you receive. For example, we may provide PHI to bill your health plan for treatment provided to you.

For Health Care Operations

We may use or disclose information in order to manage the programs and activities mentioned above. For example, we may use PHI to review the quality of services you receive.

For Public Health Activities

Mono County has a public health program that keeps and updates vital records, such as births and deaths and tracks some diseases. This information will be "de-identified" whenever possible so it cannot be personally identified.

As Required by Law and For Law Enforcement

- Mono County will use and disclose information when required by federal or state law.
- We may also disclose your PHI in response to a court order, subpoena, warrant, summons or other legal requirement.

For Reports and Investigation of Abuse

Some staff of Mono County are required by law to report suspected abuse of children and elders and may disclose PHI in making such reports.

To Avoid Harm

Some staff may be required to disclose PHI in order to warn a victim or alert law enforcement to a threat of violence.

Disclosures to Family, Friends and Others

- The Paramedics or crisis workers for the Mental Health program may disclose PHI to family or other persons who are involved in emergency medical care in order to facilitate urgently needed treatment.
- Information on mental health or alcohol and drug treatment services provided to a minor may be disclosed to the minor's parents or legal guardian.

In All Other Situations, Mono County May Use and Disclose Protected Health Information Only With Your Authorization, Including The Following:

- Disclosure of mental health or alcohol and drug treatment information outside of the treatment program.
- Disclosure of personally identifiable information by the Health Department about HIV/AIDS status.

Your PHI Privacy Rights

Right to See and Get Copies of Your Records. In most cases, you have the right to look at or get copies of your records. You must make the request in writing. You may be charged a fee for the cost of copying your records. This right may be limited in the case of mental health records.

Right to Request Correction or Update of Your Records. You may ask Mono County to change or add missing information to your records if you think there is a mistake. You must make the request in writing and provide a reason for your request. Mono County does not have to agree to your request.

Right to Get a List of Disclosures. You have the right to ask Mono County for a list of disclosures of your PHI made in the last six years. However, disclosures made before April 14, 2003 need not be disclosed. You must make the request in writing. This list will not include the disclosures that Mono County has made subject to your authorization or information to carry out treatment, payment, or health care operations, disclosures made to you, to persons involved in your care, for national security or intelligence purposes, to correctional institutions or law enforcement as required by law, or as part of a limited data set.

Right to Request Limits on Uses or Disclosures of PHI. You have the right to ask that Mono County limit how your information is used or disclosed. You must make the request in writing and tell Mono County what information you want to limit and to whom you want the limits to apply. Mono County is not required to agree to the restriction. You can request that the restrictions be terminated in writing or verbally.

Right to Revoke Authorization. If you signed an authorization to use or disclose information, you can cancel that authorization at any time. You must make the request in writing. This will not affect information that has already been shared.

Right to Choose How We Communicate with You. You have the right to ask that Mono County share information with you in a certain way or at a certain address. For example, you may ask Mono County to send information to your work address instead of your home address. You may also specify how you wish us to contact you to provide appointment reminders. You must make such requests in writing. You do not need to explain the reason for your request.

Right to File a Complaint. You have the right to file a complaint if you do not agree with how Mono County has used or disclosed information about you.

Right to Receive a Paper Copy of this Notice. You have the right to receive a paper copy of this notice or additional copies.

How to Contact Mono County to Review, Correct, or Limit Your Protected Health Information

You may contact the Mono County Mental Health Department , Health Department, or the Mono County Paramedics, or the Mono County Privacy Officer at the address listed at the end of this notice to:

- Ask to look at or copy your records
- Ask to limit how information about you is used or disclosed
- Ask to cancel your authorization
- Ask to correct or change your records
- Ask for a list of the disclosures Mono County has made of information about you.

Mono County may deny your request to look at, copy or change your records. If Mono County denies your request, we will send you a letter that tells you why your request is being denied and how you can ask for a review of the denial. You will also receive information about how to file a complaint with Mono County or with the U.S. Department of Health and Human Services, Office of Civil Rights.

How to File a Complaint or Report a Problem

You may contact the Mono County Privacy Officer or the United States Department of Health and Human Services if you want to file a complaint or to report a problem with how Mono County has used or disclosed information about you. The services you receive from Mono County will not be affected by any complaints you make. Mono County cannot retaliate against you for filing a complaint, cooperating in an investigation, or refusing to agree to something that you believe to be unlawful.

To file a complaint with the County of Mono, contact:

**Mono County Privacy Officer
Stacey Simon, Deputy County Counsel
P.O. Box 2415, Mammoth Lakes, 93546
Telephone number: 760-924-1700**

To file a complaint with the Federal Government, contact:

**U.S Department of Health and Human Services
Office for Civil Rights
Room 509F, HHH Building
200 Independence Avenue, S.W.
Washington D.C., 20201
Telephone Number: 800-368-1019**

Changes to This Notice

We reserve the right to revise or change the terms of this Notice, and to apply those changes to our policies and procedures regarding your medical/health information. You have the right to be notified of any changes to this Notice and to receive a copy of those changes in writing. To obtain a copy of this Notice once it has been changed, you can either ask your treatment provider or call or write the Mono County Privacy Officer at the above address.

Mono County is required by law to maintain the privacy of PHI as described above and to provide individuals with notices of its legal duties and privacy practices with regard to PHI.