PREFACE

This publication is designed to produce accurate and authoritative information on the subject matter covered. It is sold with the understanding that CHIA is not engaged in rendering legal service. This publication should not be viewed as legal advice or take the place of advice provided by a health care provider’s legal counsel. If legal or other expert assistance is required, if there are differences of opinion or where the law is unclear, the advice of legal counsel should be sought.

This publication is designed to inform health information management and other health care professionals about the new HIPAA privacy and security rules and includes the California Preemption rules.

This publication reviews situations in which providers are called upon to disclose information – including releases pursuant to court orders, subpoenas, reporting requirements, patient treatment regimens, and billing and payment activities.

This publication will go a long way towards familiarizing the reader with health information confidentiality, as governed by HIPAA, as amended by the HITECH Act and the HIPAA Omnibus Rule, and by California state law.

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Allan D. Jergesen
Hanson Bridgett LLP
425 Market Street, Suite 2600
San Francisco, CA 94105-5401
Tel: (415) 995-5023
Fax: (415) 995-3433
Email: ajergesen@hansonbridgett.com

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TABLE OF CONTENTS

PART ONE PRIVACY: HIPAA IN CALIFORNIA ................................................................. 1

I. Background ............................................................................................................. 1
   A. Health Insurance Portability and Accountability Act of 1996
      (“HIPAA”) ........................................................................................................ 1
   B. Congressional Direction to DHHS .................................................................. 1
   C. DHHS Response ............................................................................................ 1
   D. Subsequent Revisions .................................................................................... 2

II. The State Law Preemption Issue ......................................................................... 2
   A. Preemption Rule .............................................................................................. 2
   B. Exceptions ...................................................................................................... 3
   C. “More Stringent” Standard ............................................................................ 3

III. California – Applicable Confidentiality Rules ..................................................... 4
   A. HIPAA Privacy Rules ..................................................................................... 4
   B. California Confidentiality Laws ...................................................................... 5
   C. Federal Substance Use Disorder Confidentiality Regulations .................... 6

IV. Enforcement and Penalties .................................................................................. 6
   A. HIPAA .......................................................................................................... 6
   B. California Law ............................................................................................... 7

PART TWO PRIVACY: GENERAL HEALTH INFORMATION ........................................ 9

I. HIPAA and CMIA .................................................................................................. 9
   A. Areas of Application ...................................................................................... 9
   B. General Privacy Rule .................................................................................... 9
   C. Approach to Exceptions to Authorization Requirement ............................. 9

II. General Health Information – Exceptions to Written Authorization
    Requirement ....................................................................................................... 10
   A. Disclosures under Legal Process .................................................................. 10
   B. Disclosures to Law Enforcement Agencies ................................................ 13
   C. Disclosures to Patient or Patient’s Personal Representative ....................... 14
   D. Disclosures Otherwise Specifically Required by Law .................................. 14
   E. Disclosures to County Coroner ..................................................................... 14
   F. Disclosures under Reporting Laws ................................................................ 14
   G. Disclosures for Public Health Activities ..................................................... 15
   H. Disclosures for Health Oversight Activities ................................................ 15
   I. Disclosures for Workers’ Compensation ....................................................... 16

Copyright © California Health Information Association
AHIMA Affiliate
J. Disclosures for Treatment Activities ........................................................ 16
K. Disclosures for Payment Purposes .......................................................... 16
L. Disclosures for Health Care Operations .................................................. 17
M. Disclosures to Business Associates ....................................................... 17
N. Disclosures for Research ...................................................................... 18
O. Disclosures to Prevent Danger to Identified Person ......................... 19
P. Disclosures for Organ Procurement ...................................................... 19
Q. Disclosures Permitted by HIPAA and Not Recognized by CMIA .......... 19

III. Written Authorization ........................................................................... 20

A. Form ..................................................................................................... 20
B. SNFs and ICFs ....................................................................................... 20
C. Contents ............................................................................................... 20
D. Invalidity ............................................................................................. 21
E. Signature ............................................................................................... 22
F. Special Situations Requiring Authorizations ........................................... 22
G. Situation Where Authorization Is Insufficient ........................................ 22

IV. Release of Basic Patient Information ..................................................... 23

A. General Rule .......................................................................................... 23
B. Disclosures to Outside Inquirers ............................................................. 23
C. Disclosures of Limited Information to Defined Recipients for Specific Purposes ................................................................................... 24

