

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

Notice: Under the federal Health Insurance Portability and Accountability Act (HIPAA), those provisions of HIPAA concerning the privacy and confidentiality of a person's confidential health information "give way" to those California state law provisions, and other federal provisions, that are more stringent than HIPAA.

ODCHC staff should follow California law or other federal law if it provides greater protection than HIPAA. If you are unsure which law to follow please contact your immediate supervisor or the Compliance Officer.

PURPOSE:

This policy addresses proper use and disclosure of a client's protected health information. ODCHC or its business associates may not use or disclose protected health information except as permitted or required by HIPAA (45 CFR 164.502). Some uses and disclosures require written authorization by the client; exceptions to this requirement apply under certain circumstances. All uses and disclosures that require the client's authorization shall be documented.

DEFINITIONS:

See HIPAA Compliance Overview policy for all definitions.

POLICY:

Use and Disclosure Without Client's Authorization for Treatment, Payment and Health Care Operations
Protected health information may be used or disclosed for treatment, payment and health care operations (TPO) under certain circumstances without the individual's authorization:

- Use means the sharing, employment, application, utilization, examination, or analysis of protected health information within the entity that maintains the protected health information.
- Disclosure means the release, transfer, provision of access to, or divulging in any other manner, of information outside the HIPPA covered entity holding the protected health information.
- *Exception for Mental Health Notes:* The general rule does not apply to the use and disclosure of mental health notes for treatment, payment or health care operations (TPO). Unless written authorization of the individual is obtained, mental health notes may be used or disclosed for TPO only in very limited circumstances.

Requirements for using and disclosing protected health information for treatment, payment, health care operations (TPO):

- *General Rule for Treatment:* The covered entity may use or disclose protected health information for its own treatment activities. It may disclose protected health information for the treatment activities of another provider.
 - Treatment means the provision, coordination, or management of health care services by one or more health care providers, including:
 - The coordination or management of health care by a health care provider with a third party.
 - Consultation between health care providers relating to a patient; or

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

- Referral of a patient for health care from one health care provider to another.
 - Health Care: Health Care means care, services, or supplies related to the health of an individual and includes:
 - Preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status of an individual or that affects the structure or function of the body; and
 - Sale and dispensing of a drug, device, equipment or other item in accordance with a prescription.
- *General Rule for Payment:* As a general rule, protected health information may be used or disclosed for a covered entity's own payment activities. A covered entity may disclose protected health information to another covered entity or health care provider for the payment activities of the entity that receives the information.
 - Payment means:
 - The activities undertaken by a health plan to obtain premiums or determine or fulfill its responsibility for coverage and provision of benefits under the health plan to obtain or provide reimbursement for the provision of health care; and
 - The activities include, but are not limited to determinations of eligibility or coverage (coordination of benefits or determination of cost sharing amounts), and adjudication of health benefit claims; risk adjusting amounts; billing, claims management, collection activities, and related health care data processing; review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of changes; utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and disclosure to consumer reporting agencies of certain protected health information relating to the collection of premiums or reimbursement.
 - No limitation on contacts: The Privacy Rule allows disclosure of protected health information as necessary to obtain payment. It does not limit to whom disclosures may be made. ODCHC may contact persons other than clients as necessary to obtain payment for health care services.

NOTE: Disclosure of medical information for payment purposes without an authorization is consistent with state law (Civil Code Section 56.10 (c))
- *General Rule for Health Care Operations:* A covered entity may use or disclose protected health information for its own health care operations. It may disclose protected health information to another covered entity for the health care operations activities of the entity that receives the information, if each entity either has or had a relationship with the individual, the protected health information pertains to such relationship and the disclosure is for quality related activities or for the purpose of health care fraud and abuse detection or compliance.

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

- Health care operations: Health care operations are certain administrative, legal and quality improvement activities of a covered entity that are necessary to run its business and to support the core functions of treatment and payment. It includes any of the following activities of the covered entity to the extent that the activities relate to covered functions:
 - Conducting quality assessments and improvement activities (including outcomes evaluation and development of clinical guidelines) provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; patient safety activities (as defined in 42 CFR 3.20), population based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contracting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;
 - Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, evaluating health plan performance, conducting training programs in which students, trainees or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, or licensing and credentialing activities;
 - Underwriting, enrollment, premium rating, and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating claims for health care, provided that no genetic information is disclosed;
 - Conducting or arraigning for medical review, legal services and auditing functions, including fraud and abuse detection and compliance programs;
 - Business planning and development;
 - Business management and general administrative functions, including but not limited to activities relating to implementation and compliance with the Privacy Rule, customer service, resolution of internal grievances.

