

**County Of San Diego
Health and Human Services Agency (HHSa)**

SUBJECT: Legal Authority for Privacy Decisions

NO: HHSa-L-27

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DATE: September 1, 2017

REFERENCE: Health Insurance Portability and Accountability Act (HIPAA); California Information Practices Act; various State Agreements.

POLICY: HHSa Programs will ensure the appropriate individual is making decisions related to the privacy of Protected Health Information (PHI). The individual authorized to consent to health care services maintains the rights to the associated PHI.

- A. Such decisions lie with the individual, if the individual is a competent adult or a minor authorized by state law to control their PHI, including when the minor is:
1. Married or previously married;
 2. Self-sufficient (15 years or older, not living at home, manages own financial affairs);
 3. Not married, but treatment is related to pregnancy or pregnancy termination (but does not include sterilization);
 4. On active duty with the armed forces; OR
 5. Twelve (12) years or older and treatment is for:
 - a. A reportable communicable disease or condition;
 - b. Rape or sexual assault;
 - c. Alcohol or drug use; OR
 - d. Outpatient mental health.
- B. A parent or legal guardian may make decisions on behalf of a minor child if the minor child is not authorized under applicable state law (above) to control their PHI; or
- C. Decision making is held by the individual's legal representative if the individual is deceased or lacks the ability to make decisions their own behalf.

RESPONSIBILITIES: Privacy laws and regulations such as the Health Insurance Portability and Accountability Act (HIPAA) and the California Information Practices Act (CIPA) outline requirements regarding the confidentiality of and client's rights regarding Protected Information. Many Agency Programs also have Agreements with the State of California that outline additional confidentiality parameters. Compliance with these regulations is addressed in a series of Agency policies and procedures maintained by the Agency Compliance Office.

DEFINITIONS: See HHSa Policy L-30 "Privacy Definitions"

QUESTIONS: HHSa Privacy Officer at 619-338-2808

Approved:



Christy Carlson
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Agency Compliance Office