

## L-25: Uses and Disclosures

**POLICY:** See L-25 Use and Disclosure Limits Policy, at [www.cosdcompliance.org](http://www.cosdcompliance.org).

**DEFINITIONS:** See HHS Policy L-30.

**PROCEDURES:** HHS Programs may use Protected Health Information (PHI) for a variety of purposes. Many of these purposes require the individual's written authorization (see Policy and Procedure L-09 Authorizations), while other types of sharing are allowed without an individual's consent, as outlined below:

- A. **Audits:** HHS Program may disclose any and all requested data, including PHI, to the State, federal office, or other funding source responsible for oversight of the program for auditing purposes without the individual's authorization.
  
- B. **Decedents:**
  - 1. Programs may disclose PHI to a coroner, funeral director, or medical examiner without the individual's authorization.
  - 2. Programs may disclose relevant information to a family member or other person responsible for the individual's care unless doing so is inconsistent with the individual's past requests.
  
- C. **Disaster Relief:** Programs may use or disclose PHI to an entity authorized by law or by its charter to assist in disaster relief efforts, without an individual's authorization.
  
- D. **Facility Directories:** Any questions about facility directories may be directed to the Agency Privacy Officer.
  
- E. **Family and Friends:**
  - 1. The San Diego County Psychiatric Hospital may only disclose PHI to a family member or friend when authorized by the patient.
  - 2. All Programs except the San Diego County Psychiatric Hospital:
    - a. If the individual has the capacity to make health care decisions, HHS Programs may disclose PHI to family and friends only if the Program:
      - 1) Obtains the individual's agreement;
      - 2) Provides the individual with the opportunity to object; or
      - 3) Reasonably infers from the circumstances that the individual does not object.

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- b. If the opportunity to agree or object cannot practicably be provided because of the individual's incapacity or an emergency, the Program may disclose only the PHI that is directly relevant to the person's involvement with the individual's care if the program believes it is in the individual's best interest, including to identify, locate, or notify family/other responsible persons of the individual's location, general condition, or death.

- F. Law Enforcement: The County may disclose PHI to law enforcement without an individual's authorization in response to:
1. Certain court order, warrants, subpoena, summons or administrative requests;
  2. Law Enforcement requests for PHI to identify or locate a suspect, fugitive, material witness, or missing person;
  3. Situations in which the individual is suspected to be a crime victim, if the County is unable to obtain the individual's agreement because of incapacity or emergency circumstance and the disclosure is in the best interests of the individual;
  4. A death and the disclosure is to alert law enforcement that the County suspects that the death may have resulted from criminal conduct;
  5. The Program's belief that the PHI is evidence of criminal conduct on County premises;
  6. A request from a correctional institution or other law enforcement official, provided the official has lawful custody of an inmate and such PHI is for:
    - a. Provision of health care;
    - b. The health and safety of the individual, other inmates, officers or employees at the correctional institution, or those responsible for the individual's transport; or
    - c. The administration, safety, and security of the correctional institution.
  7. Reporting Crime in Emergencies:
    - a. If the County provides emergency health care, the Program may disclose PHI to law enforcement if such disclosure appears necessary to alert law enforcement to:
      1. The commission and nature of a crime;
      2. The location of such crime or of the victim(s) of such crime; and
      3. The identity, description, and location of the perpetrator of such crime.
    - b. If the County provides emergency medical care outside of an HHSA health facility, and the staff believes the emergency is the result of abuse, neglect, or domestic violence, this section does not apply. See Victim of Abuse section instead.
- G. Other Activities: With approval from the Agency Privacy Officer, HHSA Programs may share PHI related to other activities, such as: Workers' Compensation, Health Oversight Activities, Judicial and Administrative Proceedings, research, and military and veteran activities.

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- H. Psychotherapy Notes: Use or disclosure of psychotherapy notes requires a written authorization except:
1. Use for internal mental health training programs; or
  2. Use or disclosure by the Program to defend a legal proceeding brought by the individual.
- I. Public Health Activities: HHS Programs may disclose PHI for public health purposes without an individual's written authorization to:
1. A designated public health authority, including County of San Diego Public Health Services, 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;
  2. To the Food and Drug Administration (FDA) with approval from the Agency Privacy Officer.
  3. A person who may be, or have been, at risk of contracting or spreading a disease or condition; or
  4. To an employer, about their employees, if the disclosed PHI consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance; or the employer needs PHI to comply regarding work-place illness, injury, or medical surveillance.
- J. Required by Law: The County will use or disclose PHI as required by law.
- K. Social Services: The County may share certain information with a relevant social services agency, without an individual's written authorization, including:
1. County health care provider can disclose an individual's PHI to a social services agency providing health care supportive housing.
  2. County mental health programs shall share relevant PHI with County Child Welfare Services for the purpose of child placement.
- K. Threat to Health or Safety: HHS Programs may use or disclose PHI without an individual's authorization, if they believe it necessary to:
1. Prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the disclosure is to a person or persons reasonably able to prevent or lessen the threat;
  2. Law enforcement when it appears that the individual escaped from lawful custody;
  3. Fulfill a Psychotherapist's duty to warn or take other appropriate action to protect the foreseeable victim of a patient's violent tendencies, as required under Tarasoff.
- L. Treatment, Payment, and Healthcare Operations (TPO): HHS Programs will use PHI for their own TPO without obtaining the individual's written authorization. They may also disclose PHI to other HIPAA-covered entities for certain TPO purposes without obtaining an authorization, including:
1. For the other entity's treatment or payment activities; or

2. For the other entity's health care operations, if the HSA Program and other entity both have had a relationship with the individual, the PHI pertains to such relationship, and the disclosure is for:

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- a. Quality assessment and improvement, outcomes evaluation, case management, care coordination, contacting providers and patients regarding treatment alternatives, and development of clinical guidelines and population-based activities.
- b. Review of health care professional or health plan performance, health care training programs under supervisions, accreditation, certification, licensing, or credentialing activities; or
- c. Detecting potential health care fraud or abuse

\*Also see exceptions for psychotherapy notes

M. Victim of Abuse: HSA Programs may disclose PHI about an individual whom they reasonably believe to be a victim of abuse, neglect or domestic violence, without an individuals' written authorization, as follows:

1. To a government authority, including County of San Diego Child Welfare Services or Adult Protective Services, as well as other social service or protective services agencies, authorized by law to receive reports, without the client's authorization, as follows:
  - a. Information relevant to an incident of elder or dependent adult abuse may be given to an investigator from Adult Protective Services, a local law enforcement agency, the District Attorney's Office, the Public Guardian or probate, or other division authorized to investigate a known or suspected case of elder or dependent adult abuse.
  - b. Reports of suspected child abuse or neglect shall be made by mandated reporters to Child Welfare Services
2. The County staff sharing the information should promptly inform the victim of said disclosure, except if:
  - a. The County believes informing the individual would place the individual at risk of serious harm; or
  - b. The County would be informing a person who is responsible for the victim and believes the person is responsible for the abuse, neglect, or domestic violence, and that informing such person would not be in the best interest of the victim.

**QUESTIONS/INFORMATION:** HSA Privacy Officer at 619-338-2808