



# San Francisco Department of Public Health

Policy Title: HIPAA Compliance – Reporting Individuals with Lapse of Consciousness to DMV

Page 1 of 3

**TITLE: HIPAA COMPLIANCE: REPORTING INDIVIDUALS WITH LAPSE OF CONSCIOUSNESS TO DMV**

**POLICY:**

It is the policy of the San Francisco Department of Public Health (DPH) to report patients/clients with disorders characterized by “lapse of consciousness” to the Department of Motor Vehicles (DMV) as required by state law and permitted by HIPAA.

**PURPOSE:**

1. To set forth when a report to the DMV is mandated;
2. To set forth how such reports to the DMV should be made;
3. To provide guidance in making reports to the DMV in compliance with State and Federal privacy laws.

**PROCEDURE**

- I. State law provides that “Every physician and surgeon shall report immediately to the local health officer in writing the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a case of a disorder characterized by lapse of consciousness.”
- II. Such reports shall be sent to the DPH Communicable Disease Control Unit CDCU within seven (7) calendar days using the Confidential Morbidity Report (located at <http://dphnet/Forms/FormSrc/CommDiseasesRptableyCMR062007.pdf>). According to state law, the report must include the name, address, and telephone number of the physician making the report.
- III. The DPH CDCU acting on behalf of the Public Health Officer, shall report in writing to the DMV the name, age, and address of every person reported to it as a case of a disorder characterized by lapses of consciousness. **Note:** Reports must go through the Public Health Officer; physicians should not directly disclose patient information to the DMV.
- IV. State laws requires that these reports be kept confidential by the DMV and be used solely for the purpose of determining eligibility of any person to operate a motor vehicle.
- V. “Disorders characterized by lapses of consciousness” means those medical conditions that involve:
  - a. A loss of consciousness or a marked reduction of alertness or responsiveness to external stimuli; and
  - b. The inability to perform one or more activities of daily living (such as bathing, dressing, feeding one’s self, brushing one’s teeth, and performing more complex tasks such as grocery shopping, cooking, management of personal finances, and operating a motor vehicle); and



# San Francisco Department of Public Health

Policy Title: HIPAA Compliance – Reporting Individuals with Lapse of Consciousness to DMV  
Page 2 of 3

- c. The impairment of the sensory motor functions used to operate a motor vehicle (such as the ability to integrate seeing, hearing, smelling, feeling and reacting with physical movement, such as depressing the brake pedal of the car to stop the car from entering an intersection with a green traffic light to avoid hitting a pedestrian crossing the street).
- VI. Examples of medical conditions that do not always, but may progress to the level of functional severity to be a disorder characterized by lapse of consciousness, include Alzheimer's disease and related disorders, seizure disorders, brain tumors, narcolepsy, sleep apnea, and abnormal metabolic states, including hypo-and hyperglycemia associated with diabetes.
- VII. A physician is not required to notify the local health officer of a patient with a disorder characterized by lapses of consciousness if:
- a. The patient's sensory motor functions are impaired to the extent the patient is unable to ever operate a motor vehicle; or
  - b. The patient states that he or she does not drive and that he or she never intends to drive, and the physician believes these statements made by the patient are true; or
  - c. The physician previously reported the diagnosis and, since that report, the physician believes the patient has not operated a motor vehicle; or
  - d. There is documentation in the patient's medical record that another physician reported the diagnosis and, since that report, the physician believes the patient has not operated a motor vehicle.
- VIII. California law provides that a physician may report a patient's condition, even if it is not required to be reported and does not fall within the definition of a disorder characterized by lapse of consciousness, if he or she reasonably believes that reporting will serve the public interest. **In those situations in which a physician or surgeon is concerned about a patient operating a motor vehicle but the patient's condition can not be characterized by a lapse of consciousness, the physician should contact the City Attorney's Office to determine whether and to whom information may be disclosed without violating the HIPAA Privacy Rule, before making a report to DPH CDCU.**
- IX. HIPAA allows the use or disclosure of Protected Health Information without written authorization or the opportunity to object if there is a belief that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health and safety of a person or the public and is made to a person or persons who are reasonably able to prevent or lessen such threat, including the target of the threat.
- X. HIPAA has been interpreted to narrowly define an "imminent threat" as follows: an emergency – an extremely time-sensitive and urgent condition. An "imminent threat" would not be a hypothetical scenario or potential emergency that is not imminent and serious. HIPAA's approach is consistent with and would permit a disclosure under state laws that have established, by statute or case law, a "duty to warn" third persons at risk. For example, the Supreme Court of California found, in the leading case in this area, Tarasoff v. Regents of the University of California, 17 Cal. 3d 425,



## **San Francisco Department of Public Health**

Policy Title: HIPAA Compliance – Reporting Individuals with Lapse of  
Consciousness to DMV

Page 3 of 3

1976, that when a therapist's patient had made credible threats against the physical safety of a specific person, the therapist had an obligation to use reasonable care to protect the intended victim of his patient against danger, including warning the victim of the danger.