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 PHI, by establishing a process to obtain proper authorization for the use or disclosure of protected health information (PHI) when necessary and appropriate.

2. Policy

It is the policy of the San Francisco Department of Public Health (DPH) to comply with the HIPAA 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.

SCOPE

This policy pertains to all individuals who may access, use, or disclose DPH PHI. DPH divisions or units may enforce stricter authorization requirements for the use or disclosure of PHI than those set forth in this policy.

3. Definitions

   A. Protected Health Information (PHI): Individually identifiable health information maintained or transmitted in any medium.
B. **Use:** The sharing, employment, application, utilization, examination, or analysis of protected health information within DPH, its affiliates, or its contract providers.

C. **Disclosure:** To release, transfer, provide access to, or divulge in any other manner protected health information.

D. **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 disclosing PHI, or when requesting PHI from another covered entity, 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 (see Attachment A – DPH Privacy Policy Matrix – Sharing Protected Health Information for Treatment Purposes);
      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** (see Attachment A – DPH Privacy Policy Matrix – Sharing Protected Health Information for Treatment Purposes):

      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 abuse program, except in a medical emergency.
      3. 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 (see Attachment B); 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 Privacy Policy “Conduct of Research” for more information.

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 should be filed in the correspondence section of the medical record of the individual concerned.
2. A copy of the completed authorization form should 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).
   c. When the program is designed for a specific population whose participation is conditional upon authorization (e.g., Behavioral Health Court).
   d. A DPH-sponsored or DPH-affiliated health plan may make enrollment or eligibility for benefits conditional upon authorization, provided that the authorization (i) is obtained prior to enrollment and (ii) relates specifically to the individual or to underwriting or risk-rating determinations.

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 partners, 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.

V. 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. By law, is allowed to give own consent to "Sensitive Services." Criteria for that includes:
   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), outpatient drug and alcohol, treatment of infectious, contagious or communicable reportable disease or sexually transmitted disease, HIV testing and treatment.

VI. DECEASED CLIENTS/PATIENT

For deceased clients/patients, the patient representative (next of kin or executor of estate) has the rights that the patient would have had relative to access and release of the record.
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 should be referred immediately to a DPH Privacy Officer and/or the DPH Public Information Officer prior to release of information.

B. No information may be disclosed if the patient has requested that information be withheld. Otherwise, the condition of an inpatient, outpatient, or emergency patient to the media may be disclosed only if the inquiry specifically contains the patient’s name. (See exclusion in F and G 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. As standard practice, DPH does not release information 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 clients.

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 the client has specifically requested to participate in testimonials, promotions, and other materials, and has signed an authorization allowing this use. Programs should consult with the 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 an Authorization for Use and Disclosure of PHI form prior to their participation in this activity.

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 DPH 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 (the individual must be informed of the disclosure); that is, the employer has sent the patient, is paying for the care under workers comp, etc.

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 his or her 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. As of January 1, 2009, 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 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

B. 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, excluding Mental Health clients (unless in a state hospital).
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, excluding mental health information.

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. References/Attachments

1. **Attachment A:** City and County of San Francisco Department of Public Health DPH Privacy Policy Matrix – Sharing Protected Health Information for: Treatment Purposes

2. **Attachment B:** Required Elements of an Authorization to Release Protected Health Information Form
TREATMENT PURPOSES

When allowed by law (see below), Protected Health Information (PHI) may be shared for treatment purposes across disciplines and programs on a “need-to-know” basis and for the purposes of improving health outcomes. PHI includes case management/coordination communication, medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment, results of clinical tests, and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

<table>
<thead>
<tr>
<th>Description of PHI</th>
<th>Who may disclose it?</th>
<th>Who may receive it?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Health</strong> (includes knowledge of Mental Health, Substance Use/Abuse, HIV/AIDS, STD conditions)</td>
<td>General Health Provider</td>
<td>Patient’s providers and providers’ staff for the purpose of treatment, diagnosis, or referral</td>
</tr>
<tr>
<td></td>
<td></td>
<td>[Reference: Civil Code 56.10(a); HIPAA Treatment Exception]</td>
</tr>
<tr>
<td><strong>Mental Health</strong> (includes knowledge of General Health, Substance Use/Abuse, HIV/AIDS, STD conditions)</td>
<td>Mental Health Provider</td>
<td>Any healthcare provider (any discipline) &quot;who has medical or psychological responsibility for the patient&quot;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>[Reference: W&amp;I Code 5328(a); HIPAA Treatment Exception]</td>
</tr>
<tr>
<td><strong>Drug/Alcohol Treatment Program</strong> (includes knowledge of General Health, Mental Health, HIV/AIDS, STD Conditions)</td>
<td>Drug/Alcohol Treatment Program Provider</td>
<td>Only another member of the client's treatment team WITHIN the specific drug/alcohol treatment program Exception: a medical emergency</td>
</tr>
<tr>
<td></td>
<td></td>
<td>[Reference: 42 CFR Part 2, section 2.12 (c)(3)]</td>
</tr>
<tr>
<td><strong>HIV/AIDS CCSF Health Service Provider Network</strong> (includes knowledge of General Health, Mental Health, Substance Use/Abuse, STD conditions)</td>
<td>HIV/AIDS CCSF Health Service Provider</td>
<td>Only another HIV Health Service provider who registers client in ARIES database.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>[Reference: CCSF Local Share Mandate established with the California Office of AIDS]</td>
</tr>
</tbody>
</table>

Revised 01-05-10 and 12-19-13
Treatment Providers

Individual practitioners and program staff in agencies that furnish health services in the normal course of their business are considered treatment or healthcare providers.

