

SUMMARY OF OUR NOTICE OF PRIVACY PRACTICES

NOE VALLEY PHYSICAL THERAPY

Effective Date: April 14, 2003

THIS NOTICE DESCRIBES HOW HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION

Please review the full Notice of Privacy Practices (NPP) which is attached. If you have any questions about this notice, please contact Karen Shaneyfelt, Partner at (415) 821-4148.

WHO WILL FOLLOW THIS NOTICE:

- NOE VALLEY PHYSICAL THERAPY
- BMS Medical Management Inc

This notice describes our privacy practices. All these entities, sites, and locations follow the terms of this notice. In addition, these entities, sites, and locations may share health information with each other for treatment, payment, or health care operations purposes described in this notice.

OUR PLEDGE REGARDING HEALTH INFORMATION:

We understand that health information about you and your health care is personal. We are committed to protecting health information about you. We create a record of the care and services you receive from us. We need this record to provide you with quality care and to comply with certain legal requirements. This notice applies to all of the records of your care generated by this health care practice, whether made by your personal physical therapist or others working in this office. This notice will tell you about the ways in which we may use and disclose health information about you. We also describe your rights to the health information we keep about you, and describe certain obligations we have regarding the use and disclosure of your health information.

We are required by law to:

- make sure that health information that identifies you is kept private;
- give you this notice of our legal duties and privacy practices with respect to health information about you; and
- follow the terms of the notice that is currently in effect.

HOW WE MAY USE AND DISCLOSE HEALTH INFORMATION ABOUT YOU.

The following categories describe different ways that we use and disclose health information. By coming for care, you give us the right to use your information for treatment, to get reimbursed for your care, and to operate our organization.

There are also various other ways in which we may use or disclose your information:

- **To Allow Oversight of the Quality of the Healthcare We Provide**
- **To Allow Workers' Compensation Claims**
- **As Required by Subpoena in Lawsuits and Disputes**
- **Various Uses as Required by Law or to Avert a Serious Threat to Health or Safety**

The full details for all these uses are contained in the full NPP.

YOUR RIGHTS REGARDING HEALTH INFORMATION ABOUT YOU.

You have the following rights regarding health information we maintain about you:

- **Right to Inspect and Copy**
- **Right to Amend**
- **Right to an Accounting of Disclosures**
- **Right to Request Restrictions**
- **Right to Request Confidential Communications**
- **Right to a Paper Copy of This Notice**

Information on how to exercise these rights can be seen in the NPP or can be obtained from Karen Shaneyfelt, Partner at (415) 821-4148.

CHANGES TO THIS NOTICE

We reserve the right to change this notice. We reserve the right to make the revised or changed notice effective for health information we already have about you as well as any information we receive in the future. We will post a copy of the current notice in our facility. The notice will contain on the first page, in the top right-hand corner, the effective date. In addition, each time you register for treatment or health care services, we will offer you a copy of the current notice in effect.

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with us or with the Secretary of the Department of Health and Human Services. To file a complaint with us, contact Karen Shaneyfelt, Partner. All complaints must be submitted in writing. **You will not be penalized for filing a complaint.**

OTHER USES OF HEALTH INFORMATION.

Other uses and disclosures of health information not covered by this notice or the laws that apply to us will be made only with your written permission. If you provide us permission to use or disclose health information about you, you may revoke that permission, in writing, at any time. If you revoke your permission, we will no longer use or disclose health information about you for the reasons covered by your written authorization. You understand that we are unable to take back any disclosures we have already made with your permission, and that we are required to retain our records of the care that we provided to you.

HIPAA NOTICE OF PRIVACY PRACTICES

NOE VALLEY PHYSICAL THERAPY

Effective Date: April 14, 2003

THIS NOTICE DESCRIBES HOW HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION

PLEASE REVIEW IT CAREFULLY

If you have any questions about this notice, please contact Karen Shaneyfelt, Partner at (415) 821-4148.

WHO WILL FOLLOW THIS NOTICE:

- NOE VALLEY PHYSICAL THERAPY
- BMS Medical Management Inc

This notice describes our privacy practices. All these entities, sites, and locations follow the terms of this notice. In addition, these entities, sites, and locations may share health information with each other for treatment, payment, or health care operations purposes described in this notice.

OUR PLEDGE REGARDING HEALTH INFORMATION:

We understand that health information about you and your health care is personal. We are committed to protecting health information about you. We create a record of the care and services you receive from us. We need this record to provide you with quality care and to comply with certain legal requirements. This notice applies to all of the records of your care generated by this health care practice, whether made by your personal physical therapist or others working in this office. This notice will tell you about the ways in which we may use and disclose health information about you. We also describe your rights to the health information we keep about you, and describe certain obligations we have regarding the use and disclosure of your health information.

We are required by law to:

- make sure that health information that identifies you is kept private;
- give you this notice of our legal duties and privacy practices with respect to health information about you; and
- follow the terms of the notice that is currently in effect.

HOW WE MAY USE AND DISCLOSE HEALTH INFORMATION ABOUT YOU.

The following categories describe different ways that we use and disclose health information. For each category of uses or disclosures we will explain what we mean and try to give some examples. Not every use or disclosure in a category will be listed. However, all of the ways we are permitted to use and disclose information will fall within one of the categories.

