

POLICY AND PROCEDURE	
Title: Treatment of Member Information that Requires Special Handling	
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) ☒ All Departments 2) ☐ Behavioral Health & Social Services (BH/SS) 3) ☐ Benefits Administration (BA) 4) ☐ Case Management (CM) 5) ☐ Claims (CLMS) 6) ☐ Community Marketplace & Member Engagement (MAR) 7) ☐ Compliance (CMP/HPA) 8) ☐ Configuration (CFG) 9) ☐ Provider Contracting (CONT) 10) ☐ Cultural & Linguistics (CL) 11) ☐ Customer Service (CS)	12) ☐ Facilities (FAC) 13) ☐ Finance (FIN) 14) ☐ Human Resources (HR) 15) ☐ Information Technology / Core Systems (IT) 16) ☐ Pharmacy (PH) 17) ☐ Provider Networks (PRO) 18) ☐ QI Health Equity (GRV/HE/HEQ/PHM/QM) 19) ☐ Utilization Management (UM) 20) ☐ Procurement (PRM) 21) ☐ Administration (SAF/BC/EM) 22) ☐ Medical Management (MM)
Product Type: ☒ Medi-Cal ☐ D-SNP	Supersedes Policy Number: N/A

I. PURPOSE

Health Plan of San Joaquin and Mountain Valley Health Plan ("Health Plan") follows federal and state regulations regarding the treatment of member information related to: member reproductive and sexual health, minor rights, outpatient mental health services, gender affirming care, intimate partner violence, and substance use disorder.

II. POLICY

A. Provision for Treatment, Payment, and Operations

Disclosure for the purposes of treatment, payment, and operations (TPO) is permissible, unless it is specifically otherwise prohibited, or the specific conditions for disclosure are met.

B. Sensitive Services

Sensitive services include all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence. Health Plan does not require a member to obtain another's authorization to receive sensitive services or submit a claim for sensitive services if the member has the right to consent to care.

1. Health plan directs communications regarding the member's receipt of sensitive services directly to the member receiving care.
2. Health Plan notifies members that they may request a confidential communication upon initial enrollment and annually thereafter in the Evidence of Coverage (EOC) and on Health Plan's website via the Notice of Privacy Practices.
3. Health Plan does not disclose medical information relating to sensitive services to anyone but the member receiving such services absent an express written authorization.

C. Gender-Affirming Care

The disclosure of PHI related to gender-affirming care is prohibited without an individual's consent and in limited circumstances.¹

D. Provision for Psychotherapy Notes

Requests for disclosure of psychotherapy notes require special and rigorous consent, which must include the following:

1. A description of the member information to be disclosed.

¹ 45 CFR 164.512(a)(1)

2. The identity of the person or class of person who may disclose the member information.
3. To whom the member information may be disclosed.
4. A description of the purpose of the disclosure.
5. An expiration date for the authorization.
6. The signature of the person authorizing the disclosure.
7. The individual signing the authorization can revoke it at any time.
8. The authorization for the release of psychotherapy notes must be a separate and independent document.²

E. Substance Use Disorder (SUD)

Special protections are added to protect the confidentiality of substance use disorder (SUD). Health Plan needs only a single consent form from members for the future use and disclosure of all treatment, payment, and health care operations related to SUD.³

1. Health Plan and its Business Associates may redisclose SUD records in accordance with HIPAA regulations where previous member consent was received.
2. Health Plan may disclose de-identified SUD records to public health authorities per standards established in the HIPAA Privacy Rule without member consent.
3. Prohibited Disclosures for SUD
 - a. Health Plan does not allow the use of records and testimony in civil, criminal, administrative, and legislative proceedings against a member, without the member's consent or a court order.
 - b. Health Plan requires a separate specific consent from a member for their SUD clinician notes to be disclosed. These

² 45 CFR §164.508(a)(2)

³ 42 CFR HIPAA Part 2 Final Rule for Substance Use Disorder (SUD)

aren't disclosed under the broad treatment, payment, and operations (TPO) consent.

4. Health Plan does not combine member consent for the use and disclosure of records for civil, criminal, administrative, or legislative proceedings with member consent for any other use or disclosure.

F. Personal Representative for Minors

1. The parent, guardian, or other person with legal authority to make health care decisions on behalf of the minor is considered the Personal Representative of an unemancipated minor, except when California State law does not require the consent of a parent.
2. Health Plan may decide not to treat a person as the minor's personal representative if there is reason to believe the minor may be subjected domestic violence, abuse, or neglect by the personal representative or that treating a person as the minor's personal representative may endanger the minor.⁴

G. Minors Consent Services

Minors do not need parental consent to access certain health care services, including sexual and reproductive health,⁵ drug and alcohol treatment,⁶ and outpatient mental health treatment or counseling⁷.

1. Minors of any age may consent to access services related to the following:
 - a. Pregnancy and Family Planning – medical care related to the prevention or treatment of pregnancy (including contraception and abortion), except sterilization.
 - b. Rape and sexual assault services.