PART THREE PRIVACY: PATIENT RIGHTS ................................................ 27

I. Notice of Privacy Practices ........................................................................ 27

A. Requirement of Notice ........................................................................ 27
B. Request for Acknowledgment ................................................................. 27
C. Contents of Notice ................................................................................ 27
D. Model Notice ....................................................................................... 28

II. Patient Requests for Special Privacy Protection ...................................... 28

A. Request for Restrictions on Uses or Disclosures .................................... 28
B. Request for Communications to Patient by Alternative Means or Locations ................................................................................... 29

III. Patient Access to Health Records ......................................................... 29

A. Relevant Laws ....................................................................................... 29
B. Person Granted Access .......................................................................... 29
C. Records Covered .................................................................................. 30
D. Right of Access ..................................................................................... 30
E. Exceptions ............................................................................................ 34
F. Summary of Patient Records ................................................................. 34
G. Denial of Access .................................................................................. 35
### IV. Patient Amendment of Health Records

A. Applicable Laws ..................................................................................... 35
B. Request for Amendment ......................................................................... 35
C. Decision Regarding Amendment ............................................................ 36
D. Acceptance of Amendment ..................................................................... 36
E. Denial of Amendment ............................................................................. 36
F. Future Disclosures ................................................................................. 37

### V. Accounting for Disclosures

A. Patient Right to Receive Accounting ....................................................... 37
B. Exceptions to Accounting Right .............................................................. 37
C. Content of Accounting ............................................................................ 38
D. Time for Accounting ............................................................................... 38
E. Charges for Accounting .......................................................................... 39
F. Documentation ....................................................................................... 39

### PART FOUR PRIVACY: SPECIAL HEALTH INFORMATION

#### I. Psychiatric/Mental Health Information

A. Lanterman-Petris-Short Act .................................................................... 41
B. Applicability ............................................................................................ 41
C. General Rule of Confidentiality ............................................................... 41
D. Exceptions – Written Authorization Needed ............................................ 41
E. Exceptions – No Written Authorization Needed ...................................... 43

#### II. Substance Use Disorder Information

A. Federal Substance Use Disorder Confidentiality Regulations ................. 47
B. Applicability ............................................................................................ 47
C. Disclosures with Written Authorization.................................................... 49
D. Disclosures without Written Authorization ............................................... 50
E. Notice to Patient of Confidentiality Requirements ................................... 52
F. Court Orders .......................................................................................... 53

#### III. HIV Test Results

A. General Rule .......................................................................................... 53
B. Exceptions............................................................................................... 53

### PART FIVE DISCLOSURE OF SECURITY BREACHES

#### I. New Focus on Protecting Patients from Security Breaches

A. New Concerns about ePHI Integrity ....................................................... 55
B. Antecedents .......................................................................................... 55
II.  Laws Requiring Disclosure of Security Breaches ............................................... 55
    A.  California “Medical Identity Theft” Law .......................................................... 55
    B.  California “Improper Access Notification” Law ........................................... 55
    C.  HITECH Act .................................................................................................... 56

III. Reporting and Disclosure Requirements ............................................................... 56
    A.  Approach to Laws .......................................................................................... 56
    B.  Obligation to Provide Notification ............................................................... 56
    C.  Process for Determining Obligation to Notify .............................................. 57
    D.  Timing of Notification .................................................................................. 58
    E.  Form of Notification ...................................................................................... 58
    F.  Contents of Notification ................................................................................ 59

PART SIX NEW CHALLENGES .................................................................................... 61

I.  Electronic Communications – Faxing, Emailing, and Texting PHI ......................... 61
    A.  Advent of New Forms of Communication ..................................................... 61
    B.  General Privacy and Security Considerations .............................................. 61
    C.  Use of Personally Owned Electronic Devices (“BYOD”) ............................... 63

II.  Electronic Signatures ............................................................................................ 63
    A.  Increased Use of Electronic Signatures .......................................................... 63
    B.  Legality of Electronic Signatures ................................................................... 63
    C.  Authentication of Electronic Signatures ...................................................... 64
    D.  Electronic Signatures in Health Documents ................................................ 64