For Treatment. We may use health information about you to provide you with health care treatment or services. We may disclose health information about you to doctors, nurses, technicians, health students, or other personnel who are involved in taking care of you. They may work at our offices, at the hospital if you are hospitalized, or at another doctor's office, lab, pharmacy, or other health care provider to whom we may refer you for consultation or for other treatment purposes. For example, a physical therapist is treating a patient following a myocardial infarction and discovers that he is uninformed about proper diet. She refers the patient to a dietitian and may need to tell the dietitian about the status of physical therapy treatment. Or, a pediatrician refers a child to a physical therapist for examination/evaluation. The physical therapist discovers that the child is not performing with age-appropriate motor skills and has noted impairments. The physical therapist refers the child to the state's Early Intervention Official for early intervention services and may need to give the EIO information from the child's evaluation. We may also disclose health information about you to an entity assisting in a disaster relief effort so that your family can be notified about your condition, status and location.

For Payment: We may use and disclose health information about you so that the treatment and services you receive from us may be billed to and payment collected from you, an insurance company, or a third party. For example, we may need to give your health plan information about your office visit so your health plan will pay us or reimburse you for the visit. We may also tell your health plan about a treatment you are going to receive to obtain prior approval or to determine whether your plan will cover the treatment.

For Health Care Operations: We may use and disclose health information about you for operations of our health care practice. These uses and disclosures are necessary to run our practice and make sure that all of our patients receive quality care. For example, we may use health information to review our treatment and services and to evaluate the performance of our staff in caring for you. We may also combine health information about many patients to decide what additional services we should offer, what services are not needed, whether certain new treatments are effective, or to compare how we are doing with others and to see where we can make improvements. We may remove information that identifies you from this set of health information so others may use it to study health care delivery without learning who our specific patients are.

As Required By Law. We will disclose health information about you when required to do so by federal, state, or local law.

To Avert a Serious Threat to Health or Safety. We may use and disclose health information about you when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat.

Military and Veterans. If you are a member of the armed forces or separated/discharged from military services, we may release health information about you as required by military command authorities or the Department of Veterans Affairs as may be applicable. We may also release health information about foreign military personnel to the appropriate foreign military authorities.

Workers' Compensation. We may release health information about you for workers' compensation or similar programs. These programs provide benefits for work-related injuries or

illness.

Public Health Risks. We may disclose health information about you for public health activities. These activities generally include the following:

- to prevent or control disease, injury or disability;
- to report births and deaths;
- to report child abuse or neglect;
- to report reactions to medications or problems with products;
- to notify people of recalls of products they may be using;
- to notify person or organization required to receive information on FDA-regulated products;
- to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition;
- to notify the appropriate government authority if we believe a patient has been the victim of abuse, neglect, or domestic violence. We will only make this disclosure if you agree or when required or authorized by law.

Health Oversight Activities. We may disclose health information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the health care system, government programs, and compliance with civil rights laws.

Lawsuits and Disputes. If you are involved in a lawsuit or a dispute, we may disclose health information about you in response to a court or administrative order. We may also disclose health information about you in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request or to obtain an order protecting the information requested.

Law Enforcement. We may release health information if asked to do so by a law enforcement official:

- in reporting certain injuries, as required by law, gunshot wounds, burns, injuries to perpetrators of crime;
- in response to a court order, subpoena, warrant, summons or similar process;
- to identify or locate a suspect, fugitive, material witness, or missing person:
 - Name and address
 - Date of birth or place of birth;
 - Social security number;
 - Blood type or rh factor;
 - Type of injury;
 - Date and time of treatment and/or death, if applicable; and
 - A description of distinguishing physical characteristics.
- about the victim of a crime, if the victim agrees to disclosure or under certain limited circumstances, we are unable to obtain the person's agreement;

- about a death we believe may be the result of criminal conduct;
- about criminal conduct at our facility; and
- in emergency circumstances to report a crime; the location of the crime or victims; or the identity, description, or location of the person who committed the crime.

Coroners, Health Examiners and Funeral Directors. We may release health information to a coroner or health examiner. This may be necessary, for example, to identify a deceased person or determine the cause of death. We may also release health information about patients to funeral directors as necessary to carry out their duties.

National Security and Intelligence Activities. We may release health information about you to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law.

Protective Services for the President and Others. We may disclose health information about you to authorized federal officials so they may provide protection to the President, other authorized persons or foreign heads of state or conduct special investigations.

Inmates. If you are an inmate of a correctional institution or under the custody of a law enforcement official, we may release health information about you to the correctional institution or law enforcement official. This release would be necessary (1) for the institution to provide you with health care; (2) to protect your health and safety or the health and safety of others; or (3) for the safety and security of the correctional institution.

YOUR RIGHTS REGARDING HEALTH INFORMATION ABOUT YOU.

You have the following rights regarding health information we maintain about you:

Right to Inspect and Copy: You have the right to inspect and copy health information that may be used to make decisions about your care. Usually, this includes health and billing records.

To inspect and copy health information that may be used to make decisions about you, you must submit your request in writing to Karen Shaneyfelt, Partner. If you request a copy of the information, we may charge a fee for the costs of copying, mailing or other supplies and services associated with your request.

We may deny your request to inspect and copy in certain very limited circumstances. If you are denied access to health information, you may request that the denial be reviewed. Another licensed health care professional chosen by our practice will review your request and the denial. The person conducting the review will not be the person who denied your request. We will comply with the outcome of the review.

Right to Amend. If you feel that health information we have about you is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as we keep the information. To request an amendment, your request must be made in writing, submitted to Karen Shaneyfelt, Partner, and must be contained on one page of paper legibly handwritten or typed in at least 10 point font size. In addition, you must provide a reason that supports your request for an amendment.

We may deny your request for an amendment if it is not in writing or does not include a reason to support the request. In addition, we may deny your request if you ask us to amend information that:

- was not created by us, unless the person or entity that created the information is no longer available to make the amendment;

- is not part of the health information kept by or for our practice;
- is not part of the information which you would be permitted to inspect and copy; or
- is accurate and complete.

