

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

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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:

To describe standards under which client protected health information can be used and disclosed if information that can identify an individual has been removed (de-identified).

DEFINITIONS:

See HIPAA Compliance Overview policy for all definitions.

POLICY:

General:

- *De-identified information*
 - Health information that does not identify an individual, and to which there is no reasonable basis to believe that the information can be used to identify an individual, is not individually identifiable information and therefore is not protected health information and not protected by the Privacy Rule.
 - Unless otherwise restricted or prohibited by any federal or state law, ODCHC can use and share de-identified protected health information as appropriate for the work of ODCHC, without further restriction. If ODCHC or another entity has taken steps to de-identify the protected health information consistent with the requirements and restrictions in this policy.
- *Limited data set*
 - A limited data set is described as health information that excludes certain listed direct identifiers but that may include city, state, Zip Code, elements of date; and other numbers, characteristics, or codes not listed as direct identifiers. The direct identifiers in the limited data set provisions apply both to information about the individual and to information about the individual's relatives, employers, or household members.
 - Because limited data sets may contain identifiable information they are still protected health information.
 - ODCHC may disclose a limited data set only for the purposes of research, health care operations, or public health purposes. However, ODCHC is not restricted to using a limited data set for its own activities or operations.
 - If ODCHC knows of a pattern or activity or practice of the limited data set recipient that constitutes a material breach or violation of agreement, ODCHC will take reasonable steps to cure the breach or end the violation and, if such steps are unsuccessful ODCHC will discontinue

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disclosure of confidential information to the recipient and report the problem to DHHS, Office of Civil Rights.

Requirements for De-Identified Information:

- ODCHC may determine that client protected health information is sufficiently de-identified, and cannot be used to identify an individual, only if either the below has occurred:
 - A statistician or other person with appropriate knowledge of, or experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable:
 - Has applied such principles and methods, determined that the risk is minimal that the information could be used, alone or in combination with other reasonably available identification, by an anticipated recipient to identify the individual who is the subject of the information; and
 - Has documented the methods and results of the analysis that justify such a determination; **or**
 - ODCHC has ensured that:
 - All of the following identifiers of the individual or of relatives, employers, and household members of the individual are removed:
 - Names;
 - All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geo codes. However, the initial three digits of a zip code may remain on the information if that breakdown represents more than 20,000 individuals;
 - All elements of dates (except year) for dates directly relating to an individual, including birth dates, dates of admission or discharge from a health care facility, and date of death;
 - Telephone numbers;
 - Fax numbers;
 - Electronic mail addresses;
 - Social Security numbers;
 - Medical Record numbers;
 - Health plan beneficiary numbers;
 - Account numbers;
 - Certificate of license numbers;
 - Vehicle identifiers and serial numbers, including license plate numbers;
 - Device identifiers and serial numbers;
 - Web Universal Resource Locators (URLs);
 - Internet Protocol (IP) address and numbers;
 - Biometric identifiers, including fingerprints and voiceprints;
 - Full face photographs or comparable images;

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- Any other unique identifying numbers, characteristics, or codes except as permitted under this policy; **and**
- ODCHC has no actual knowledge that the information could be used alone or in combination with other information to identify an individual who is the subject of the information.

Re-identification of De-Identified Confidential Health Information:

- ODCHC may assign a code or other means of record identification to allow information de-identified under this policy to be re-identified by ODCHC provided that:
 - The code or other means of record identification is not derived from or related to confidential information about the individual and cannot otherwise be translated to identify the individual; and
 - ODCHC does not use or disclose the code or other means of record identification for any purpose, and does not disclose the mechanism for re-identification.

Limited Data Set:

- A limited data set is designed for research data gathering and can only be released if it meets the terms of the agreement that has been signed by both parties.
- The agreement must contain the following provisions:
 - Specific permitted uses and disclosures of the limited data set by the recipient consistent with the purpose for which it was disclosed. The agreement cannot authorize the recipient to use or further disclose the information in a way that, if done by the covered entity, would violate the Privacy Rule.
 - Identify who is permitted to use or receive the limited data set.
 - Stipulations that the recipient will:
 - Not use or further disclose the information other than as permitted by the agreement or otherwise required by law.
 - Use appropriate safeguards to prevent the use or disclosure of the confidential information, except as provided for in the agreement, and require the recipient to report to the covered entity any uses or disclosures in violation of the agreement of which the recipient becomes aware.
 - Hold any agent of the recipient (including subcontractors) to the standards, restrictions, and conditions stated in the agreement with respect to the information.
 - Not identify the information or contact the individuals.
- If a covered entity is the recipient of a limited data set and violates the agreement, it is deemed to have violated the Privacy Rule. If the covered entity providing the limited data set knows of a pattern of activity or practice by the recipient that constitutes a material breach or violation of the agreement, the covered entity must take reasonable steps to correct the inappropriate activity or practice. If the steps are not successful, the covered entity must discontinue disclosure of PHI to the recipient and notify DHHS.
- Section 164.512 of the Privacy Rule also establishes specific PHI uses and disclosures that a covered entity is permitted to make for research without an Authorization, a waiver or an alteration of

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Authorization, or an agreement. These limited activities are the use or disclosure of PHI preparatory to research and the use or disclosure of PHI pertaining to decedents for research.

REFERENCES:

California Hospital Association, California Health Information Privacy Manual, 2017

HIPAA rules and regulations, 45 CFR 164

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

ASSOCIATED DOCUMENTS:

AG_HIPAA Compliance Overview

KEYWORD TAGS:

Research, Deidentified, disclose, HIPPA