



City and County of San Francisco

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San Francisco Department of Public Health

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Policy & Procedure Detail

Policy & Procedure Title: AUTHORIZATION FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION	
Category: Privacy	
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DPH Unit of Origin: Office of Compliance & Privacy Affairs	
Policy Contact - Employee Name and Title; and/or DPH Division: Office of Compliance and Privacy Affairs	
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Distribution: DPH-wide <input checked="" type="checkbox"/>	If not DPH-wide, other distribution:

1. Purpose of Policy

To comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, as well as relevant state and federal laws controlling the release of protected health information (PHI), by establishing a process to obtain proper authorization for the use or disclosure of PHI when necessary and appropriate.

2. Policy

It is the policy of the San Francisco Department of Public Health (DPH) to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the 2009 Health Information Technology for Economic and Clinical Health (HITECH) Act and the HIPAA Final Omnibus Rule (2013) and all other applicable state and federal confidentiality laws by obtaining authorization before using or disclosing PHI, unless the use or disclosure is specifically permitted or required by law. This policy pertains to all individuals who may have access to, use, or disclose DPH patient/client/resident PHI.

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.

We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~
~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all ~

3. Definitions

Protected Health Information (PHI): Individually identifiable health information held or transmitted in any form or media, whether electronic, paper, or oral medium, unless the individually identifiable health information is excluded from the definition of PHI under HIPAA.

Use: The sharing, employment, application, utilization, examination, or analysis of PHI within DPH, its affiliates, or its contract providers.

Disclosure: The release, transfer, provision of, access to, or divulging in any other manner of PHI outside of DPH, its affiliates, or its contract providers.

Authorization: The formal consent document releasing PHI from the records of an entity covered by the privacy provisions of HIPAA.

4. Procedures

I. MINIMUM NECESSARY RULE

- A. General Rule: When using or disclosing PHI, or when requesting PHI from another covered entity or business associate, providers must make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.
- B. Exceptions
 1. Disclosures for, or uses related to, treatment
 2. Disclosures to the patient or patient representative pursuant to patient access rights;
 3. Uses or disclosures made pursuant to a valid HIPAA authorization which describes the PHI to be disclosed;
 4. Disclosures made to the Secretary of the United States Department of Health and Human Services pursuant to an investigation or compliance review; and
 5. Other uses or disclosures that are required by law and that commonly prescribe what information must be disclosed (e.g., pursuant to a subpoena or court order, reporting child abuse or any other use or disclosure of PHI that is required by law).

II. ADMINISTRATION OF AUTHORIZATIONS

A. An authorization is required in the following situations-

1. Per the HIPAA Privacy Rule for use of PHI by DPH, its providers, its affiliates and its contract providers for purposes not related to treatment, payment, or health care operations.
2. Per 42 CFR Part 2, for the disclosure of information pertaining to an individual's treatment in a substance use disorders program, except in a medical emergency.
3. Per DPH Policy, for the disclosure of information pertaining to sexually transmitted disease treatment from the DPH City Clinic (Municipal STD Clinic) or other communicable disease treatment by DPH Community Health Epidemiology when not related to infectious disease monitoring procedures.

4. Per CCSF Local Share Mandate established with the California Office of AIDS, for the disclosure of information pertaining to an individual's treatment in a CCSF HIV Health Service program outside that network of providers.

B. Valid Authorization Forms

1. When authorization is required, all DPH divisions/units and providers shall obtain patient/client/resident authorization using the standard DPH Authorization to Release Protected Health Information form.
2. Due to strict HIPAA requirements for an authorization form to be valid, any DPH provider that plans to develop a different authorization form must have that form approved by a DPH Privacy Officer.
3. Authorizations for use or disclosure of PHI received from other persons, providers, or agencies requesting information from DPH must contain all of the HIPAA-required elements. Inadequate authorizations should be returned to the sender.
4. All researchers who request permission to conduct a study with human subjects in the DPH must include with the request a DPH standard authorization for the use of the PHI generated from the study. This standard authorization must contain all elements required by HIPAA. Refer to DPH policies regarding the conduct of research.

C. Invalid Authorizations

An authorization is not valid if:

1. The expiration date has passed or the expiration event is known by DPH to have occurred;
2. The authorization has not been filled out completely;
3. The authorization is known by DPH to have been revoked;
4. Material information in the authorization is known by the DPH to be false;
5. The authorization was improperly combined with another document; or
6. The authorization is not in 14-point font type.

D. Documenting Authorizations

1. All authorizations for use and disclosure of DPH PHI shall be filed in the correspondence section of the patient's medical record.
2. A copy of the completed authorization form shall be offered to the patient/resident/client.