Organized Health Care Arrangement:

A covered entity that participated in an organized health care arrangement may disclose protected health care information about an individual to other participants in the organized health care arrangement unless an exception is noted below

Minimum Necessary Rule:

ODCHC shall make reasonable efforts to limit protected health information used or disclosed for payment transactions or health care operations to the minimum necessary to accomplish the intended purpose. This standard applies to both requests for, and disclosures of, protected health information for such purposes. The minimum necessary rule does not apply to treatment disclosures

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

Use and Disclosure of Protected Health Information with Client's Authorization

Authorizations:

- **General Rule:** Protected health information may not be used or disclosed without an authorization. ODCHC shall not disclose protected health information without a signed authorization except as otherwise authorized by law. Any use or disclosure pursuant to an authorization must be consistent with the terms of the authorization
 - The authorization may be client initiated or ODCHC initiated. A copy of the signed authorization must be provided to the individual.
- **Mental health notes:** An authorization for any use or disclosure of mental health notes is required.
 - Mental health notes are notes that are documented by a health care provider who is a mental health professional documenting or analyzing the contents of a conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the client's medical record.
 - Mental health notes do not include: medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, progress to date.
 - Exception to authorization requirement to mental health note:
 - To carry out treatment, payment, or health care operations in the following instances: use by the originator of notes for treatment, use/disclosure for training purposes for students, trainees or practitioners in mental health, use/disclosure to defend legal action or other proceeding brought by the court
 - A use or disclosure required by law, for oversight activities, to coroners and medical examiners, if there is a threat to health or safety and to the HHS Secretary to investigate or disclose compliance.
- **Marketing:** An authorization is required for any use or disclosure of protected health information for marketing, except if the communication is in the form of a face to face communication made by a covered entity to an individual or a promotional gift of nominal value is provided by the covered entity.
 - If the marketing involves financial remuneration (direct or indirect payment from or on behalf of a third party whose product or service is being described), to the covered entity, the authorization must state that such remuneration is involved. Direct or indirect payment does not include any payment for treatment of an individual.
- **Sale of Protected Health Information:** An authorization is required for disclosure of protected health information which is a sale of protected health information.
 - Sale of protected health information means: disclosure of protected health information by a covered entity or business associate, if applicable, where the covered entity or business associate directly or indirectly receives remuneration from or on behalf of the recipient of the protected health information in exchange for the protected health information
 - A covered entity must obtain an authorization to any disclosure of protected health information which is a sale of protected health information. (A sale involves direct or indirect payment from or on behalf of a third party to the covered entity. Direct or indirect

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

payment does not include any payment for treatment of an individual.) The authorization must state that the disclosure will result in remuneration to the covered entity

- Sale of protected health information does not include a disclosure of protected health information for any of the following:
 - Public health purposes;
 - Research purposes where the only remuneration received by the covered entity or business associate is a reasonable cost based fee to cover the cost to prepare and transmit the protected health information for such purposes;
 - Treatment or payment purposes;
 - Sale, transfer, merger, or consolidation of all or part of the covered entity and for the related due diligence as described in the definition of health care operations;
 - To or by a business associate for activities that the business associate undertakes on behalf of a covered entity, or on behalf of a business associate in the case of a subcontractor, and the business associate, or by the business associate to the subcontractor, if applicable, for the performance of such activities;
 - To the client, of their own protected health information, when requested;
 - Required by law;
 - Any other purpose permitted by and in accordance with the applicable requirements, where the only remuneration received by the covered entity or business associate is a reasonable cost based fee to cover the cost to prepare and transmit the protected health information for such purpose or a fee otherwise expressly permitted by other law.
- **Valid Authorization:** To be valid, an authorization must contain certain information and statements. (ODCHC Form 75 or 75S)
- **Invalid Authorization:** An authorization is not valid if it has any of the following defects:
 - The expiration date has passed or the expiration event is known to have occurred
 - The authorization is not filled out completely with respect to the required elements
 - The authorization has been revoked
 - The authorization is an impermissible compound authorization
 - Material information in the authorization is known to be false
- **Compound Authorizations:** An authorization cannot be combined with any other document to create a compound authorization; except:
 - Mental Health Notes; An authorization for a use or disclosure of mental health notes may only be combined with another authorization for a use or disclosure of mental health notes.
 - An authorization, other than an authorization for a use or disclosure of mental health notes, may be combined with other such authorization, except when a covered entity has conditioned the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of one of the authorizations.
- **Revocation of Authorization:** An individual may revoke authorization at any time if it is in writing. However, alcohol and drug treatment clients may orally revoke authorization. An authorization cannot be revoked to the extent that the covered entity has taken action in reliance on the