HIPAA defines treatment as "the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another." References: Civil Code 56.10(c)(1), H&S Code 123010, and HIPAA (45 CFR sec.164.506, 45 CFR 164.501 45, CFR 164.506).

For purposes of care coordination and treatment, healthcare providers may be inside or outside the DPH Safety Net, but they and/or their agencies must be bound by state and federal confidentiality laws and/or DPH MOUs to be considered a “treatment provider” as noted in the above matrix.

The DPH Safety Net includes civil service, contract, and affiliate programs (such as those of UCSF and the SF Community Clinic Consortium).

The following are some examples of other treatment providers whose clients’ PHI may be shared for treatment and coordination purposes without an authorization:

1. Individual practitioners and treatment providers of private sector hospitals and clinics who are bound by state and federal confidentiality laws.
2. Providers who sell or dispense drugs, devices, equipment, or other items in accordance with a prescription.
3. (via MOU) Paramedics of the San Francisco Fire Department EMS
4. (via MOU) Case managers in the Human Services Agency Homeless Programs:
   a. HSA Behavioral Health Roving Team
   b. Housing Access Team
5. (via MOU) Case managers in the Department of Aging and Adult Services Case Management Programs:
   a. Bernal Heights Neighborhood Center’s
   b. Neighborhood Elders Support Team (NEST) Case Management Program
   c. Active Senior Case Management Program
   d. Episcopal Community Services’ Canon Kip Senior Center Case Management Program
   e. Curry Senior Center Case Management Program
   f. DAAS Adult Protect Services (APS) Case Management Program
   g. Family Service Agency Seniors Case Management Program
   h. IHSS (In Home Supportive Services) Consortium Case Management Program
   i. Institute on Aging
   j. MSSP (Multipurpose Senior Services) Case Management Program
   k. Linkages Case Management Program
   l. District Wide Social Services/District 5 Case Management Programs serving Mission, Noe Valley, Bernal Heights, Buena Vista, and Eureka Valley
   m. Neighborhood Resource Centers Case Management Programs serving Richmond District, Western Addition and the Mission
   n. Meals on Wheels Case Management Program
   o. San Francisco Senior Centers Case Management Programs
   p. Self-Help for the Elderly Case Management Program
   q. On Lok 30th Street Senior Services Case Management Program
6. (via MOU) Care Coordinators of the San Francisco Health Plan

Questions about who is and who is not a health service provider should be directed to your Privacy Officer.

[revised mxm 031313]
Attachment B:

REQUIRED ELEMENTS OF AN AUTHORIZATION TO RELEASE PROTECTED HEALTH INFORMATION FORM

Authorization forms may not be combined with any other document (e.g., consent for treatment forms) to create a “compound authorization.” The authorization form must be must be on 8 ½ x 11-inch paper and the font size must be at least 14 points.

HIPAA, state law, and DPH policy require that each patient’s authorization include certain core elements as follows:

1. Patient/Client’s name and date of birth
2. Name of the disclosing entity/facility
3. Name and address of the facility/individual to receive the protected health information
4. Description of the information to be disclosed
5. Description of the purpose of the disclosure
6. Expiration date or the condition upon which authorization is terminated
7. The patient or client's initials next to the types of PHI being released in a “protected classes” section for release of:
   a. mental health information,
   b. substance abuse information,
   c. HIV/AIDS information,
   d. developmental disabilities,
   e. sexually transmitted disease information.
8. Completed statements where client/patient acknowledges the following:
   a. I understand that authorizing the disclosure of this health information is voluntary. I may refuse to sign this authorization.
   b. I understand that I may not be denied treatment, payment, enrollment in a health plan or eligibility for benefits if I refuse to sign.
   c. I understand that I have a right to receive a copy of this authorization.
   d. I understand that my authorization to use or disclose protected health information expires on _________ or until ______ condition is met.
   e. I understand that I may cancel my authorization at any earlier time by writing a note of cancellation and giving it to _________________. I also understand that when I give or cancel my authorization, it is effective from that date forward, and not retroactively.
   f. I understand that information disclosed as a result of this authorization could be re-disclosed by the recipient. Such re-disclosure is in some cases not protected by California law and may no longer be protected by federal confidentiality law.
9. Signatures and Dates
   a. Patient/Client
   b. Parent/Guardian/Conservator if patient/client is unable to sign
   c. Witness, if patient/client is unable to sign