E. Compound Authorizations

1. General Rule: DPH authorizations may not be combined with any other document to create a "compound authorization."
2. Exception: An authorization for the disclosure of DPH PHI generated by research may be combined with the required informed consent for participation in the research.

F. Making Treatment, Payment, Enrollment, or Eligibility Conditional Upon an Authorization

1. General Rule
 - a. DPH shall not make treatment, payment, enrollment in a health plan or eligibility for benefits conditional upon the patient, resident or client's execution of an authorization.

2. Exceptions
 - a. For treatment as part of research in which the individual will participate as a human subject.
 - b. When the purpose is to create DPH PHI to disclose to a third party (e.g., pre-enrollment physicals).

III. ORAL AGREEMENTS

DPH may rely upon an individual's oral approval to disclose, restrict or prohibit the use of PHI under the following circumstances:

- A. For an inpatient or resident facility directory;
- B. For involvement in the individual's care by next-of-kin, family members, domestic partner, and/or close personal friends; and
- C. To notify a family member, personal representative or other person responsible for the care of the individual about the individual's location, general condition, or death.

IV. MINORS

Parent or Legal Guardian must authorize uses or disclosures of a Minor's PHI, unless Minor is:

- A. Emancipated (Married, Active Military Service, By Court Order); or
- B. Self-Sufficient (age 15 or older, living separate and apart from parents, managing own finances) if relative to General Medical and Dental Care; or
- C. Is allowed under law to give own consent to "Sensitive Services" and provided consent to the services that are the subject of the requested authorization. Situations in which minors may consent include:
 1. Any- Age Minor: Care related to the prevention or treatment of pregnancy, sexual assault or rape,
 2. Minor age 12 and older: Outpatient mental health (if "at risk" criteria are met), intimate partner violence, outpatient drug and alcohol, treatment of infectious, contagious or communicable reportable disease or sexually transmitted disease, HIV testing and treatment.

V. DECEASED CLIENTS/PATIENTSPATIENT

For deceased clients/patients, the patient representative (next of kin or executor of estate) has the same rights of access that the patient had while living.

VI. EMPLOYMENT DETERMINATIONS

Authorization is required for DPH to use or disclose an individual's PHI for employment determinations. For example, DPH must have the individual's authorization to disclose the results of a pre-employment physical to an individual's employer.

VII. VERIFICATION PROCEDURES

Prior to making any disclosures permitted by HIPAA, staff shall verify the identity of the person requesting DPH PHI and the authority of any such person to have access to DPH PHI.

VIII. MEDIA AND OTHER INQUIRIES

- A. All media inquiries involving PHI shall be referred immediately to a DPH Privacy Officer and/or the DPH Director of Communications prior to release of information.
- B. No information may be disclosed if the patient has requested that information be withheld. (See exclusion in E and F below.)
- C. A DPH patient's condition may be described only in general terms that do not communicate specific medical information about the individual (e.g., undetermined, good, fair, serious, critical, or deceased).
- D. Care should be taken to first notify the DPH patient's next of kin before the fact of death is made public. No additional information about a patient's death, including the cause, date, or time of death, may be made without written authorization from a legal representative of the deceased patient, even if this information has been disclosed to the Medical Examiner or the Death Registrar.
- E. Information concerning a DPH patient's location in the hospital may be made to facilitate visits by family or friends or for delivery of gifts or flowers if the inquiry includes the patient's name and there is no instruction from the patient to withhold such information. This information should not be routinely disclosed to the media.
- F. Information may not be released to the media about identifiable DPH clients engaged in behavioral health services (including those served in outreach, mental health, substance abuse, HIV, or supportive housing programs). This policy applies to current, previous, and deceased client and to cases even when the client has requested or authorized DPH staff to speak to the media.
- G. Per DPH policy, brochures, or publications developed by DPH-funded programs are not to include identifiable clients in photos or personal stories that disclose their current or past mental health issues or substance use, or engagement in behavioral health services unless permission is obtained from the Director of Communications. This permission must be obtained before engaging in testimonials, promotions, and any photographing, videotaping, interviewing or other materials, and has signed an authorization allowing this use or recording of these clients. Programs should consult with the client's primary clinician before approaching a client about potential participation in this type of activity. A client agreeing to give a program testimonial or become involved in a promotion must sign a Consent to Photograph/Videotape/Interview form from the Director of Communications prior to their participation in this activity. This policy applies to current, previous, and deceased clients..
- H. In order to protect the privacy and confidentiality of San Francisco Health Network (SFHN) clients, no filming or recording of any type is permitted in any SFHN facility. Any request to film or record in a SFHN facility should be submitted to a DPH Privacy Officer and/or the DPH Public Information Officer and express authorization in writing must be received IN ADVANCE of any filming or recording and can only occur as specified in the written authorization.