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

revocation. A revocation does not apply to protected health information already released while the authorization was valid and in effect.

NOTE: Although alcohol and drug treatment clients may orally revoke an authorization, the oral revocation must be documented and maintained in the individual's medical record or case record file.

- *Retention of Authorization:* All HIPAA authorization forms shall be retained for 7 years in the client's medical record or case record file

Opportunity to Agree or Object:

- *General Rule:* A covered entity may use or disclose protected health information for facility directory purposes and for involving family members or friends in the individual's care, if the individual is informed in advance of the use or disclosure and has had the opportunity to agree to, prohibit or restrict the use or disclosure
 - *Use and Disclosure for Facility Directories:* Except when an individual objects, a covered health care provider may:
 - Use the following protected health information to maintain a directory of individuals in its facility: Individuals name, location in facility, condition (described in general terms) and religious affiliation.
 - Disclosure for directory purposes to all persons involved in a disaster impacting the health centers.
 - Opportunity to object: Before using protected health information for a facility directory, the health care provider must:
 - Inform the individual that he/she may be included in the directory and the persons to whom the protected information may be disclosed (e.g. The American Red Cross)
 - Provide the individual with the opportunity to restrict or prohibit some or all of the uses or disclosures.
- NOTE:** Both the notice to the individual and the individual's opt-out or restriction may be given orally, but the agreement or restriction must be documented

Use and disclosure for notifying family or friends and for involving family or friends in care:

- *General Rule:* Subject to an individual's objection or ODCHC's determination that the disclosure would not be in the best interests of the individual, ODCHC may:
 - Disclose protected health information to a person involved with the health care of the individual (such as family member, other relative, close personal friend, or any other person identified by the individual).
- NOTE:** Mental health records regarding a patient's diagnosis, prognosis, medication, side effects of medication and patient progress may be disclosed to family members only if there is an authorization (California Welfare and Institutions Code Section 5328.1.)
- Protected health information disclosed must be "directly relevant" to person's involvement with the individual's health care. No specific definition of "directly relevant" exists in the Privacy Rule, but disclosure should be limited only to the

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

minimum information necessary for the friend or relative to provide the assistance or care they were providing.

- Use or disclose protected health information to notify or assist in the notification of (including identifying or locating) a family member, a personal representative, or another person responsible for the individual's care, of the individual's location, general condition or death.
 - If the client is deceased, a covered entity may disclose protected health information to a family member, other relative, or close personal friend, who was involved in the client's care or payment for health care prior to the client's death, that is relevant to such person's involvement, unless doing so is inconsistent with a prior expressed preference of the client that is known to the covered entity.
 - *Opportunity to agree or object:*
 - Individual Present: If the individual is present or available prior to a use or disclosure and has the capacity to make health care decisions, ODCHC may use or disclose protected health information only if it:
 - Obtains the individual's agreement to disclose to third parties involved in the individual's care
 - Provides the individual with an opportunity to object to the disclosure and the individual does not express an objection; or
 - Reasonably infers from the circumstances, based on professional judgement, the individual does not object to the disclosure
 - Individual Not Present/Incapacitated: If the individual is not present (e.g. a friend picks up the client's prescription at the health center) or the opportunity to agree/ object cannot practicably be provided because of the individual's incapacity or an emergency circumstance, ODCHC may, in the exercise of professional judgement, determine whether disclosure is in the best interest of the individual and disclose only protected health information that is directly relevant to the person's involvement with the individual's health care.
- NOTE:** Alcohol and drug treatment programs are not permitted to make this broader disclosure because the medical emergency exception in 42 CFR Part 2 limits disclosure to medical personnel only.
- Best Interest Considerations: ODCHC staff must use professional judgement and must take in to account whether disclosure is likely to put the individual at risk of serious harm.

