KEEPING IT CONFIDENTIAL
IN CALIFORNIA

CA’s Confidential Health Information Act: Lessons Learned + Best Practices to Date

Amy Moy
California Family Health Council

Ruth Dawson
ACLU of Southern California
About Us: CFHC

California Family Health Council (CFHC)

- Champion + promote quality sexual + reproductive health care for all
- cfhc.org
- TeenSource.org/TalkWithYourKids.org
- @calfamhealth
About Us: ACLU SoCal

ACLU of Southern California

- Multi-issue organization protecting civil rights and liberties for all, particularly the historically disenfranchised
- Integrated advocacy model: litigation, policy advocacy, community engagement
- LGBTQ, Gender & Reproductive Justice Project
- [www.aclusocal.org](http://www.aclusocal.org)
- @ACLU_SoCal
- [myhealthmyinfo.org](http://myhealthmyinfo.org)
Objectives

After this webinar you will be able to:

1. Describe the confidentiality protections in CHIA
2. Discuss best practices for implementation, including increasing awareness about the new law
3. Share resources for patient and provider education
A Time for Action

Affordable Care Act = Health Insurance Reform

- More People Insured
- Young Adults Can Stay on Parent’s Insurance
- Preventive Services Available at No-Cost

California

- Commitment to Health Care Reform
  - Covered California
  - Medi-Cal -> Medi-Cal Managed Care
This is GREAT but...

Do individuals with health insurance under another person’s plan feel safe enough to use it?

FEEL SAFE ENOUGH TO USE IT?
Keeping it Confidential

STATE + FEDERAL CONFIDENTIALITY PROTECTIONS
Existing Laws to Protect Confidentiality

- **HIPAA** protects the confidentiality of health information held by covered providers and insurers.
- **California statutes** also protect the confidentiality of health information held by providers and insurers.
- **Other laws and regulations** may apply in addition to or in lieu of HIPAA and state medical confidentiality law.
General Rule under HIPAA and CA law:

Providers and insurers must protect the confidentiality of personal health information.

Usually, they must have a signed “authorization” in order to share protected health information.
More Privacy Protections Needed to Keep It Confidential

Exceptions in confidentiality law allow disclosure without patient knowledge:

- Reporting certain violence
- Child abuse reporting
- Sharing for health care operations
- Billing and payment processing
Unauthorized Disclosures of Confidential Health Information to Policyholders

Common insurance communications that can reveal patient information:

- Explanation of Benefits forms
- Denial of Claims notices
- Quality improvement surveys
- Requests for additional information
- Payment of claims notices
Lack of Confidentiality Protections Can Lead to Harm

- Patients forgo care for sensitive issues.
- Survivors of violence choose not to seek care when there is risk an abusive partner may find out.
- Patients with private insurance choose to enroll in public insurance plans to avoid privacy breaches.
- Or Worse...
Any Confidentiality Protections in HIPAA?

- **Right to Request Restricted Communications**
  - Must permit patients to request
  - Insurers not required to accept requests

- **Right to **Confidential Communications Request** (receive communications by alternative means or at alternative locations)**
  - Must permit patients to request
  - Must accommodate reasonable requests if the patient clearly states the disclosure could endanger the patient
New Confidentiality Protections in California Under CHIA

- SB 138 (Hernandez) – the Confidential Health Information Act (CHIA)
- Passed and signed in 2013
- Took effect January 1, 2015
Confidentiality Protections in California Law Under CHIA

- Health care service plans must allow enrollees to submit Confidential Communication Requests (CCRs)
- Plans must comply when Confidential Communication Requests seek confidentiality related to:
  1. Sensitive services information
  2. All information if individuals state disclosure could endanger the individuals
New Confidentiality Protections in California Law Under CHIA

Key terms defined in new law:

- Communication containing medical information
- Endanger
- Sensitive services
Sensitive Services = Minor Consent

- Pregnancy related care, including abortion and contraception **AT ANY AGE**
- Outpatient mental health counseling, 12 and older
- STD/communicable disease testing/treatment/prevention, 12 and older
- Substance abuse treatment, 12 and older
- Rape/sexual assault treatment
- 15 and older, living apart from parents, and managing own financial affairs
How Does it Work?