Any amendment we make to your health information will be disclosed to those with whom we disclose information as previously specified.

Right to an Accounting of Disclosures. You have the right to request a list accounting for any disclosures of your health information we have made, except for uses and disclosures for treatment, payment, and health care operations, as previously described.

To request this list of disclosures, you must submit your request in writing to Karen Shaneyfelt, Partner. Your request must state a time period which may not be longer than six years and may not include dates before April 14, 2003. The first list you request within a 12 month period will be free. For additional lists, we may charge you for the costs of providing the list. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred. We will mail you a list of disclosures in paper form within 30 days of your request, or notify you if we are unable to supply the list within that time period and by what date we can supply the list; but this date will not exceed a total of 60 days from the date you made the request.

Right to Request Restrictions. You have the right to request a restriction or limitation on the health information we use or disclose about you for treatment, payment, or health care operations. You also have the right to request a limit on the health information we disclose about you to someone who is involved in your care or the payment for your care, such as a family member or friend. For example, you could ask that we restrict a specified nurse from use of your information, or that we not disclose information to your spouse about a surgery you had.

We are not required to agree to your request for restrictions if it is not feasible for us to ensure our compliance or believe it will negatively impact the care we may provide you. If we do agree, we will comply with your request unless the information is needed to provide you emergency treatment. To request a restriction, you must make your request in writing to Karen Shaneyfelt, Partner. In your request, you must tell us what information you want to limit and to whom you want the limits to apply; for example, use of any information by a specified nurse, or disclosure of specified surgery to your spouse.

Right to Request Confidential Communications. You have the right to request that we communicate with you about health matters in a certain way or at a certain location. For example, you can ask that we only contact you at work or by mail to a post office box.

To request confidential communications, you must make your request in writing to Karen Shaneyfelt, Partner. We will not ask you the reason for your request. We will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

Right to a Paper Copy of This Notice. You have the right to obtain a paper copy of this notice at any time. However, at the time of first service rendered after April 14, 2003, it is required that you receive a paper copy. To obtain a copy, please request it from Karen Shaneyfelt, Partner.

You may also obtain a copy of this notice from our website, www.noevalleypt.com. Even if you have received a notice electronically, you still retain the right to receive a paper copy upon request.

CHANGES TO THIS NOTICE

We reserve the right to change this notice. We reserve the right to make the revised or changed notice effective for health information we already have about you as well as any information we receive in the future. We will post a copy of the current notice in our facility. The notice will contain on the first page, in the top right-hand corner, the effective date. In addition, each time you register for treatment or health care services, we will offer you a copy of the current notice in effect.

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with us or with the Secretary of the Department of Health and Human Services. To file a complaint with us, contact Karen Shaneyfelt, Partner. All complaints must be submitted in writing. **You will not be penalized for filing a complaint.**

OTHER USES OF HEALTH INFORMATION.

Other uses and disclosures of health information not covered by this notice or the laws that apply to us will be made only with your written permission. If you provide us permission to use or disclose health information about you, you may revoke that permission, in writing, at any time. If you revoke your permission, we will no longer use or disclose health information about you for the reasons covered by your written authorization. You understand that we are unable to take back any disclosures we have already made with your permission, and that we are required to retain our records of the care that we provided to you.

Acknowledgement of Receipt of this Notice

We will request that you sign a separate form or notice acknowledging you have received a copy of this notice. If you choose, or are not able to sign, a staff member will sign their name, date. This acknowledgement will be filed with your records.

Acknowledgement of Receipt of Notice of Privacy Practices

I, _____, have received the Notice of Privacy Practices from NOE VALLEY PHYSICAL THERAPY.

X _____ **Date:** _____

In lieu of patient signature, I, _____, a staff member of NOE VALLEY PHYSICAL THERAPY, state that _____ has been given our current Notice of Privacy Practices.

X _____ **Date:** _____

State Law Information for Notice of Privacy Practices

NOE VALLEY PHYSICAL THERAPY

State: CA

Your state's laws regarding Protected Health Information must be considered along with the HIPAA Privacy Regulation when updating your organization's policies and procedures. We are providing the information below as a guide to what those other considerations may be. Consult your state's laws to make sure you are meeting all of the requirements.

Summary

California statutes have a great impact on the Notice of Privacy Practices. Though there are no provisions on the actual format of the NPP, there are many restrictions on non-consensual disclosures and patient's rights. Carefully read each state provision and our "Expected Impact" and then incorporate appropriate language into your policy. Seek outside counsel if anything is unclear.

General Issues of Concern

According to the HIPAA Privacy Regulation, you are required to give a copy of a Notice of Privacy Practices to each patient at the first encounter after April 14, 2003. The state law may have additional provisions on content, presentation requirements, and may note some exceptions to the federal requirements.

We have not discovered any relevant state statutes for this section.

Use and Disclosure of Protected Health Information

Use and Disclosure of Protected Health Information

The following sections describe different portions of the Notice of Privacy Practices. The state law may or may not allow the same categories for access or they may add additional restrictions in disclosing information for the categories. For each category you need to take a careful look at the state statutes and change the category accordingly. This may require you to remove some categories, add more categories, or revise the explanation in the category.

For Treatment

According to the HIPAA Privacy Regulation, a healthcare provider may release PHI without patient authorization for the purpose of treatment. State law may limit what information can be disclosed, if this information can be released without authorization, and under what circumstances the information can be released without authorization.

Expected Impact [Medium]

Routine disclosures for treatment of the subject of the record are permitted without authorization by both state and federal rules. Disclosures for treatment of others do not appear to be allowed under state law.