Other Permitted or Required Use and Disclosure of Protected Health information Without the Client's Authorization

General rule: In some instances, protected health information may be used or disclosed, without an authorization and without providing the individual an opportunity to agree or object, for purposes that have been determined to address important goals or needs. Under HIPAA, the following types of uses and disclosures do not require an individual's permission.

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

- *Uses and Disclosures are Permitted, But Not Required:* The uses and disclosures identified in the Policy are permitted, but not required by the Privacy Rule. This means that, in most instances, ODCHC may choose whether to make the use or disclosure without the individual's permission.
NOTE: Some of the disclosures that are only permitted by the Privacy Rule are required by California law. As to those disclosures, ODCHC may not choose whether or not to make disclosures that are required by California law; it must make those disclosures. On the other hand, some of the disclosures that are permitted by the Privacy Rule are not permitted under California law.
- *Verification Requirements:* A covered entity must verify the identity and authority of the persons seeking disclosure of protected health information and must obtain documentation, statements, or representations that specific provisions of the privacy Rule governing disclosure require.
 - Disclosure of protected health information to a public official: ODCHC may rely, if such reliance is reasonable under the circumstances, on the following if the disclosure of protected health information is made to a public official:
 - If the request is made in person, presentation of an agency identification badge or other credentials or other proof of government status;
 - If the request is in writing, the request is on the appropriate government letterhead; or
 - If the disclosure is to someone acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence or documentation of agency, such as a contract or Memorandum of Understanding (MOU).
 - Authority of public officials: ODCHC may rely, if such reliance is reasonable under the circumstances, on the following when the disclosure of protected health information is to a public official:
 - Written or oral statement of the legal authority under which the information is requested.
 - A warrant, subpoena, order or other legal process issued by a grand jury or judicial or administrative tribunal is presumed to constitute legal authority.
- *Minimum Necessary:* The minimum necessary standard applies to all disclosures made without an individual's permission except those that are required by law.
- *Documentation:* The uses and disclosures authorized without an individual's permission must be documented in the individual's medical record or case management record. Most disclosures must be included in the accounting of disclosures that an individual may obtain from ODCHC.
- *Informing the Individual:* In some instances, ODCHC is required to inform the individual of these uses and disclosures. When the requirement exists, the individual may be informed orally. The fact that the information was given should always be documented in the client's medical record.

Disclosures required by law:

- *General rule:* ODCHC may use or disclose protected health information to the extent that such use or disclosure is required by law.
NOTE: HIPAA only requires disclosures under two circumstances: Disclosure to an individual of their own protected health information, when the individual requests the disclosures, or when, required by the Secretary of the federal Department of Health and Human Services to investigate or

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

determine the covered entity's compliance with HIPAA. However other laws may require disclosures, as stated below.

- Definition of required by law: "Required by law" means a mandate contained in law that compels a use or disclosure of protected health information and that is enforceable in court. It includes but is not limited to: court orders and court ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, a civil or an authorized investigative demand, Medicare conditions of participation with respect to the health care providers in the program, and statutes and regulations that require the production of information, including statutes and regulations that require such information if payment is sought under a government program providing public benefits
- Special procedures: Specific procedures must be followed when a "required by law" disclosure pertains to any of the following:
 - Disclosures about victims of abuse, neglect, or domestic violence that are required by law must be made according to the ODCHC procedures for Mandated Reporting.
 - Disclosures for judicial/administrative proceedings that are required by law must be made according to the procedures set forth in Permitted or Required Use and Disclosure of Protected Health Information Without Client's Authorization section.
 - Disclosures for law enforcement purposes that are required by law must be made according to the procedures set forth in Permitted or Required Use and Disclosure of Protected Health Information Without Client's Authorization section.

Uses and Disclosures for Public Health Activities:

Protected health information may be disclosed for public health activities and purposes.