III. Social Media and Patient Confidentiality ............................................................. 65
    A.  Rise of Social Media ..................................................................................... 65
    B.  General Employer Concerns ......................................................................... 65
    C.  Avoiding Health Information Privacy Violations on Social Media ............... 65

PART SEVEN CURRENT ENFORCEMENT TRENDS ..................................................... 67

I.  Altered Enforcement Focus .................................................................................. 67
    A.  Early Emphasis on Education ........................................................................ 67
    B.  Current Focus on Implementation .................................................................. 67

II.  OCR Audits .......................................................................................................... 67
    A.  Prescribed in HITECH Act ........................................................................... 67
    B.  Phase 1 Pilot Audit Program (2012) ............................................................. 67
    C.  Phase 2 Permanent Audit Program (2016) .................................................. 67

III. OCR Enforcement ............................................................................................... 68
    A.  OCR Reports .................................................................................................. 68
B. Sources of OCR Investigations ............................................................... 68
C. Focus on Security Breaches of ePHI ...................................................... 68
D. Examples ............................................................................................... 69

IV. DPH Enforcement ................................................................................... 69
A. DPH as Enforcement Agency ................................................................. 69
B. Use of Existing Citation System .............................................................. 69

V. Private Enforcement ................................................................................ 70
A. Liability for HIPAA Violations .............................................................. 70
B. Liability for CMIA Violations ................................................................. 70
C. Class Actions for Security Breaches ...................................................... 70

PART EIGHT NEW PRIVACY LAWS ................................................................ 71
I. General Data Protection Regulation (“GDPR”) ........................................ 71
A. Scope ..................................................................................................... 71
B. Rights of Data Subjects ......................................................................... 71

II. California Consumer Privacy Act of 2018 ............................................. 71
A. Background ............................................................................................ 71
B. Application .............................................................................................. 71
C. Personal Information Covered ................................................................ 72
D. Requirements for Covered Businesses .................................................. 72
E. Collection and Sale of Personal Information .......................................... 72

APPENDIX A .................................................................................................. 73
AUTHORIZATION FOR USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION .......................................................... 73

APPENDIX B .................................................................................................. 77
Patient Request for Health INFORMATION .................................................. 77

APPENDIX C .................................................................................................. 79
WRITTEN NOTICE ACCOMPANYING DISCLOSURE OF SUBSTANCE USE DISORDER INFORMATION WITH WRITTEN PATIENT AUTHORIZATION .......................................................... 79

APPENDIX D .................................................................................................. 81
FEDERAL SUBSTANCE USE DISORDER CONFIDENTIALITY RULES: 42 C.F.R. §2.1 ET SEQ. .......................................................... 81
OBRA SNF RESIDENT ACCESS RULES: 42 C.F.R §483.10(b)(2) ......................... 98
APPENDIX E ............................................................................................................................ 99
   HIPAA SECURITY AND PRIVACY RULES: 45 C.F.R. §160.102 ET SEQ. .................. 99
APPENDIX F .......................................................................................................................... 171
   CALIFORNIA CONFIDENTIALITY OF MEDICAL INFORMATION ACT:
      CALIFORNIA CIVIL CODE SECTION 56 ET SEQ................................. 171
   CALIFORNIA MEDICAL IDENTITY THEFT LAW: CALIFORNIA CIVIL CODE
      SECTION 1798.82 ..................................................................................... 187
APPENDIX G .......................................................................................................................... 191
   CALIFORNIA IMPROPER ACCESS NOTIFICATION LAW: CALIFORNIA
      HEALTH & SAFETY CODE SECTION 1280.15 ........................................ 191
   CALIFORNIA BLOOD DONOR LAW: CALIFORNIA HEALTH & SAFETY
      CODE SECTION 1603.3 ............................................................................ 192
   CALIFORNIA BIRTH CERTIFICATE LAW: CALIFORNIA HEALTH & SAFETY
      CODE SECTION 102425 ET SEQ............................................................ 193
   CALIFORNIA HIV CONFIDENTIALITY LAW: CALIFORNIA HEALTH & SAFETY
      CODE SECTION 120975 ET SEQ............................................................ 197
   CALIFORNIA PATIENT ACCESS LAW: CALIFORNIA HEALTH & SAFETY
      CODE SECTION 123100 ET SEQ............................................................ 200
   CALIFORNIA OFFICE OF INFORMATION INTEGRITY LAW: CALIFORNIA
      HEALTH & SAFETY CODE SECTION 130200 ET SEQ ......................... 207
APPENDIX H .......................................................................................................................... 209
   CALIFORNIA LANTERNMAN-PETRIS-SHORT ACT: CALIFORNIA WELFARE &
      INSTITUTIONS CODE SECTION 5326 ET SEQ..................................... 209
   CALIFORNIA MEDICAL TELEMEDICINE LAW: CALIFORNIA WELFARE &
      INSTITUTIONS CODE SECTION 14132.725 .......................................... 216
APPENDIX I ........................................................................................................................... 217
   CALIFORNIA PATIENT SUBPOENA NOTIFICATION LAW: CALIFORNIA CODE
      OF CIVIL PROCEDURE SECTION 1985.3................................................. 217
APPENDIX J .......................................................................................................................... 219
   CALIFORNIA EVIDENCE CODE ..................................................................... 219
APPENDIX K .......................................................................................................................... 225