NOTE: Routine disclosures for treatment of the patient are allowed under both federal and state rules. However, follow the state procedure for notice and physician authorization for disease management. Disclosures for treatment of other patients do not appear to be allowed under state law.

State Law Citation

Cal. Civ. Code 56.05(f)

Cal. Civ. Code 56.10(c)(1), (14), (17)

Highlight of State Provision

A provider, or a plan can disclose information without patient consent to providers, plans, or other healthcare professionals for purposes of treatment. This includes the communication of patient information by radio transmission in an emergency situation. Medical information can be disclosed for disease management programs to an entity contracting with a healthcare service plan to administer care of enrollees for a covered benefit; or to a disease management organization that obtains physician authorization prior to providing services or medication, given that the healthcare plan has provided a description of the disease management services to a treating physician. Physician authorization is not required for the treatment of the followers of any well-recognized religious denomination who depend solely upon spiritual means for healing.

For Payment

According to the regulation, a healthcare provider may release PHI without patient authorization for the purpose of payment. State law may limit what information can be

disclosed, if this information can be released without authorization, and under what circumstances the information can be released without authorization.

Expected Impact [Low]

The federal regulation has a comparable provision, but some federal payment activities may not be included in the state definition. It is not clear whether these would qualify as "otherwise specifically authorized by law" under the state law.

NOTE: Routine payment disclosures are permitted without patient authorization under both the federal and state rules. Other types of payment disclosures allowed under the federal regulation may not be consistent with state law. Check with other authorities before making any unusual payment disclosures.

State Law Citation

Cal. Civ. Code 56.05(f)

Cal. Civ. Code 56.10(c)(2)-(3), (14)

Highlight of State Provision

A provider or a plan may disclose information to an insurer, employer, plan, governmental authority, or any entity responsible for paying for services rendered to the patient, to the extent necessary to allow payment to be made. If the patient is unable to consent to disclosure due to a disabling condition, and no other arrangements have been made for payment, the information can be disclosed to obtain payment under a governmental program for services provided to the patient. The information can also be disclosed to another provider or plan to assist the other entity in obtaining payment. The information can be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers or plans but the recipient cannot further disclose this information except by the same rules.

For Healthcare Operations

According to the regulation, a healthcare provider may release PHI without patient authorization for the purpose of healthcare operations. State law may limit what information can be disclosed, if this information can be released without authorization, and under what circumstances the information can be released without authorization.

Expected Impact [High]

The state law permits disclosure for to a broader group of persons than the federal regulation, but has a narrower disclosure purpose of evaluating the application for coverage or benefits that appears to permit disclosure only when the information was created at the written request and expense of the recipient sponsor, insurer, or administrator for the purpose of the evaluation. Disclosure for disease management services must be preceded by authorization of a treating physician; disclosures to disease management organizations may be made only after a description of the services is provided to the physician or the network in which the physician

practices. The state law prohibits removal of records when reviewing for licensing and accrediting, but the federal regulation includes no such limitation. It is not clear whether disclosures authorized under the federal regulation without patient consent qualify as "otherwise specifically authorized by law."

NOTE: This is an uncertain area. The state's preliminary analysis of this provision indicates that the state law is preempted but it is not clear whether that is controlling or correct. You may also want to consult other authorities.

State Law Citation

Cal. Civ. Code 56.05(f)

Cal. Civ. Code 56.10(c)(4), (5), (9)-(11), (14), (17)

Highlight of State Provision

A provider or a plan can disclose information to committees, hospitals, plans, standards, quality control organizations and also any entity responsible for professional liability that a provider may incur, if the persons engaged in reviewing the competence of services, quality of care, or justification of charges. Information can be reviewed by a body responsible for licensing providers and plans, but no patient-identifying information can be removed or further disclosed, except as required by law. Medical information can be disclosed to an insurer that the patient seeks coverage from, if the information was created by the provider as the result of services provided at the written request and expense of the insurer for evaluation of the application for coverage. Medical information can be disclosed to a plan by providers or transferred among providers, for the purpose of administering the plan and also to insurance institutions and their agents. Disclosure is permitted to a disease management organization that obtains physician authorization prior to providing services or medication, given that the healthcare plan has provided a description of the disease management services to a treating physician.

Health-Related Services and Treatment Alternatives

According to the regulation, a healthcare provider may disclose health information to tell the patient about health-related services or to recommend possible treatment options, as long as the patient has the right to accept or reject such a disclosure. State law may have a different provision for handling this situation.

Marketing

Uses and Disclosures With Individual Involvement

Expected Impact [High]

The federal regulation allows for some marketing uses and disclosures without consent. The state law prohibits uses and disclosures not expressly provided for that are not necessary to providing healthcare services (such as marketing). It also prohibits secondary disclosures by recipients of medical information not specifically provided for in the law,

including marketing.

NOTE: This is an uncertain area. Make sure you have firm advice from a proper authority before making any marketing uses or disclosures.

State Law Citation

Cal. Civ. Code 56.10(c)(14), (d), and (e)

Highlight of State Provision

Unless authorized by the patient, or provided for in the Confidentiality of Medical Information Act, an entity cannot share, sell, or use medical information for any purpose other than providing healthcare services to the patient. In addition, no information can be further disclosed that was originally disclosed under the state medical records disclosure law, to any entity not engaged in providing direct healthcare services to the patient or to the patient's provider, plan or insurer. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

Fundraising Activities

According to the regulation, a healthcare provider may disclose health information to contact patients in an effort to raise money for not-for-profit operations as long as the patient has the right to accept or reject such a disclosure. State law may have a different provision for handling this situation.

