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May 12, 2025

To: All California Health Care Providers and Local Health Officers

Re: HIPAA, Substance Use Disorders, State Law, and Public Health Disclosures

Dear Stakeholders,

There has been some confusion surrounding the effect of the federal Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and other federal and state laws on public health reporting requirements. Therefore, the California Department of Public Health (CDPH) seeks to clarify legally mandated reporting requirements and related allowable disclosures.

HIPAA Privacy Rule

HIPAA allows disclosure of protected health information (PHI) without the written authorization of the individual for public health activities and purposes. ([45 Code of Federal Regulations \(CFR\) § 164.512\(b\)](#) (2024).) Public health reporting obligations remain under HIPAA. Furthermore, health care providers continue to have a legal obligation to provide information for public health activities including surveillance/reporting, investigations, and interventions. The HIPAA Privacy Rule indicates that State law, including State procedures established under such law, is not preempted or overridden by contrary HIPAA privacy provisions in the area of public health disease or injury reporting and the conduct of public health surveillance, investigation, or intervention. ([45 CFR § 160.203](#) (2013).)

In addition, the 2024 [HIPAA Privacy Rule to Support Reproductive Health Care Privacy](#), which requires some entities requesting PHI to attest that they will not use the information for prohibited purposes (i.e., investigation or liability for the mere act of seeking, obtaining, providing, or facilitating reproductive health care or to identify a person for such a purpose), **exempts public health** from this requirement. ([45 CFR § 164.512\(b\)](#) (2024).) As stated on page 491 of the final rule, "the [U.S.] Department [of Health and Human Services] does not require a public health authority to supply an

attestation to a covered entity to receive PHI of an individual where that disclosure is intended to prevent disease in or promote the health of populations.”

CDPH encourages HIPAA covered entities to recognize the *federal exemption for public health* from the attestation requirement and to develop protocols for streamlining responses to PHI requests that originate from public health departments.

Confidentiality of Substance Use Disorder (SUD) Patient Records at 42 CFR Part 2

Unlike HIPAA, regulations for [federally assisted](#) Part 2 SUD programs do not allow disclosure of SUD records to public health without patient consent, unless the data are de-identified ([Confidentiality of SUD Patient Records, page 1346](#)). SUD programs should consult their legal counsel to find out if they fall into this program category.

Local public health departments may contact Part 2 SUD programs searching for an individual and leave a message, requesting the program to offer the individual the opportunity to sign a consent form allowing disclosure of their PHI to the health department or for the client to call back the health department about an important health matter. According to an [HHS fact sheet on Part 2 and health information exchanges](#) (HIEs), a program could also give individuals the opportunity to consent to the Part 2 SUD program sharing data with specific entities (such as public health) via an HIE.

CDPH appreciates the importance of protecting SUD records and encourages Part 2 programs to partner with public health to protect the well-being of our communities. These kinds of partnerships are critical to facilitate timely intervention where delays may close the window for potentially life-saving services. Substance Use Disorder programs represent a unique time for some patients when housing is stable and schedules and location predictable allowing for public health officials to reach, treat or prevent infected or exposed individuals. This section is being included because many treatment facilities have policies against visitors or outside contact that also excludes public health providers. Giving options to an individual to have access to public health by signing a consent form will remove this barrier.

Mandated Reporting Requirements and Allowable Disclosures in California State Law

The following provisions of State law are applicable and are not preempted by HIPAA:

For Health Care Providers

- The California Medical Information Act allows a provider of health care or a health care service plan to disclose medical information:

“to a local health department for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events, including, but not limited to, birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions, as authorized or required by state or federal law or regulation.” ([Cal. Civ. Code § 56.10](#)(c)(18).)
- Health care providers are required to report specified diseases or conditions to the local health officer for the jurisdiction where the patient resides. ([Cal. Code Regs., tit. 17, § 2500](#).) (See CDPH [Reportable Diseases and Conditions](#).)
- State law requires health care providers to provide names-based HIV reporting to the local health officer using a form provided by CDPH. ([Cal. Health and Saf. Code § 121022](#)). State law also makes it a misdemeanor for any person to refuse to provide the requested information to aid in the investigation of sexually transmitted infections. ([Cal. Health & Saf. Code, § 120600](#).)

For Local Health Officers

- Local health departments are authorized by [Cal. Health and Safety Code § 120175](#) to conduct infectious disease investigations and interventions, and are given broad authority with which to do so at the local level:

"Each health officer knowing or having reason to believe that any case of the diseases made reportable by regulation of the department, or any other contagious, infectious or communicable disease exists, or has recently existed, within the territory under his or her jurisdiction, shall take measures as may be necessary to prevent the spread of the disease or occurrence of additional cases."
- Upon receiving a report of a disease, the local health officer must take whatever steps are deemed necessary for the investigation and control of the disease, condition, or outbreak reported. ([Cal. Code Regs., tit. 17, § 2501](#), subd. (a).)
- Local health officers also have a specific duty to control sexually transmitted infections. [Health and Safety Code section 120575](#) provides:

"It is the duty of the local health officers to use every available means to ascertain the existence of cases of infectious [sexually transmitted infections] within their respective jurisdictions, to investigate all cases that are not, or probably are not, subject to proper control measures approved by the board, to ascertain so far as possible all sources of infection, and to take all measures reasonably necessary to prevent the transmission of infection."

- Local health officers must prepare individual case and outbreak reports for selected reportable diseases and provide these to the State Department of Public Health. ([Cal. Code Regs., tit. 17, § 2502](#), subd. (b).)

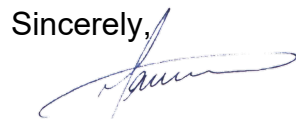
Redisclosures of PHI

- [California Health and Safety Code § 121025](#) lists who may disclose HIV related PHI to whom and for what purposes, including, but not limited to:

"[F]or the purpose of facilitating appropriate case management or care coordination or delivery of medical care and treatment of persons coinfectd with HIV and tuberculosis, syphilis, gonorrhea, chlamydia, hepatitis B, hepatitis C, meningococcal infection, or other reportable diseases under Section 2500 or Section 2505 of Title 17 of the California Code of Regulations, state or local public health agency staff may further disclose the information to other state or local public health agency staff, the HIV-positive person who is the subject of the record, or the HIV-positive person's health care provider." ([Cal. Health and Saf. Code § 121025\(c\)\(3\)](#)).

CDPH appreciates your cooperation in continuing to protect the health, safety, and privacy of all Californians. If you have questions, we advise you to contact your local attorney as this letter does not constitute legal advice. For questions on public health reporting of communicable diseases, please visit the [CDPH Center for Infectious Diseases website](#) or [CDPH Contact Us](#) page.

Sincerely,



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Acting Deputy Director
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