IX. PERMISSIBLE DISCLOSURES WITHOUT AUTHORIZATION FOR PUBLIC POLICY PURPOSES

An authorization is not required in the following situations:

- A. For disclosures required by State or Federal law.

- B. For public health activities specifically permitted or required by law, such as preventing and controlling disease, injury, or disability; providing information to the Food and Drug Administration regarding adverse drug events, tracking health-related products, enabling product recalls, or conducting post-marketing product surveillance.
- C. For a work-related injury or illness when the release is to the responsible employer who sent the patient and is paying for the care under workers comp, etc. Note that the individual must be informed of the disclosure.
- D. For reporting victims of abuse or neglect as specifically required under the law.
- E. For reporting to a health oversight agency regarding activities authorized by law, including civil, administrative or criminal investigations, proceedings, actions, or inspections, audits, licensure surveys or investigations, or disciplinary actions.
- F. For responding to an order of a court or administrative tribunal issuing a subpoena, discovery request, or other lawful process.
- G. For providing the San Francisco Medical Examiner or a funeral director with information needed to carry out duties as authorized by law.
- H. For facilitating organ, eye, or tissue donation, and transplantation.
- I. For preventing or lessening a serious and imminent threat to the health or safety of a person or the public when the individual to whom the disclosure is made is capable of preventing or lessening the threat.
- J. To warn reasonably identifiable victim(s) and notify law enforcement when a client communicates a serious threat of violence against a reasonably identifiable victim or victims (Tarasoff Duty to Warn).
- K. For informing the Department of Veterans Affairs as authorized by law of information needed for determination of eligibility or entitlement to benefits for an individual following discharge from military service.
- L. For disclosing information as authorized by law to provide benefits for work-related injuries and illnesses.

X. PERMISSIBLE DISCLOSURES WITHOUT AUTHORIZATION FOR CARE COORDINATION PURPOSES NOT OTHERWISE COVERED.

- A. If a minor is a dependent or ward of Juvenile Court, a general health care provider (Civil Code 56.103) or mental health care provider (W&I Code 5328.04) may disclose protected health information to a County social worker, probation officer, foster care public health nurse, or other adult who has care and custody of a minor in order to coordinate health care services and treatment (e.g., information about appointments, treatment plans, follow-up care, etc.).

XI. PERMISSIBLE DISCLOSURES OF GENERAL HEALTH INFORMATION WITHOUT AUTHORIZATION FOR LAW ENFORCEMENT PURPOSES

An authorization is not required in the following situations:

- A. When the disclosure of PHI is made 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 and the PHI is limited to:
 - (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
 - (h) Description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars, and tattoos
 - (i) Note: PHI related to an individual's DNA, DNA analysis, dental records, or typing, sampling, or analysis of body fluids or tissues MAY NOT be disclosed, excluding ABO blood type and Rh factor.
- C. When the disclosure of PHI is made 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, provided that:
- 1. The law enforcement official represents that immediate law enforcement activity that depends on the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure, and
 - 2. 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.
- D. When the disclosure is made to a law enforcement official about a decedent suspected to have died as the result of criminal conduct
- E. When the disclosure is made to a law enforcement official about an individual, the PHI of whom constitutes evidence of criminal conduct that occurred on the premises of DPH.
- F. When the disclosure is made to a law enforcement authority to identify or apprehend an individual because of a statement made by the individual admitting participation in a violent crime that caused serious harm to a victim,
- G. When the disclosure is made to a law enforcement authority where it appears from all circumstances that the individual has escaped from a correctional institution or from lawful custody.
- H. When the disclosure is made to a correctional institution or law enforcement official having lawful custody of an inmate or other individual for:
- (a) The provision of healthcare to such individual (disclosures may include mental health or HIV information as well);
 - (b) The health and safety of such individual or other inmates;
 - (c) The health and safety of the officers or employees or of others at the correctional institution;
 - (d) The health and safety of individuals and officers responsible for the transport or transfer of inmates from one correctional or health care setting to another;
 - (e) Law enforcement on the premises of the correctional institution; or
 - (f) The administration and maintenance of the safety, security, and good order of the correctional institution.

5. DPH Policy References

DPH Media Policy

DPH Notice of HIPAA Privacy Practices

Patient/Client/Resident Rights Regarding Protected Health Information

CROSS REFERENCES

- Authorization to Disclose Health Information (form)

- [8.05 HIPAA Compliance Privacy Policy](#)
- [8.13 HIPAA Compliance: Patient/Client/Resident Rights Regarding Protected Health Information](#)
- [13.10 Health Information Services: Confidentiality, Security, and Release of Protected Health Information](#)
- [16.03 Patient/Visitor Concern/Grievance Policy](#)
- [18.11 Request for Human Subject Research at ZSFG](#)