Expected Impact [High]

The federal regulation allows for limited fundraising uses and disclosures without consent. The state law prohibits uses and disclosures not expressly provided for that are not necessary to providing healthcare services (such as fundraising). It also prohibits secondary disclosures by recipients of medical information not specifically provided for in the law, including fundraising.

NOTE: This is an uncertain area. Make sure you have firm advice from a proper authority before making any fundraising uses or disclosures.

State Law Citation

Cal. Civ. Code 56.10(c)(14), (d), and (e).

Highlight of State Provision

Unless authorized by the patient, or provided for in the Confidentiality of Medical Information Act, an entity cannot share, sell, or use medical information for any purpose other than providing healthcare services to the patient. In addition, no information can be further disclosed that was originally disclosed under the state medical records disclosure law, to any entity not engaged in providing direct healthcare services to the patient or to the patient's provider, plan or insurer. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse events related to drug products or medical device

problems.

Research

According to the regulation, under certain circumstances a healthcare provider may release PHI without patient consent for the purpose of research. State law may limit what information can be disclosed, if this information can be released without authorization, and under what circumstances the information can be released without authorization.

Expected Impact [Medium]

The federal regulation allows research disclosures without patient authorization generally with the approval of an institutional review board or privacy board. The state restriction on secondary disclosure is more restrictive than the federal regulation, but the federal regulation requires adequate assurances in writing.

NOTE: Follow the federal regulation with respect to initial disclosures for research, but the state law may apply with respect to the prohibition on secondary disclosure.

State Law Citation

Cal. Civ. Code 56.10(c)(7) and (14)

Highlight of State Provision

A provider or a plan can disclose medical information to public agencies, clinical investigators, healthcare research organizations, and accredited nonprofit institutions for bona fide research purposes. However, this information cannot be further disclosed by the recipient in any way that would disclose the patient's identity or violate the state's procedures.

Organ and Tissue Donation

According to the regulation, a healthcare provider may release PHI without patient consent for the purpose of organ and tissue donation. State law may limit what information can be disclosed, if this information can be released without authorization, and under what circumstances the information can be released without authorization.

Expected Impact [Medium]

State law limits disclosures in support of organ and tissue transplants to the donating decedent's records. It is not clear whether other disclosures in the federal regulation qualify as "otherwise specifically authorized by law."

NOTE: The state law probably applies for disclosures related to organ disclosure. However, we suggest that you also consult other authorities if necessary.

State Law Citation

Cal. Civ. Code 56.10(c)(13) and (14)

Highlight of State Provision

A provider or a plan can disclose medical information to an organ

procurement organization or a tissue bank, but only with respect to the donating decedent, for the purpose of aiding the transplant. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

As Required By Law

The regulation allows you to disclose PHI when required by federal, state, or local law. State law may have additional provisions when releasing information for such a purpose.

Expected Impact [Low]

Both the federal regulation and the state law permit disclosures required by other laws, but the federal regulation imposes process restrictions for some disclosures.

NOTE: Follow the federal regulation for non-consensual disclosures that are required by law.

State Law Citation

Cal. Civ. Code 56.10(b)(9)

Highlight of State Provision

A provider may disclose medical information when specifically required by law.

To Avert a Serious Threat to Health or Safety

The regulation allows you to disclose PHI without patient consent for the purpose of health and safety. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Medium]

State law does not include a specific exception for disclosure to prevent serious threats to health and safety. The disclosures allowed by the federal regulation are not for the purpose of providing healthcare services to the patient, but might be to persons engaged in providing direct healthcare services. It is not clear whether disclosures authorized under the federal regulation qualify as "otherwise specifically authorized by law."

NOTE: This is an uncertain area. Past practice may be a useful guide, and other authorities may have more specific advice.

State Law Citation

Cal. Civ. Code 56.10(c), (14), (d), and (e)

Highlight of State Provision

Unless authorized by the patient, or provided for in the Confidentiality of Medical Information Act, an entity cannot share, sell, or use medical information for any purpose other than providing healthcare services to the patient. In addition, no information can be further disclosed that was originally

disclosed under the state medical records disclosure law, to any entity not engaged in providing direct healthcare services to the patient or to the patient's provider, plan or insurer.

Military and Veterans

The regulation allows you to disclose PHI without patient consent as required by military command authorities of the Department of Veterans Affairs. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Medium]

State law does not include a specific exception for disclosure for military and veterans activities. Some disclosures allowed by the federal regulation might be for the purpose of providing healthcare services to the patient, or to persons engaged in providing direct healthcare services, but not all. It is not clear whether these other disclosures authorized under the federal regulation qualify as "otherwise specifically authorized by law."

NOTE: This is an uncertain area. We cannot tell if the federal permissible disclosures qualify as "otherwise specifically authorized by law" under state law. We suggest that you consult with other authorities if the problem arises.

State Law Citation

Cal. Civ. Code 56.10(c)(14), (d), and (e)

Highlight of State Provision

Unless authorized by the patient, or provided for in the Confidentiality of Medical Information Act, an entity cannot share, sell, or use medical information for any purpose other than providing healthcare services to the patient. In addition, no information can be further disclosed that was originally disclosed under the state medical records disclosure law, to any entity not engaged in providing direct healthcare services to the patient or to the patient's provider, plan or insurer. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

Worker's Compensation

The regulation allows you to disclose PHI without patient consent for Worker's Compensation programs. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

We have not discovered any relevant state statutes for this section.

Public Health Risks

The regulation allows you to disclose PHI without patient consent for public health activities which are listed in this category. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient

consent.

