

POLICY AND PROCEDURE	
Policy # and TITLE: HPA44 Sensitive Services	
Primary Policy owner: Compliance	POLICY #: HPA44
Impacted/Secondary policy owner: Select the department(s) that are responsible for compliance with all, or a portion of the policy or procedure as outlined	
1) <input checked="" type="checkbox"/> All Departments 2) <input type="checkbox"/> Behavioral Health & Social Services (BH/SS) 3) <input type="checkbox"/> Benefits Administration (BA) 4) <input type="checkbox"/> Care Management (CM) 5) <input type="checkbox"/> Claims (CLMS) 6) <input type="checkbox"/> Community Marketplace & Member Engagement (MAR) 7) <input type="checkbox"/> Compliance (CMP/HPA) 8) <input type="checkbox"/> Configuration (CFG) 9) <input type="checkbox"/> Provider Contracting (CONT) 10) <input type="checkbox"/> Cultural & Linguistics (CL) 11) <input type="checkbox"/> Customer Service (CS)	12) <input type="checkbox"/> Facilities (FAC) 13) <input type="checkbox"/> Finance (FIN) 14) <input type="checkbox"/> Human Resources (HR) 15) <input type="checkbox"/> Information Technology / Core Systems (IT) 16) <input type="checkbox"/> Pharmacy (PH) 17) <input type="checkbox"/> Provider Networks (PRO) 18) <input type="checkbox"/> QI Health Equity (GRV/HE/HEQ/PHM/QM) 19) <input type="checkbox"/> Utilization Management (UM) 20) <input type="checkbox"/> Procurement (PRM) 21) <input type="checkbox"/> Administration (SAF/BC/EM) 22) <input type="checkbox"/> Medical Management (MM)
PRODUCT TYPE: <input checked="" type="checkbox"/> Medi-Cal	Supersedes Policy Number: N/A

I. PURPOSE

Health Plan of San Joaquin and Mountain Valley Health Plan (Health Plan) follows the Confidentiality of Medical Information Act (CMIA).

II. POLICY

A. CMIA prohibits a health care provider, health care service plan, or contractor from disclosing medical information regarding a patient,

- enrollee, or subscriber without first obtaining an authorization, except as specified.¹ CMIA requires a health care provider, health care service plan, pharmaceutical company, or contractor who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical records to do so in a manner that preserves the confidentiality of the information contained within those records. CMIA defines “medical information” to mean any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient’s medical history, mental or physical condition, treatment, or reproductive or sexual health application information.²
- B. Health Plan does not cooperate with any inquiry or investigation by or providing medical information to, any individual, agency, or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency that would identify an individual and that is related to an individual seeking or obtaining an abortion or abortion-related services that are lawful under the laws of California, unless the request for medical information is authorized under Civil Code Section 56.110³, which includes medical information related to treatment, payment, and operations.
- C. Health Plan does not knowingly disclose, transmit, transfer, share or grant access to medical information in an electronic health records system or through a health information exchange that identifies an individual and that is related to an individual seeking, obtaining, providing, supporting, or aiding in the performance of an abortion that is lawful under the laws of California to any individual or entity from another state, unless the disclosure, transmittal, transfer, sharing, or granting is authorized under any of the conditions listed in Civil Code Sections 56.110(a)(1), (2), (3) and (4).⁴

¹ CA Civil Code 56.10 – Confidentiality of Medical Information Act

² AB244 – Confidentiality of Medical Information Act: Reproductive or Sexual Health Application Information

³ AB352 – Health Information, Civil Code Section 56.108

⁴ AB352 – Health Information, Civil Code Section 56.110

1. The above excludes Business Partners of Health Plan that are operating outside of the state of California and is meant to protect the individual(s) obtaining an abortion, along with the individual(s) performing the abortion, against any retribution enacted against them, from other states.
- D. Health Plan is allowed to disclose the content of health records containing medical information specified in Civil Code Section 56.110(a) to any of the following: (a) a patient, or their personal representative, consistent with the Patient Access to Health Records Act, (b) in response to an order of a California or federal court, but only to the extent clearly stated in the order and consistent with Penal Code Section 1543, if applicable, and only if all information about the patient's identity and records are protected from public scrutiny through mechanisms, including but not limited to, a sealed proceeding or court record, and (c) when expressly required by federal law that preempts California law, but only to the extent expressly required. Health Plan is not prohibited from cooperating or complying with the investigation of activity that is punishable as a crime under the laws of California, and that took place in California.