1. Patient submits confidential communication request to insurer verbally or in writing.

2. Patient must provide an alternate address and/or preferred form of communication as part of CCR.

3. Insurer has 7 or 14 days to implement.

4. CCR lasts until the patient sends in another one or tells the insurer that he/she wants to cancel it.

5. The CCR does not limit provider from talking to patient or patient’s insurer.
Questions?

Examples of Frequently Asked Questions:

- How old does someone have to be to submit a CCR?
- What about co-pays? Who is responsible for paying those?
- What obligations does this put on providers of care?
Implementation + Monitoring
MAKING NEW PROTECTIONS REAL
Implementation + Monitoring

What we are doing:

- Information
- Supporting CCR Submission
- Complaints
- Communication with Insurers
Lessons Learned

- Especially Good for Patients 18+
- Submit + Confirm CCRs BEFORE Appt.
- Good for Services Not Covered by Limited Benefit Programs
- Be Prepared to Educate Customer Service
- The More CCRs Submitted, the Better!
Best Practices for Implementation

1. 360 Staff Training
2. Assign a Patient Advocate
3. Patient Education for All, Multiple Points, ESPECIALLY During Scheduling
4. Incorporate Prompts in EHR/Appt Reminders
5. Have Insurance Co. Info Readily Available
Best Practices for Increasing Patient Awareness

CLIENT EDUCATION + OUTREACH
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Your health insurance plan does NOT keep your health information private unless...

YOU TAKE ACTION.

If you have health insurance under another person’s health plan—like your parent or spouse—Your health plan will send them information on WHERE and WHEN you access health care and WHAT health care services or tests you receive.

If you want to Keep it Confidential—submit a Confidential Communication Request to your health plan. They will have to accept it, NO QUESTIONS ASKED if you:

1. Know your health plan and policy number
2. Contact your health plan
3. Submit a confidential communications request

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myhealthmyinfo.org
Provider Resources

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As providers you have an important role to play in safeguarding your patient's private health information. The resources below were developed to support providers interested in educating their patients about their confidentiality rights and helping them utilize new privacy protections. All patient education and health center staff training materials were developed in partnership by the ACLU of California, California Family Health Council and the National Center for Youth Law and are available to download for free.

RESOURCES

Download Confidential Request Form

WALLET CARDS

Wallet Card
Wallet Card (with Bleeds + Crop Marks)

INFO SHEETS

Flyer 1
Flyer 1 (with Bleeds + Crop Marks)
Flyer 2
Flyer 2 (with Bleeds + Crop Marks)
Flyer 3
Flyer 3 (with Bleeds + Crop Marks)
Flyer 4
Flyer 4 (with Bleeds + Crop Marks)

You can do this if you:
- Get sensitive services like birth control, STD/pregnancy tests or mental health care
- Think you could be at risk if your private health information about any health care service was shared

SHARE THESE RESOURCES

FAQ

DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

FIND YOUR HEALTH PLAN
Confidential Communications Request

TO: 
Name of your Health Insurance Company

FROM: 
Insurance Member #: 
Your Name

This request pertains to the following information:
(Please check one or both boxes below)
___ All medical information related to my receipt of sensitive services including protected health information and providers’ names and addresses.
___ All my medical information/protected health information because disclosure of all or part of my medical information or my providers’ names and addresses could put my well-being at risk or could subject me to harassment or abuse. (Do not have to explain why you feel this way.)

I hereby request that communications containing any of the above information be sent to me, under my name, as follows:
(Please mark the way(s) that are safe for you to receive information. If you mark more than one way, put a “1” next to your first choice, “2” next to your second choice and so on.)
___ Email to the following email address:
___ Message through my online insurance portal:
___ Text to the following telephone #:
___ Other way your insurance company communicates: (please describe): ___
___ U.S. Mail to the address below:

IMPORTANT! The following section must be completed:
If a communication cannot be sent in the above selected format(s), then it should be sent U.S. Mail to me at the following address:

Address:

This request is valid until I submit a revocation or a new request.

Signature: ________________________________ Date: ________________________________

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Why is this important?

What is the problem this fixes?
Why does my insurance company send information to the policyholder, in the first place?
Who should think about submitting a Confidential Communications Request (CCR)?

The basics of a Confidential Communications Request

What is a Confidential Communications Request (CCR)?
Does an insurance company have to agree to my Confidential Communications Request (CCR) request?
Does sending in a request mean that the insurance company cannot send communications out about me and my health treatment at all?

Completing a Confidential Communications Request

What does a Confidential Communications Request (CCR) need to look like? What do I need to say or include in one?
Does a Confidential Communications Request (CCR) have to be in writing?