⁵ Family Code 6925

⁶ Family Code 6929

⁷ APL 24-019

2. Health Plan does not disclose information about a minor accessing pregnancy or family planning services to a parent or legal guardian without a signed authorization from the minor.
3. Minors 12 years of age or older may consent to access services related to the following:
 - a. Drug or alcohol abuse
 - b. Sexually transmitted diseases (STDs)
 - c. Diagnosis or treatment of infectious, contagious, or communicable diseases if the disease or condition is one that is required to be reported to the local health department, including AIDS/HIV
 - d. Outpatient mental health care treatment and counseling. The minor must, in the opinion of the attending professional person, be mature enough to participate intelligently in the treatment.
 - i. A "professional person" means a mental health professional per 9 CCR sections 622-626, a licensed marriage and family therapist (MFT), a credentialed school psychologist per Education Code section 49424, a clinical psychologist per Health & Safety Code 1316.5 or a chief administrator of a governmental agency or residential shelter.
4. If the minor is 12 years of age or older, Health Plan does not disclose information about the services described in section II.G.3 above to a parent or guardian without a signed authorization from the minor.
 - a. While a minor's parent or guardian can be involved in the mental health treatment or counseling of a minor, the professional person who is treating or counseling the minor, after consulting with the minor, may determine that parental involvement would be inappropriate. Thus, Health Plan requires a signed authorization from the minor to disclose information about mental health treatment or counseling.

H. Disclosure of Reproductive Health Care Information for Criminal, Civil, or Administrative Investigation

1. Health Plan and its Business Associates do not use or disclose PHI for either of the following activities:
 - a. To conduct a criminal, civil, or administrative investigation into or impose liability on any person (member or provider) for seeking, obtaining, providing, or facilitating reproductive health care, where such health care is lawfully provided under the circumstances in which it was provided.
 - b. To identify any person for the purpose of conducting such investigation or imposing such liability.
 2. Health Plan and its Business Associates do not use or disclose reproductive health care information so long as the reproductive health care was lawfully provided.
 - a. Reproductive health care provided by Health Plan is presumed to be lawfully provided under the circumstances in which it was provided unless one of the following:
 - i. Health Plan has actual knowledge that the care was not lawful under the circumstances (e.g., provider was not licensed).
 - ii. Health Plan receives facts from the requestor that demonstrate a substantial factual basis that the care was not lawful.
 3. Health Plan requires any person or entity requesting member information related to reproductive health care to attest that the records provided shall not be used for the prohibited purposes described in Section H.1 above.⁸ This attestation requirement applies when the request is for PHI for health oversight activities, judicial or administrative proceedings, law enforcement purposes, and disclosures to coroners and medical examiners.
 4. Health Plan informs members of the requirements in this section H through the Notice of Privacy Practices.
- I. Restriction on Disclosure of Abortion and Abortion-related Services
1. Health Plan does not provide medical information to any individual, agency, or department from another state to a federal

⁸ 45 C.F.R. §164.502(a)(5)(iii)(A)(1)

law enforcement agency that would identify an individual related to an individual seeking or obtaining an abortion or abortion-related services in California unless the request is authorized under Civil Code section 56.110.

2. Health Plan does not knowingly disclose, transmit, transfer, share, or grant access to medical information in an electronic health system or through a health information exchange that would identify an individual and that individual is related to an individual seeking, obtaining, providing, supporting, or aiding in the performance of an abortion lawfully provided in California to anyone from another state unless one of the following:
 - a. There is a valid, written authorization that clearly states the information may be disclosed and only to the extent for the purposes expressly stated in the authorization.
 - b. The disclosure is necessary to allow responsibility for payment to be determined and the information is not further disclosed by the recipient that would violate Civil Code section 56.110.
 - c. The disclosure is for the purpose of accreditation in reviewing the competence or qualifications of a provider or in reviewing services for medical necessity, level of care, quality of care, or justification of charges.
 - d. The disclosure is for bona fide research.⁹
3. Health Plan may disclose records containing medical information about abortion or abortion-related services:
 - a. To the member
 - b. To the member's personal representative, i.e., an individual authorized by the member to receive such information per a signed authorization
 - c. In response to a California or federal court order, but only to the extent clearly stated in the order and consistent with Penal Code section 1543 and only if all information about the member's identity and records are protected from public scrutiny, e.g., a sealed proceeding or court record.

⁹ Civil Code Section 56.108

- d. When expressly required by federal law that preempts California law.
 4. Health Plan requires completion of the attestation described in Section H.3 above prior to disclosure of abortion or abortion-related services records when the request for health oversight activities, judicial or administrative proceedings, law enforcement purposes, and disclosures to coroners and medical examiners.
- J. Restriction on Disclosure of Medical Information about Gender Affirming Care, Abortion and Abortion-related Services, and Contraception
1. Health Plan limits user access privileges to information systems that contain medical information related to gender affirming care, abortion and abortion-related services, and contraception only to those person who are authorized to access specified medical information.
 2. Health Plan prevents the disclosure, access, transfer, transmission, or processing of medical information related to gender affirming care, abortion and abortion-related services, and contraception to individuals and entities outside of California.
 3. Health Plan segregates medical information related to gender affirming care, abortion and abortion-related services, and contraception from the rest of the member's record.
 4. Health Plan automatically disables access to segregated medical information related to gender affirming care, abortion and abortion-related services, and contraception by individuals and entities outside of California.