- **Public Health Authority:** Protected health information may be disclosed without an authorization to a public health authority that is authorized by law to collect or receive the information for the purpose of preventing or controlling disease, injury, or disability, including but not limited to the reporting of disease, injury, vital elements (such as birth or death) and the conduct of public health surveillance, public health investigations and public health interventions. A public health authority may use protected health information in all cases in which it would be permitted to disclose protected health information for its public health activities
 - **Definition of Public Health Authority:** An agency, individual or other entity that is an agency or authority of the United States, a County or a person acting under the grant of authority from such agency and is responsible for public health matters as part of its official mandate. It includes the agency's employees, agents, contractors and other persons or entities to which the agency has granted authority.
- **Public Health Authority for Child Abuse Reports:** Protected health information may be disclosed to a public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect. This is consistent with federal mental health laws
- **A Person Exposed to a Communicable Disease:** Protected health information may be disclosed to a person who may have been exposed to a communicable disease or may otherwise be a risk of contracting or spreading a disease or condition, if the public health authority is authorized by law

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

to notify such person as necessary in the conduct of a public health intervention or investigation. Protected health information may be disclosed as needed to notify an individual that she/he has been exposed to a communicable disease if authorized by law.

- *An Employer about a Workforce Member in Limited Circumstances:* protected health information may be disclosed at an employer about an individual who is a member of the employer's workforce in limited circumstances.
 - The covered entity is a health care provider that provides the health care service to the individual at the request of the individual's employer;
 - The health care services provided must relate to the medical surveillance of the workplace or an evaluation to determine whether the individual has a work related illness or injury;
 - The employer must have a duty under OSHA or requirements of a similar state law, to keep records on or act on such information; and
 - The covered health care provider provides written notice to the individual that protected health information relating to medical surveillance of the workplace and work related illness and injuries is disclosed to the employer. The notice may be given either to the individual at the time the health care is provided or if the health care is provided at the employer's work site, by posting the notice in a prominent place at the location where the health care is provided.
- *Immunization Records:* A covered entity may use or disclose protected health information to a school, about a client who is a student or prospective student of the school, if:
 - The protected health information that is disclosed is limited to proof of immunization; or
 - The school is required by state or other law to have such proof of immunization prior to admitting the student.

Abuse, Neglect and Domestic Violence:

Protected health information about an individual believed to be a victim of adult or dependent adult abuse or neglect or domestic violence may be disclosed to a government authority authorized by law to receive those reports.

NOTE: Federal mental health laws do not allow disclosures about individuals other than children; California law permits disclosures about children and dependent adults.

- *Special Conditions/Procedures:* Disclosure of protected health information relating to abuse, neglect, and domestic violence must comply with one of the following circumstances:
 - The individual agrees to the disclosures, either orally or in writing; or
 - Disclosure is required by law and the disclosure complies with and limited to the relevant requirements of such law; or
 - To the extent the disclosure is expressly authorized by statute or law and ODCHC has in the exercise of professional judgement, determined the disclosure is necessary to prevent serious harm to the individual or other potential victims; or if the individual is unable due to incapacity, a law enforcement official or other public official authorized to receive the report represents that the protected health information being sought is not intended to be used against the individual, and that an immediate law enforcement activity that depends on the

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

- *Notice of disclosure:* When any disclosure is made relating to adult abuse, neglect, or domestic violence, the individual must be promptly informed that the disclosure has been or will be made, except if:
 - Staff in the exercise of professional judgement and in consultation with appropriate ODCHC supervisor, believes that informing the individual, or another individual, would place the individual at risk of serious harm; or
 - Staff would be informing a personal representative and ODCHC reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual.

Health Oversight Activities:

Protected health information may be disclosed to a health oversight agency for oversight activities that are authorized by law. The type of oversight activities for which disclosures may be made include audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other actions necessary for appropriate oversight of the health care system, government benefit programs for which health information is necessary for determining compliance with program standards; or entities subject to civil rights laws for which health information is necessary for determining compliance.

