



VOLUME 13: PRIVACY	Effective Date: 2/15/12
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13.7 PATIENT PRIVACY RIGHTS POLICY	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

I. POLICY

California Correctional Health Care Services (CCHCS) shall provide patients’ rights related to the use and disclosure of their Personally Identifiable Information (PII) and Protected Health Information (PHI) as outlined in this policy.

This policy shall address the following legal rights held by patients related to their PHI:

- The right to inspect their PII/PHI and to obtain a copy of it.
- The right to request an amendment to their PII/PHI.
- The right to an accounting of disclosures made by CCHCS.
- The right to request restrictions on the uses and disclosures of their PII/PHI made by CCHCS.
- The right to request that CCHCS communicate with them about their PII/PHI at an alternative location or via alternative means.
- The right to file complaints.

In accordance with 45 Code of Federal Regulations (CFR) Section 164.520(a)(3), patients do not have a right to receive a Notice of Privacy Practices.

II. PURPOSE

To provide guidance with respect to the privacy rights of patients regarding the use and disclosure of their PII and PHI.

III. DEFINITIONS

Disclosure: The release, transfer, provision of access to, or divulging in any other manner, of information outside the entity holding the information.

Personally Identifiable Information: Any information that is maintained by CCHCS that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and/or medical or employment history. It includes statements made by, or attributed to, the individual. PII may include information that is not necessarily PHI and may pertain to CCHCS employees, members of the public, or other individuals who may or may not be patients.

Protected Health Information: Information created or received by CCHCS which identifies or can be used to identify an individual as it relates to past, present, or future health conditions; health care services provided to the individual; or health care related payments. This applies to information that is transmitted or maintained in verbal, paper, or electronic form.

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Workforce: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for CCHCS or a business associate, is under the direct control of CCHCS or a business associate, whether or not they are paid by CCHCS or the business associate.

IV. RESPONSIBILITY

Oversight responsibility of the Privacy Office shall be vested in the Privacy Officer. The Privacy Officer is required to oversee privacy rights as required by laws, policies, and standards for respecting the rights of individuals with regard to the collection, use, and disclosure of personal information throughout CCHCS.

V. PATIENT PRIVACY RIGHTS

A. Right to Access PII and PHI

1. CCHCS shall provide patients with access to inspect and obtain a copy of their PII/PHI in their health record, for as long as the PHI is maintained in the health record, except for:
 - a. Mental health records when the patient's provider determines there is a substantial risk of significant adverse or detrimental consequences to the patient in seeing or receiving a copy of the requested records. Such a denial of access is subject to procedures set forth in Inmate Medical Services Policies and Procedures (IMSP&P), Volume 6, Health Information Management.
 - b. Documents protected by attorney work-product privilege.
 - c. When obtaining such information would jeopardize the health, safety, security, custody, or rehabilitation of the individual or of other inmates, or the safety of any officer, employee, other person at the correctional institution, or individual responsible for the transporting of the inmate.
 - d. Information where release is otherwise prohibited by law.
2. Patients' access to their health records shall be provided in accordance with the procedures in IMSP&P, Volume 6, Health Information Management.

B. Right to Amend PII and PHI

1. Patients have the right to request that CCHCS amend their PII/PHI in their health record.
 - a. All requests for amendments shall be made in writing and submitted to Health Information Management (HIM) staff.
 - b. CCHCS is not obligated to agree to an amendment and may deny requests or only partially accept amendments.
2. HIM staff shall follow procedures in IMSP&P, Volume 6, Health Information Management, related to patients' requests to amend their health record.

C. Right to an Accounting of Disclosures

1. Patients have the right to receive an accounting of disclosures CCHCS has made of their PHI for up to six (6) years prior to the date of requesting such accounting. CCHCS must account for all disclosures of PHI, except for disclosures:
 - a. To carry out Treatment, Payment, or Health Care Operations (TPO) activities;
 - b. Made to the patient;
 - c. Authorized by the patient;
 - d. To persons involved in the patient's care;

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- e. For national security or intelligence purposes;
 - f. Made to correctional institutions or law enforcement officials having lawful custody of a patient; or
 - g. Made as part of a Limited Data Set (LDS) in accordance with the IMSP&P, Volume 13, Chapter 8, De-identification of Patient Information and Use of Limited Data Sets Policy.
2. Patients have the right to receive an accounting of disclosures CCHCS has made of their non-medical PII for up to three (3) years after the disclosure or until the disclosed information is destroyed, whichever is shorter. CCHCS must account for all disclosures of PII, except for disclosures:
 - a. Made to the patient or the patient's duly appointed guardian, representative, or conservator.
 - b. Authorized by the patient.
 - c. To CCHCS workforce members where disclosure is necessary for the performance of official duties and is related to the purpose for which the information was acquired.
 - d. Pursuant to the California Public Records Act.
 - e. Made as part of a LDS in accordance with the IMSP&P, Volume 13, Chapter 8, De-identification of Patient Information and Use of Limited Data Sets Policy.
 3. HIM staff shall receive and respond to requests for an accounting of disclosures in accordance with the IMSP&P.

D. Right to Request a Restriction

1. Patients have the right to request restrictions on the uses and disclosures of their PII/PHI while carrying out TPO activities. All requests shall be submitted in writing.
2. CCHCS is not obligated to agree to a restriction. CCHCS may deny the request or may agree to a restriction more limited than the patient requested. HIM staff shall be responsible for receiving and processing any requests for restriction.

E. Rights to Request Confidential Communication

CCHCS shall accommodate reasonable requests by patients to receive communications by alternative means or at an alternative location. The reasonableness of the request shall be determined by CCHCS on the basis of the administrative difficulty of complying.

F. Rights to File Complaints

Patients have a right to submit complaints if they believe their PII or PHI has been improperly used, disclosed, or if they have concerns regarding compliance with the CCHCS privacy policies. Such complaints may be filed through the standard health care appeals process.

VI. TRAINING REQUIREMENTS AND CONTACT INFORMATION

- A. Privacy training is required for new employees during New Employee Orientation and annually thereafter.
- B. For questions or clarification, please contact: Privacy@cdcr.ca.gov or 1-877-974-4722.

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VII. REFERENCES

- Code of Federal Regulations, Title 45, Subtitle A, Subchapter C, Part 164, Subpart E, Section 164.502 - Uses and disclosures of protected health information: General rules, Section 164.520 - Notice of privacy practices for protected health information, Section 164.524 - Access of individuals to protected health information, Section 164.526 - Amendment of protected health information, Section 164.528 - Accounting of disclosures of protected health information, and Section 164.530 - Administrative requirements
- California Health & Safety Code, Division 106, Part 1, Chapter 1, Section 123100 et seq.
- California Code of Regulations, Title 15, Division 3, Chapter 1, Subchapter 4, Article 9.5, Section 3370(c)
- California Code of Regulations, Title 15, Division 3, Chapter 1, Subchapter 5, Article 6, Section 3450 et seq.
- California Civil Code, Division 3, Part 4, Title 1.8, Chapter 1, Article 2, Section 1798.3
- California Public Records Act, California Government Code, Title 1, Division 7, Chapter 3.5, Article 1, Sections 6250 through 6270
- California Correctional Health Care Services, Inmate Medical Services Policies and Procedures, Volume 6, Health Information Management
- California Correctional Health Care Services, Inmate Medical Services Policies and Procedures, Volume 13, Chapter 8, De-Identification of Patient Information and Use of Limited Data Sets Policy