

**OC-MEDS – CONFIDENTIALITY OF HEALTH CARE INFORMATION****I. AUTHORITY:**

Health and Safety Code, Division 2.5, Section 1797.204; California Code of Regulations, Title 22, Section § 100062(d); California Civil Code § 56.10 and § 1798.80(e); Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

II. APPLICATION:

This policy establishes standards and procedures for the use and disclosure of health care information which may contain personal information.

III. DEFINITIONS:

Orange County Medical Emergency Data System (OC-MEDS): The Orange County data hub and electronic health record for emergency medical services as managed by Orange County Emergency Medical Services (OCEMS).

Health Insurance Portability and Accountability Act (HIPAA): A federal law which establishes a set of national standards for the electronic transmission of health information by covered entities.

California Confidentiality of Medical Information Act (CMIA): A California state law which establishes statewide standards for the transmission of health information by providers of health care.

Agency Identifiable Information (All): Electronic or paper-based information that is retained or transmitted which may include items that can be used to identify a specific health care provider entity. Examples of "All" include: Agency Name, Personnel Name, Location of Service, etc.

Personally Identifiable Information (PII): Electronic or paper-based information that is retained or transmitted which may include items that can be used to identify a specific person. Examples of "PII" include: Name, Date of Birth (DOB), Social Security Number, Driver's License Number, etc.

Protected Health Information (PHI): Electronic or paper-based individually identifiable health information that relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

Minimum Necessary: A practice by which only the minimum amount of All/PHI/PII necessary should be used to accomplish the intended purpose of the request for information.

De-Identification: A process used to remove a number of identifiers from PHI/PII in order to render the information incapable of identifying the individual.

Limited Data Set: Information that does not include PHI/PII and has been completely de-identified. This may also include provisions to remove information that may be used to identify an Agency (EMS Provider or Hospital).

Covered Entity: Defined in HIPAA as health care providers, health plans, and health care clearing houses that electronically transmit health information. For the purposes of this policy, EMS providers and Emergency Receiving Centers (ERC) are considered health care providers.

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Oversight Agency: Defined in HIPAA as an entity who is authorized by law to oversee a health care system. For the purposes of this policy, Orange County EMS is an "Oversight Agency".

Institutional Review Board (IRB): An IRB is a type of independent ethics committee used in medical research that is formally designated to review, approve, and monitor medical research involving humans. IRBs often conduct risk/benefit analyses to assure that the appropriate steps are being taken to protect the rights and welfare of humans participating as subjects in a research study.

IV. CRITERIA:**A. Covered Entities**

- i. EMS Providers and ERCs are covered entities and are the owners and custodians of the health care records that they generate or receive.
 - a. Covered entities shall implement organizational policies and procedures that are consistent with established federal (HIPAA) and California state (CMIA) laws and regulations.
 - b. Covered entities should implement initial and annual training programs based on organizational information privacy/security policies.
- ii. Health care information with All/PHI/PII may be disclosed by EMS Providers and ERCs to each of the following entities in accordance with their policies and procedures and as consistent with HIPAA and CMIA, as follows:
 - a. Health care providers involved in the care of the patient
 - b. EMS Agency via OC-MEDS Hub
 - c. Base Hospital for quality improvement purposes
 - d. Patient, legal guardian or others authorized by the patient
 - e. Law enforcement officers when the health care provider believes, in good faith, that the information requested is related to the investigation of a crime
 - f. Provider's billing department, or as needed for billing purposes
 - g. In response to a properly noticed subpoena, court order or other legally authorized disclosure

B. Oversight Agency

- i. OCEMS is an "Oversight Agency". Designated OCEMS employees and/or agents may view and use PHI and/or PII whenever necessary while carrying out their assigned duties.
 - a. OCEMS (and its parent agency) will maintain internal policies and procedures that are consistent with established federal (HIPAA) and California state (CMIA) laws and regulations.

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- b. OCEMS employees and/or agents will attend initial and annual training in regard to information security and patient confidentiality.
- ii. Generally, OCEMS will not provide All/PHI/PII, to a third party. Requestors of All/PHI/PII will be directed to the covered entity(ies) who created the health care information.
- iii. OCEMS may provide All/PHI/PII under certain circumstances. If health information is shared, the "minimum necessary" standard will apply.
- iv. OCEMS may share All/PHI/PII under the following circumstances:
 - a. Pursuant to a properly formatted and approved request from an Institutional Review Board (IRB) for the purpose of conducting medical research.
 - b. Law Enforcement when, in good faith, the information being requested is related to the investigation of a crime. Information released pursuant to a criminal investigation will require the review and approval of the OCEMS Medical Director.
 - c. Agency identifiable information (All) will only be shared with the express written consent of the named agency and review and approval of the OCEMS Medical Director.
- v. Upon a properly initiated Public Records Act (PRA) request, OCEMS may provide health care information to the requestor. These reports will only include a "Limited Data Set" whereby All/PHI/PII has undergone a "de-identification" process.
 - a. Requests must be made with specific reference to the data elements in use by OC-MEDS as detailed in OCEMS Policy 300.31.
 - b. OCEMS may work with the requestor to build reports that meet the intended purpose. OCEMS staff time is subject to an hourly "Custom Data Reports" fee as defined by OCEMS Policy #470.00.
 - c. All reports shall be reviewed and approved by the OCEMS Medical Director prior to release.

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OCEMS Administrator

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