Judicial and Administrative Proceedings:

- Court Order: Protected health information may be disclosed in response to an order of the court or administrative tribunal. The protected health information must be limited to only that protected health information expressly authorized by the order.
- Subpoenas, etc.: Protected health information may be disclosed in response to a subpoena, discovery request, or other lawful process, without a court order, if one of the following circumstances applies:
 - ODCHC receives satisfactory assurances from the party seeking the protected health information that reasonable efforts have been made to ensure the individual who is the subject of the protected health information has been given notice of the request for protected health information; or

Law Enforcement Purposes:

ODCHC may disclose protected health information to a law enforcement official in limited circumstances. A "law enforcement official" means an officer or employee of any agency who has the authority to investigate or conduct an official inquiry into a potential violation of law or to prosecute or otherwise conduct a criminal, civil or administrative proceeding arising from an alleged violation of law. Protected health information may be disclosed to a law enforcement official in the following circumstances:

- When required by law;

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

- In compliance with a grand jury subpoena, court order or court warrant or an administrative subpoena or demand if the information sought is relevant and material to a legitimate law enforcement inquiry; the request is specific and limited in scope; and de-identified information could not be reasonably used.
- If necessary to identify or locate a suspect, material witness, or missing person only if the information provided is limited to the following:
 - Name and address
 - Date and place of birth
 - Social Security Number
 - Blood type and Rh factor
 - Type of injury
 - Date and time of treatment
 - Date and time of death, if applicable
 - Description of distinguishing physical characteristics, including weight, height, gender, race, hair and eye color, presence or absence of facial hair, scars and tattoos

NOTE: Protected health information related to the individual's DNA or DNA analysis, or typing samples or analysis of body fluids or tissue may not be disclosed. The disclosure of this protected health information may be made only in response to a law enforcement official's request. It may not be disclosed unless a law enforcement official has asked for it. Such disclosure is prohibited by federal alcohol and drug laws unless made in a way that does not reveal that the individual has a drug/alcohol problem or is in treatment or unless it is made pursuant to an authorization or court order.

- About an individual who is or is suspected to be a victim of a crime if a law enforcement official requests the information and either:
 - The individual agrees to the disclosure, either orally or in writing; or
 - If ODCHC is unable to obtain the individual's agreement due to incapacity or emergency circumstance, it may disclose protected health information if:
 - The law enforcement official represents that such protected health information is needed to determine whether a violation of law by someone other than the victim has occurred and such confidential information is not intended for use against the victim;
 - The law enforcement official represents that immediate law enforcement activity would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and
 - ODCHC determines the disclosure is in the best interests of the individual.
 - About a decedent for purposes of alerting law enforcement of death if it is suspected that the death may have resulted from criminal conduct.

Coroners and Medical Examiners:

ODCHC may disclose protected health information to coroner or medical examiner for the purpose of identifying a deceased person, determining the cause of death, or other duties as authorized by law.

Approved By:	Board of Directors	Adopted Date:	6/22/20
Distribution:	All Staff	Revision Date(s):	
Category:	Administration and Governance	Reviewed Date(s):	

Printed copies are for reference only. Please refer to the electronic copy of this document for the latest version.

Funeral Directors:

ODCHC may disclose protected health information to funeral directors as necessary to carry out their duties with respect to the decedent. Protected health information may be disclosed prior to an individual's death if necessary for funeral directors to carry out their duties and the individual's death is reasonably anticipated.

Serious Threat to Health or Safety:

General rule: Protected health information may be disclosed if all of the following conditions are satisfied

- ODCHC in good faith believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.
- The disclosure is made to a person or persons reasonably able to prevent or lessen the threat.
- The disclosure is consistent with applicable law and standards of ethical conduct.

Workers' Compensation:

Protected health information may be disclosed to the extent necessary to comply with workers' compensation laws or laws relating to other similar programs that are established by law and provide benefits for work related injuries or illness without regard to fault.

NOTE: An individual does not have the right to request that a covered entity restrict disclosure of protected health information about them for workers' compensation purposes when the disclosure is required by law or authorized by worker's compensation.

Deceased Individual:

A covered entity may use or disclose protected health information of a deceased individual if they have been deceased for more than 50 years.

REFERENCES:

HIPAA rules and regulations, 45 CFR 164

California Hospital Association, California Health Information Privacy Manual, 2017

County of Sacramento, HIPAA Privacy Rules Policies and Procedures, September 23, 2013

ASSOCIATED DOCUMENTS:

ODCHC Form 75 Authorization for Use or Disclosure of Health Information

AG_Mandatory Reporting

AG_HIPAA Compliance Overview

AG_Minimum Necessary Standard

KEYWORD TAGS:

Disclosure, use, protected, health, information, HIPAA