

POLICY AND PROCEDURE	
TITLE: Changes in HIPAA Law	
DEPARTMENT: Compliance	POLICY #: HPA11
IMPACTED DEPARTMENT(S): Check all departments impacted by this policy	
<input type="checkbox"/> Administration <input type="checkbox"/> Claims <input type="checkbox"/> Compliance <input type="checkbox"/> Customer Service <input type="checkbox"/> External Affairs <input type="checkbox"/> Facilities <input type="checkbox"/> Finance	<input type="checkbox"/> Human Resources <input type="checkbox"/> Information Technology <input type="checkbox"/> Marketing <input type="checkbox"/> Medical Management <input type="checkbox"/> Provider Networks <input type="checkbox"/> Project Management X ALL
EFFECTIVE DATE: 04/14/03	REVIEW/REVISION DATE: 04/03, 04/05, 03/15, 05/16, 06/17, 11/18,2/20
COMMITTEE APPROVAL DATE: PSOC 03/15 PRC 06/16, 07/17, 06/20	RETIRE DATE:
PRODUCT TYPE: Medi-Cal	REPLACES:

I. PURPOSE

The Health Plan of San Joaquin (HPSJ) shall promptly document and implement any changes to federal or state law that impacts any of the policies and procedures (P&P), including the Notice of Privacy Practices (NPP), intended to comply with the Health Insurance Portability and Accountability Act (HIPAA) and corresponding regulations.

II. POLICY

- A. The Chief Compliance Officer (CCO) or his/her designee is responsible for monitoring modifications to the HIPAA Privacy and Security Rules, and any new or amended state contracts, regulations or legislation impacting areas identified by the HIPAA Privacy or Security Rules.
- B. The CCO (or his/her designee) modifies the HPSJ P&P and NPP, as needed. Privacy P&P are submitted to the Department of Health Care Services (DHCS) by the Compliance Department for review and approval.

- C. The Compliance Department trains all affected HPSJ Workforce members.
- D. The Chief Compliance Officer reviews this policy at least annually and revises as necessary.

III. PROCEDURE

- A. The CCO (or his/her designee) conducts a pre-emption analysis comparing HIPAA to state regulation or law. HIPAA supersedes state law when state law is contrary to or less stringent than HIPAA. State law supersedes HIPAA when HIPAA is less stringent than state law.
- B. The Privacy Rule provides exceptions to the general rule of federal preemption for contrary State laws that
 - 1. relate to the privacy of individually identifiable health information and provide greater privacy protections or privacy rights with respect to such information,
 - 2. provide for the reporting of disease or injury, child abuse, birth, or death, or for public health surveillance, investigation, or intervention, or
 - 3. require certain health plan reporting, such as for management or financial audits.
- C. Exception Determination. In addition, preemption of a contrary State law will not occur if HHS determines, in response to a request from a State or other entity or person, that the State law:
 - 1. Is necessary to prevent fraud and abuse related to the provision of or payment for health care,
 - 2. Is necessary to ensure appropriate State regulation of insurance and health plans to the extent expressly authorized by statute or regulation,
 - 3. Is necessary for State reporting on health care delivery or costs,
 - 4. Is necessary for purposes of serving a compelling public health, safety, or welfare need, and, if a Privacy Rule provision is at issue, if the Secretary determines that the intrusion into privacy is warranted when balanced against the need to be served- or
 - 5. Has as its principal purpose the regulation of the manufacture, registration, distribution, dispensing, or other control of any controlled substances (as defined in 21 U.S.C. 802), or that is deemed a controlled substance by State law.
- D. The CCO (or his/her designee) prepares the required update to the NPP in accordance with P&P HPA16 Notice of Privacy Practices whenever a material change is made affecting one or more of the following citations in the NPP:

1. Uses or disclosures
2. Member's rights
3. HPSJ's legal duties
4. HPSJ privacy practices

IV. ATTACHMENT(S)

[Glossary of Terms Link](#)

V. REFERENCES

- A. 45 CFR Parts §160, §162 and §164 HIPAA Regulations
- B. HPA16 Notice of Privacy Practices
- C. Health Information Technology for Economic and Clinical Health Act (HITECH Act)

VI. REGULATORY AGENCY APPROVALS

DHCS Approved on 01/17/16.

VII. REVISION HISTORY

STATUS	DATE REVISED	REVISION SUMMARY
Revised,	11/27/18	P&P was renamed from Changes in Law to Changes in HIPAA Laws. The P&P was placed in new P&P template and updated for clarity.
Review	01/16/19	PRC rejected approval, due to content changes
Review	02/17/20	Glossary terms removed, CCO title updated
Revised	02/25/20	Added "or his/her designee" to all except 1 reference to the CCO's responsibility/role.