Public Health Activities

Expected Impact [Medium]

The state law does not include a specific exception for disclosure for public health activities, but the provisions permitting disclosures required or authorized by law may contemplate this type of disclosure. However, the state provision allows disclosures to anyone for adverse drug or device events, while the federal regulation only allows disclosures to persons "subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA regulated product or activity for which that person has responsibility."

NOTE: This is an uncertain area. Both state law and the federal regulation may permit some public health disclosures not allowed by the other rule. Seek additional guidance, although basic disclosures for adverse drug or device events appear to be permitted to persons subject to FDA jurisdiction.

State Law Citation

Cal. Civ. Code 56.10(b)(9)

Cal. Civ. Code 56.10(c)(14)

Highlight of State Provision

A provider may disclose medical information when specifically required by law. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

Victims of Abuse, Neglect or Domestic Violence

Expected Impact [Medium]

State law does not include a specific exception for reporting victims of abuse, neglect or domestic violence, but other state laws may apply. Since the disclosures allowed by the federal regulation are not all for the purpose of providing healthcare services to the patient, and not necessarily to persons engaged in providing direct healthcare services, it is not clear whether disclosures authorized under the federal regulation qualify as "otherwise specifically authorized by law."

NOTE: This is an uncertain area, but past practice may offer some guidance. Federal procedures will apply to any disclosures that are permitted. We suggest that you consult with other authorities for more definitive advice on disclosures related to victims of abuse, neglect or domestic violence.

State Law Citation

Cal. Civ. Code 56.10(b)(9), (c)(14), (d), (e)

Highlight of State Provision

Unless authorized by the patient, or provided for in the Confidentiality of

Medical Information Act, an entity cannot share, sell, or use medical information for any purpose other than providing healthcare services to the patient. In addition, no information can be further disclosed that was originally disclosed under the state medical records disclosure law, to any entity not engaged in providing direct healthcare services to the patient or to the patient's provider, plan or insurer. A provider may disclose medical information when specifically required by law. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

Health Oversight Activities

The regulation allows you to disclose PHI without patient consent for certain health oversight activities. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Medium]

The state law permits any body, public or private, that has responsibility for licensing or accreditation to review medical information for any reason, and imposes limitations on redisclosure. The federal regulation limits the types of entities and the purposes for their review.

NOTE: The oversight disclosures specifically mentioned in state law are consistent with the federal regulation. For other health oversight disclosures, you may need to seek additional guidance.

State Law Citation

Cal. Civ. Code 56.10(c)(5)

Cal. Civ. Code 56.10(c)(14)

Highlight of State Provision

Information can be reviewed by a body responsible for licensing providers and plans, but no patient-identifying information can be removed or further disclosed, except as required by law. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

Lawsuits and Disputes

The regulation allows you to disclose PHI without patient consent for lawsuits and disputes. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Judicial and Administrative Proceedings

Expected Impact [Low]

The disclosures permitted under state law are comparable to those in the federal regulation, but the federal regulation requires notice to the patient or a protective order.

NOTE: Follow the federal regulation for all non-consensual disclosures relating to judicial and administrative proceedings.

State Law Citation

Cal. Civ. Code 56.10(b)(1)-(5)

Cal. Civ. Code 56.10(c)(12)

Highlight of State Provision

[state highlight]

Law Enforcement

The regulation allows you to disclose PHI without patient consent for certain law enforcement issues. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

There are several types of disclosures that have a similar impact when compared to the regulation. We have grouped them together and listed the expected impact below.

Pursuant to process/required by law

Identification and Location Information

Victims of Crime

Decedents

Crime on Premises

Reporting Crime in Emergencies

Pursuant to process/required by law

Expected Impact [High]

The federal regulation provides for a narrower class of disclosures, but permits disclosure by administrative requests and grand jury subpoenas, for which the threshold of access is generally lower than a court order or search warrant. Both the state law and the federal regulation require other administrative steps, which differ from each other. It is not clear whether disclosures authorized under the federal regulation qualify as "otherwise specifically authorized by law."

NOTE: This is an uncertain area. Both the state law and the federal regulation limit the portion of the record that may be disclosed, but under different standards. We suggest that you consult with other authorities for more definitive advice on law enforcement disclosures.

State Law Citation

Cal. Civ. Code 56.10(b)(6) and (9), (c)(14)

Cal. Penal Code 1543

Cal. Penal Code 1544

Highlight of State Provision

A provider shall disclose medical information when specifically required by law or when compelled by a search warrant issued to a law enforcement agency. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse

events related to drug products or medical device problems. Except for investigations of fraud by the provider, under California's Penal Code, records of identity or treatment of a patient shall only be disclosed to law enforcement agencies with the patient's written consent, or if authorized by a court order or by a search warrant. Disclosure is limited to assure that no information is unnecessarily disclosed and that dissemination is no wider than necessary. The prohibitions on disclosure continue after the individual is no longer a patient. Any healthcare facility whose records are sought by law enforcement is notified and can object, but a law enforcement agency may petition the court for an order delaying the notice for 30 days, if there is cause to believe that notice would seriously impede the investigation. Special procedures are needed to obtain records of a physician or psychoanalyst where the subject of the investigation is not the provider.

Coroners, Health Examiners and Funeral Directors

The regulation allows you to disclose PHI without patient consent to coroners, health examiners and funeral directors. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Medium]

The disclosures permitted under state law and the federal regulations with respect to coroners are comparable. State law does not include a specific exception for disclosure to funeral directors. Since the disclosures allowed by the federal regulation are not for the purpose of providing healthcare services to the patient, and not to persons engaged in providing direct healthcare services, it is not clear whether disclosures authorized under the federal regulation qualify as "otherwise specifically authorized by law."