Timing of requests and health appointments

Could I complete a Confidential Communications Request (CCR) the same day?
myhealthmyinfo.org
Search for Health Plans

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Search Results
Aetna
HIPAA Member Rights Team
Aetna Inc
151 Farmington Avenue – RT65
Hartford, CT 06156
Phone number not available
Email address not available

Can't find your health plan? No customer service number or email? Check your insurance card for a Customer Service number. When you call, ask them where to send your Confidential Communication Request.

Frequently Asked Questions
Confidential Communications Request

You can do this if you:
- Get sensitive services like birth control, STD/pregnancy tests or mental health care
- Think you could be at risk if your private health information about any health care service was shared

SHARE THESE RESOURCES

FAQ
DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM
FIND YOUR HEALTH PLAN
aetna
myhealthmyinfo.org
Contact Form

KEEP IT CONFIDENTIAL.

California law SB 138 allows individuals insured under another person’s health plan policy (like a parent or spouse) to submit a Confidential Communication Request (CCR) to their health plan if they need or want to keep information about the health care services they receive while using their insurance confidential.

(Learn more in our FAQs.) SB 138 requires all health plans to honor and implement this request. If you need help submitting a CCR to your health plan or would like to report a health plan for not complying with SB 138, please complete and submit the form below.

I need help
- Completing and submitting a CCR
- Because my CCR was rejected by my insurance company
- Because my insurance company violated my CCR and sent information to the policyholder without my permission
- Other

Your Name *

Your Health Plan *

Your Age *
- under 18 years old
- 18-26
- 26 or older

You can do this if you:
- Get sensitive services like birth control, STD/pregnancy tests or mental health care
- Think you could be at risk if your private health information about any health care service was shared

SHARE THESE RESOURCES

FAQ
DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM
FIND YOUR HEALTH PLAN

myhealthmyinfo.org
CAN MY DOCTOR TELL MY PARENTS I GET HEALTH CARE?

No.

Your health care provider cannot tell your parents that you took a pregnancy test, are pregnant, or that you got an abortion without your written permission and you have protected your confidentiality by the California Constitution and state law.

If you want your parents involved, you should tell your doctor and ask if you can give them permission to share.

If you want the doctor to tell your parents, let the doctor know you want to keep your health information private from your parents and that you want to keep the information confidential under California law. Do not sign any documents that allow your parents permission to share your information with your parents or adults in your country.

Where does this right come from? It comes from the following state laws and regulations:


Warning: If you use your parents' insurance to pay for your visit, your parents may take some additional steps. For information on other ways to pay, click here.

Warning: Even though the law says your doctor cannot share with your parents, your doctor may be able to share certain information with other people. For example, if you are a victim of child abuse, the doctor is required to help. For more information, a doctor to explain their confidentiality rules and when the doctor might share.

PregnantYouth.org

Want to get health care services on your own?

In California, depending on your age, you can access confidential health care services without your parents’ or guardians’ consent.

MINORS OF ANY AGE:
- Contraception services: birth control pills, IUDs, emergency contraception, condoms, and more.
- Pregnancy testing and prenatal care.
- Abortion services.
- Emergency medical services.

MINORS 12 AND OVER:
- Everything listed above.
- STI/STD testing, treatment, and prevention services including PEP and PrEP.
- Mental health services.
- Drug and alcohol treatment and support.

Under someone else’s insurance plan?

Take the next step to ensure your confidentiality.

How to complete your Confidential Communications Request:
- Download the form from MyHealthMyInfo.org.
- Have your health plan and policy number ready.
- Contact your health plan.
- Submit your confidential communications request and confirm that they have received it.

myhealthmyinfo.org

YourHealthYourRights.org

Coverage

Can I get birth control if I have insurance?

Insurance, your plan must cover birth control methods, including emergency contraceptives (IUDs), for free (with a few exceptions, for example if you get the service through a religious employer). This means you probably will be able to get birth control without paying anything out of pocket. Call your insurer to learn more and find out which insurance plans cover contraception. Insurance plans are not required to cover drugs taken to terminate a pregnancy (see information on medication abortion) or care related to men's health.
Contact Us With Your Feedback, Ideas + ?s
Thank You!

Amy Moy
moya@cfhc.org

Ruth Dawson
rdawson@aclusocal.org

Learn More at myhealthmyinfo.org