- vi -
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>CALIFORNIA TELEMEDICINE LAW: CALIFORNIA BUSINESS &amp; PROFESSIONS CODE</td>
<td>225</td>
</tr>
<tr>
<td>SECTION 2290.5</td>
<td></td>
</tr>
<tr>
<td>APPENDIX L</td>
<td>227</td>
</tr>
<tr>
<td>CALIFORNIA ADVANCE HEALTH CARE DIRECTIVE_REGISTRY LAW: CALIFORNIA</td>
<td>227</td>
</tr>
<tr>
<td>PROBATE CODE SECTION 4800 ET SEQ.</td>
<td></td>
</tr>
<tr>
<td>APPENDIX M</td>
<td>229</td>
</tr>
<tr>
<td>CALIFORNIA HOSPITAL LICENSING LAWS</td>
<td>229</td>
</tr>
<tr>
<td>APPENDIX N</td>
<td>231</td>
</tr>
<tr>
<td>HITECH ACT: 42 U.S.C. SECTION 17921 ET SEQ.</td>
<td>231</td>
</tr>
<tr>
<td>SECURITY BREACH NOTIFICATION REGULATIONS: 45 C.F.R. SECTIONS 164.400:</td>
<td>241</td>
</tr>
<tr>
<td>164.414</td>
<td></td>
</tr>
<tr>
<td>Appendix O</td>
<td>245</td>
</tr>
<tr>
<td>CDPH Breach Incident Report FORM</td>
<td></td>
</tr>
<tr>
<td>Appendix P</td>
<td>247</td>
</tr>
<tr>
<td>MODIFICATIONS TO STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE</td>
<td>247</td>
</tr>
<tr>
<td>HEALTH INFORMATION – FINAL RULE</td>
<td></td>
</tr>
<tr>
<td>APPENDIX Q</td>
<td>251</td>
</tr>
<tr>
<td>Office of Civil Rights – link to Frequently Asked Questions on HIPAA</td>
<td>251</td>
</tr>
<tr>
<td>APPENDIX R</td>
<td>253</td>
</tr>
<tr>
<td>LINKS TO LEGAL REFERENCES ON INTERNET</td>
<td>253</td>
</tr>
<tr>
<td>APPENDIX S</td>
<td>255</td>
</tr>
<tr>
<td>OFFICE OF CIVIL RIGHTS – MODEL NOTICE OF PRIVACY PRACTICES</td>
<td>255</td>
</tr>
</tbody>
</table>
PART ONE

PRIVACY: HIPAA IN CALIFORNIA

I. Background

A. Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)

1. Enacted by Congress in 1996

2. Divisions

   a. “Portability” provisions – focus on ability of employees to maintain health coverage when moving between jobs (ERISA rules)
   
   b. “Accountability” provisions – impose harsher penalties for Medicare/Medicaid fraud or abuse
   
   c. “Administrative simplification” provisions – create national standards to facilitate transmission and use of electronic health information; includes national security and privacy standards

B. Congressional Direction to DHHS – Congress directs federal Department of Health and Human Services (“DHHS”) to create rules governing electronic health care information in absence of congressional action

C. DHHS Response – DHHS creates rules governing electronic health information

   1. E-healthcare transactions and code sets rules [65 Federal Register 50311 (August 17, 2000)] – prescribe standardized formats for electronic data interchange (“EDI”) between providers and payors, effective for all covered entities on October 16, 2003