NOTE: There is no conflict between state law and federal regulations with respect to disclosures to coroners. However, we cannot really tell if federally allowed disclosures to funeral directors are allowed under state law. Seek other guidance if the issue arises.

State Law Citation

Cal. Civ. Code 56.10(b)(8), (c)(6) and (14), (d), and (e)

Highlight of State Provision

A provider shall disclose medical information when compelled by a coroner, in course of a coroner's office investigation for identifying the decedent, or when investigating deaths that involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, suspicious deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner is limited to information regarding the patient who is the decedent and subject of the investigation, and shall be disclosed to the coroner without delay. A provider or a plan can disclose information to the coroner in the course of a coroner's office investigation when requested for all purposes not included above. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse events

related to drug products or medical device problems.

National Security and Intelligence Activities

The regulation allows you to disclose PHI without patient consent for national security and intelligence activities. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Medium]

State law does not include a specific exception for disclosure for military and veterans activities. Some disclosures allowed by the federal regulation might be for the purpose of providing healthcare services to the patient, or to persons engaged in providing direct healthcare services, but not all. It is not clear whether these other disclosures authorized under the federal regulation qualify as "otherwise specifically authorized by law."

NOTE: This is an uncertain area. We cannot tell if the federal permissible disclosures qualify as "otherwise specifically authorized by law" under state law. We suggest that you consult with other authorities if the problem arises.

State Law Citation

Cal. Civ. Code 56.10(c)(14), (d), and (e)

Highlight of State Provision

Unless authorized by the patient, or provided for in the Confidentiality of Medical Information Act, an entity cannot share, sell, or use medical information for any purpose other than providing healthcare services to the patient. In addition, no information can be further disclosed that was originally disclosed under the state medical records disclosure law, to any entity not engaged in providing direct healthcare services to the patient or to the patient's provider, plan or insurer. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

Protective Services for the President and Others

The regulation allows you to disclose PHI without patient consent for protective services for the President and others. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Medium]

State law does not include a specific exception for disclosure for military and veterans activities. Some disclosures allowed by the federal regulation might be for the purpose of providing healthcare services to the patient, or to persons engaged in providing direct healthcare services, but not all. It is not clear whether these other disclosures authorized under the federal regulation qualify as "otherwise specifically authorized by law."

NOTE: This is an uncertain area. We cannot tell if the federal permissible

disclosures qualify as "otherwise specifically authorized by law" under state law. We suggest that you consult with other authorities if the problem arises.

State Law Citation

Cal. Civ. Code 56.10(c)(14), (d), and (e)

Highlight of State Provision

Unless authorized by the patient, or provided for in the Confidentiality of Medical Information Act, an entity cannot share, sell, or use medical information for any purpose other than providing healthcare services to the patient. In addition, no information can be further disclosed that was originally disclosed under the state medical records disclosure law, to any entity not engaged in providing direct healthcare services to the patient or to the patient's provider, plan or insurer. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug Administration of adverse events related to drug products or medical device problems.

Inmates

The regulation allows you to disclose PHI without patient consent for inmates. State law may have a different provision for handling this situation or may not allow such a disclosure to occur without patient consent.

Expected Impact [Medium]

State law does not include a specific exception for disclosure to correctional institutions or law enforcement custodial activities. Some disclosures allowed by the federal regulation might be carried out by correctional institutions for the purpose of providing healthcare services to the patient, or to persons engaged in providing direct healthcare services, but not all. It is not clear whether these other disclosures authorized under the federal regulation qualify as "otherwise specifically authorized by law."

NOTE: Some disclosures will qualify as treatment disclosures. Otherwise, we cannot tell if the federal permissible disclosures qualify as "otherwise specifically authorized by law" under state law. We suggest that you consult with other authorities if the problem arises.

State Law Citation

Cal. Civ. Code 56.10(c)(14), (d), and (e)

Highlight of State Provision

Unless authorized by the patient, or provided for in the Confidentiality of Medical Information Act, an entity cannot share, sell, or use medical information for any purpose other than providing healthcare services to the patient. In addition, no information can be further disclosed that was originally disclosed under the state medical records disclosure law, to any entity not engaged in providing direct healthcare services to the patient or to the patient's provider, plan or insurer. Disclosure is permitted when authorized by law, such as the voluntary reporting to the federal Food and Drug

Administration of adverse events related to drug products or medical device problems.

Patient Rights

Right to Inspect and Copy

The regulation allows patients to view their PHI except for psychotherapy notes. The state law may have special provisions for patients to access their records and may have specific impact on the management of psychotherapy notes.

Psychotherapy Notes

Expected Impact [Medium]

The federal regulation exempts all psychotherapy notes. Patients will continue to have access to psychotherapy notes under state law unless the provider determines the records can be withheld under the federal standard for withholding records on the basis of harm to the patient.

NOTE: Withhold psychotherapy notes only if the federal standard for harm to the patient is satisfied. There is some uncertainty here and about whether the procedural requirements of state law continue to apply. You may need to consult with other authorities.

State Law Citation

Cal. Health and Safety Code 123115(b)

Highlight of State Provision

A provider can decline to provide access to mental health records if the provider determines there is a substantial risk of significant detrimental consequences to a patient, provided that the provider makes a written note in the requested records, of the date of request, reason for refusing access, and description of the specific anticipated detrimental consequences to the patient. If access is denied, the provider shall permit inspection or copies of the mental health records to another provider designated by the patient. A marriage and family therapist registered intern can only inspect patient mental health records under supervision of a licensed provider who must sign a receipt for the records. The licensed provider or registered intern cannot permit inspection or copying by the patient. If access is denied to patient, the provider shall inform the patient of the refusal to permit access, and the right to inspection or provision of copies to another provider designated by the patient in writing. The healthcare provider must indicate in the patient's records whether the records were disclosed to another provider.