III. PROCEDURE

- A. Health Plan conducts an audit on all its current Business Associates to determine which Business Associates have access to member PHI that is related to sensitive services. Health Plan capabilities, all of these Business Associates to follow AB 352 Health Information, Civil Code Section 56.101, which requires Health Plan to require all of the businesses it utilizes, as described in AB 254, on or after July 1, 2024, to electronically store or maintain medical information for the provision of sensitive services, including but not limited to an electronic health record system on behalf of Health Plan to develop capabilities, and policies and procedures. Health Plan requires these businesses to implement all the following:
1. Limit user access privileges to information systems that contain medical information related to sensitive services only to those

persons who are authorized to access specified medical information.

2. Prevent the disclosure, access, transfer, transmission, or processing of medical information related to sensitive services to persons and entities outside of California.
 3. Segregate medical information related to sensitive services from the rest of the member's record.
 4. Provide the ability to automatically disable access to medical information related to sensitive services by individuals and entities in another state, except for the purposes of treatment, payment, and operations.⁵
 - a. Health Plan also adds a questionnaire that new Business Associates are required to complete as a part of the onboarding process as a Business Associate, in which they are required to disclose whether they have access to member PHI that is related to sensitive services and they are required to agree to follow the above requirements of AB 352 Health Information, Civil Code Section 56.101.
 - b. Health Plan's IT Department implements all of the above requirements of AB 352 Health Information, Civil Code Section 56.101.⁶
- B. Health Plan's Provider Services Department provides guidance to its Providers to aid them with being compliant with AB 352 Health Information, Civil Code Section 56.101, in the form of a Provider Alert and information added to the Provider Manual.

I. ATTACHMENT(S)

- A. DHCS Medi – Cal Managed Care Plans Definitions (Exhibit A, Attachment I, 1.0 Definitions)
- B. [Glossary of Terms Link](#)

⁵ AB 352 - Health Information, Civil Code Section 56.101, 45CFR164.506(c)

⁶ Policy IT402 Information Systems Access Management

C. Medi-Cal Managed Care Contract Acronyms List (Exhibit A, Attachment I, 2.0 Acronyms)

II. REFERENCES

- A. AB 254 - Confidentiality of Medical Information Act: Reproductive or Sexual Health Application Information
- B. AB 352 – Health Information – Civil Code Section 56.101
- C. AB 352 – Health Information, Civil Code Section 56.108
- D. AB 352 – Health Information, Civil Code Section 56.110
- E. CA Civil Code 56.10 – Confidentiality of Medical Information Act
- F. Policy IT 402 Information Systems Access Management

III. REVISION HISTORY

**Version 001 as of 01/01/2023*

Version*	Revision Summary	Date
001	HPA44 Sensitive Services Policy Created and Edited to remove language from section III.a.4.	2/20/2024
Initial Effective Date: 2/20/2024		

IV. Committee Review and Approval

Committee Name	Version	Date
Compliance Committee	001	8/15/2024
<ul style="list-style-type: none"> Privacy & Security Oversight Committee (PSOC) 		
<ul style="list-style-type: none"> Program Integrity Committee 		
<ul style="list-style-type: none"> Audits & Oversight Committee 		
<ul style="list-style-type: none"> Policy Review 	001	6/19/2024
Quality Improvement Health Equity Committee (QIHEC)		
<ul style="list-style-type: none"> Quality Operations Committee 		
<ul style="list-style-type: none"> Grievance 		

V. REGULATORY AGENCY APPROVALS

Department	Reviewer	Version	Date
Department of Healthcare services (DHCS)			
Department of Managed Care (DMHC)	DMHC Contract Manager	001	6/13/2024

VI. *Approval signature**

Signature	Name Title	Date
	PRC Chairperson	
	Policy Owner	
	Department Executive	
	Chief Executive Officer	

**Signatures are on file, will not be on the published copy*