III. PROCEDURE

A. Confidential Communications

1. Health Plan accommodates a member's request for confidential communication of medical information or provider name and address relating to receipt of sensitive services if the communication can be readily producible in the member's requested form, format, or alternative location.

2. A member's request for confidential communication is valid until revoked by the member or a new request is submitted.
3. The Compliance department reviews confidential communication requests within 7 calendar days of receipt of an electronic or telephonic request or within 14 calendar days of a receipt by first class mail.
4. The Compliance department acknowledges receipt and advises the member of the status of the request if the member contacts Health Plan.

B. Role-Based Access to Sensitive Services Medical Information

1. Health Plan's IT Security Department implements the requirements of Civil Code Section 56.101.
 - a. Health Plan uses role-based access control to ensure that Health Plan staff only have access to the PHI that is specifically required to complete their job duties.
 - b. Health Plan requires Third-Parties to attest that they limit user access privileges to information systems that contain member information related only to those persons who are authorized to access specified member information.
 - c. Prevent the disclosure, access, transfer, transmission, or processing of member information to persons and entities outside of California.
 - d. Provides the ability to automatically disable access to member information that requires special handling by individuals and entities in another state. ¹⁰
 - e. Health Plan's Audits and Oversight department monitors third-parties through audits of policy and procedure on a precontractual basis and ongoing.

¹⁰ Civil Code Section 56.101, 56.108, 56.110, and 45CFR164.506(c)

2. Health Plan's Compliance Department reviews and fulfills the requests it receives for completed confidential communication request forms from members as defined in desk level job aide.

C. Attestation

1. Health Plan requires persons and entities requesting reproductive health care information to complete an attestation stating that the requested information shall not be used for the purposes prohibited by the HIPAA Final Rule to Support Reproductive Health Care Privacy ¹¹ and Civil Code Section 56.110 ¹².
2. The Compliance department reviews each subpoena and request for records to determine the purpose of the subpoena or request. The Compliance department reviews requests for records in accordance with Health Plan policy HPA43 Member Rights for Protected Health Information and Health Plan policy LX Subpoenas.
3. If the records responsive to the request contain medical information about reproductive health care provided to the member, Health Plan requires both a written authorization by the member and an attestation completed by the requestor prior to release of the records.

D. Provider Communication

1. Health Plan's Provider Services Department provides education to Providers about Civil Code Section 56.101, in the form of Provider Alerts and the Provider Manual.

I. ATTACHMENT(S)

- A. [Glossary of Terms Link](#)
- B. Attestation for AB 352 and HIPAA Privacy Final Rule to Support [AB 352 Attestation.docx](#)

¹¹ HIPAA Privacy Rule – 45 CFR Parts 160 and 164, as stated in Federal Register [Federal Register :: HIPAA Privacy Rule To Support Reproductive Health Care Privacy](#)

¹² California Civil Code §56.110

II. REFERENCES

- A. 42 CFR HIPAA Part 2 Final Rule for Substance Use Disorder (SUD)
- B. 45 CFR § 164.508(a)(2)
- C. CA Civil Code 56.10 – Confidentiality of Medical Information Act
- D. California Health and Safety Code – Sections 121020 and 124260
- E. DHCS APL 24-019 Minor Consent to Outpatient Mental Health Treatment or Counseling
- F. DLP RM015 Member Rights for Protected Health Information (PHI)
- G. Family Code Section 6924, Subdivision (a)(1) and (3)
- H. Family Code Section 6925
- I. Family Code Section 6929
- J. H&S Section 124260
- K. HIPAA Privacy Final Rule to Support Reproductive Health Care Privacy
- L. Health Plan policy CM02 Sensitive Health Care Service
- M. Health Plan policy HPA43 Member Rights for Protected Health Information
- N. Health Plan policy IT402 Information Systems Access Management

III. REVISION HISTORY

Version*	Revision Summary	Date
001	HPA44 Sensitive Services Policy Created and Edited to remove language from section III.a.4.	2/20/2024
002	Editing per APL 24-019, HIPAA Part 2 Final Rules for substance use disorder and reproductive health, reviewed for D-SNP readiness completed, and conducted annual review,	02/21/2025
Initial Effective Date: 02/20/2024		
Published Date: 08/20/2026		

IV. Committee Review and Approval to be Completed by Compliance

Committee Name	Version	Date
Compliance Committee (CC)	002	08/14/2026
Privacy & Security Oversight Committee (PSOC)		
Program Integrity Committee (PIC)		
Audits & Oversight Committee (AOC)		
Policy Review Committee (PRC)	001	06/19/2024
Quality Improvement Health Equity Committee (QIHEC)		
Quality Operations Committee (QOC)		
Grievance Committee (GC)		

V. REGULATORY AGENCY APPROVALS

Department	Reviewer	Version	Date
Department of Healthcare services (DHCS)	DHCS Account Manager	002	04/25/2025
Department of Managed Care (DMHC)	DMHC Attorney	001	06/13/2024

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