

# The Health Information Portability And Accountability Act (HIPAA) and California Confidentiality of Medical Information Act (CMAI)

## HIPAA Privacy Rule

The HIPAA Privacy Rule regulates the use and disclosure of Protected Health Information by health care providers, health plans and health care clearinghouses. According to HHS, Protected Health Information includes all individually identifiable health information held or transmitted by a HIPAA-covered entity or its business associate, in any form or media, whether electronic, paper or oral. Individually identifiable health information includes information relating to your past, present or future physical or mental health or condition, the provision of health care to you, or the past, present or future payment for the provision of health care to you that identifies you, or for which there is a reasonable basis to believe it can be used to identify you.

These regulations establish a federal baseline of privacy for accessing and handling medical information. While states are free to add additional laws on top of HIPAA, the protections under HIPAA are guaranteed to all citizens of the United States. [These guarantees include:](#)

- The right to see, copy and request to amend your medical records. While you could be charged for copies of your records, HIPAA sets limits on those fees. Before HIPAA, you were not guaranteed access to your medical files by federal law.
- You can find out who has accessed your records over the previous six years. However, there are limitations to these accounts. Any disclosure of records involving treatment, payment or health care operations are not required to be disclosed.
- You must be given a notice of HIPAA privacy practices by your health care facility. This notice must be available in the facility and must inform you how to exercise your rights under HIPAA, including how to file a complaint with your health care provider and with the HHS Office of Civil Rights.
- Criminal and civil penalties are authorized under the HIPAA Privacy Rule if the federal government brings a lawsuit for violations.
- You can choose to have your medical information discussed with designated immediate family members, close friends, or relatives.

To access the most up to date and complete government publication on HIPAA click here:

<https://www.dhcs.ca.gov/formsandpubs/laws/hipaa/Pages/default.aspx>

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## **California Confidentiality of Medical Information Act (CMIA)**

The Confidentiality of Medical Information Act (CMIA) is a state law that adds to the federal protection of personal medical records under the Health Information Portability and Accountability Act (HIPAA). CMIA protects the confidentiality of individually identifiable medical information obtained by a health care provider and includes the following:

- 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.
- 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, or treatment. “Individually identifiable” means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient’s name, address, electronic mail address, telephone number, or social security number, or other information that reveals the individual’s identity.
- Any individual may bring an action against any person or entity that has negligently released confidential information or records, for either or both nominal damages of \$1,000 and the amount of actual damages, if any, sustained by the patient. It shall not be necessary to prove that the plaintiff suffered or was threatened with actual damages to recovery nominal damages.
- Any person or entity who knowingly and willfully obtains, discloses, or uses medical information in violation of CMIA shall be liable for an administrative fine not to exceed \$2,500 per violation.\*

To access the most up to date and complete state publication to CMIA click here:

[https://leginfo.ca.gov/pub/11-12/bill/asm/ab\\_0401-0450/ab\\_439\\_bill\\_20120922\\_chaptered.html](https://leginfo.ca.gov/pub/11-12/bill/asm/ab_0401-0450/ab_439_bill_20120922_chaptered.html)

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