Access Procedure

Expected Impact [Low]

A written request is consistent with both the federal regulation and state law. The state law permits someone to accompany the requester; the federal regulation neither permits nor prohibits an accompanying person. The state law provides special procedures for forwarding X-rays and tracings, whereas the federal regulation does not. Both the state law and

federal regulation permit summaries of records to be provided in lieu of copies; the federal regulation requires the patient's agreement in advance to the summary and its fees, but the state law does not. However, state law is much more specific about the content of the summary. The state law forbids conditioning access on payment for services, but permits conditioning access on payment of inspection or copying fees. The federal regulation does not provide a special procedure for clinical test results.

NOTE: Follow the federal regulation for access procedures.

State Law Citation

Cal. Health and Safety Code 123110(a)-(c), (g), (j)

Cal. Health and Safety Code 123130

Highlight of State Provision

Upon a written request and payment of costs incurred, the patient or representative is entitled to inspect records and may be accompanied by one other person of his or her choosing. Copies of X-rays or tracings need not be provided to the patient if the originals are transmitted to another provider upon written request of the patient and within 15 days of receiving request specifying the name and address of the provider to whom the records are to be delivered. A summary is not required, but a provider can prepare one, instead of furnishing the whole record, and can ask about the reason for access to limit the request to a particular illness. If a summary is prepared, it must include the chief complaint, findings from consultations, referrals to other providers, diagnosis, treatment plan, list of all current medications prescribed, progress of the treatment and objective findings from the most recent physical examination. The patient may be required to provide verification of identity. A provider cannot withhold patient records because of an unpaid bill, and can be subject to sanctions for doing so. State law provides special procedures for access to laboratory results of clinical tests in both electronic form or over the Internet, that include consent, notice, review by the healthcare professional, and security measures.

Right to Amend

The regulation allows patients to amend their PHI. There are however, certain exceptions. The state law may have special provisions for patients to amend their records and may or may not have the same exceptions.

Denial

Created by Third Party

Expected Impact [Medium]

NOTE: You cannot rely on the federal provision that allows a provider to refuse requests for amendment of a record created by another party.

State Law Citation

Cal. Health and Safety Code 123111

Highlight of State Provision

State law allows a patient to provide a written addendum to a record that the

patient believes to be incomplete or incorrect.

Not Part of Designated Record Set

Expected Impact [Medium]

NOTE: You cannot rely on the federal provision that allows a provider to refuse requests for amendment of a record outside of a designated record set.

State Law Citation

Cal. Health and Safety Code 123111

Highlight of State Provision

State law allows a patient to provide a written addendum to a record that the patient believes to be incomplete or incorrect.

Not Available for Inspection

Expected Impact [Low]

NOTE: State law and the federal regulation both appear to limit amendment rights to records inspected by the patient.

State Law Citation

Cal. Health and Safety Code 123111

Highlight of State Provision

State law allows a patient to provide a written addendum to a record that the patient believes to be incomplete or incorrect.

Accurate and Complete

Expected Impact [Low]

NOTE: Both state law and the federal regulation use the same standard of accuracy and completeness.

State Law Citation

Cal. Health and Safety Code 123111

Highlight of State Provision

Any adult patient who inspects his or her patient records has the right to give the provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect.

Implementation

Procedure

Expected Impact [Medium]

NOTE: The federal regulation's amendment procedures are generally applicable. There is some uncertainty about the application of amendment rules to records pertaining to more than one person.

State Law Citation

Cal. Health and Safety Code 123111

Highlight of State Provision

An adult patient who inspects records has the right to give the provider a written addendum relating to any item in the records that the patient believes

to be inaccurate. The addendum is limited to 250 words per alleged incorrect item, and shall indicate in writing that the patient wishes the addendum to become part of the record. The provider shall attach the addendum to the patient's records and include it with disclosures. Information in a patient's addendum, which contains defamatory language, and its inclusion in the records does not, in and of itself, subject the provider to liability in civil or criminal proceedings.

Right to an Accounting of Disclosures

The regulation allows patients to request an accounting of disclosures of their PHI. The state law may have special provisions for patients to access this.

We have not discovered any relevant state statutes for this section.

Right to Request Restrictions

The regulation allows patients to request restrictions on their PHI. The state law may have special provisions for this issue.

We have not discovered any relevant state statutes for this section.

Right to Request Confidential Communications

The regulation allows patients to request confidential communications of their PHI. The state law may have special provisions for this issue.

We have not discovered any relevant state statutes for this section.

Other Uses of Health Information

Revocation

According to the regulation, any other disclosures of PHI not covered by this notice require patient authorization. Also, a patient may revoke an authorization at any time. The state law may have special provisions for when patients may revoke an authorization.

Expected Impact [High]

State law permits revocation of most authorizations, effective after received by the provider. The federal regulation provides an exception if the provider took action in reliance on an authorization.

NOTE: Follow the state law as it permits more revocations.

State Law Citation

Cal. Civ. Code 56.15

Cal. Civ. Code 56.24

Cal. Health and Safety 123148(j)

Highlight of State Provision

A person who can sign the authorization can also cancel or modify it. The cancellation or modification is effective only after the provider actually receives written notice. At any time and without penalty, a patient or patient's physician can revoke a consent that allows the patient to receive laboratory results by Internet posting or other electronic means, except to the extent that action has already been taken in reliance on that consent.