

**DATE:** MAY 27, 2022  
**NUMBER:** M.2  
**SUBJECT:** REQUESTS FOR MEDICAL INFORMATION  
**RELATED SECTIONS:** [M.7](#), [MSD.H.1](#), [MSD.H.2](#), [MSD.H.3](#), & [MSD.P.18](#)

**PURPOSE**

To provide direction to Detention Services Bureau (DSB) staff when responding to a request for medical information for incarcerated persons in the custody of the Sheriff.

**POLICY**

The Health Insurance Portability and Accounting Act of 1996 (HIPAA) outlines many detailed requirements protecting the confidentiality of health information and provides individuals significant rights with respect to this information. Compliance with this regulation is addressed in a series of Medical Services Division (MSD) policies and procedures (MSD.H.1 through MSD.H.10). The California Civil Code Section 56 [California's Confidentiality of Medical Information Act (CMIA)] as well as the California Consumer Privacy Act also protect individual's right to privacy.

DSB staff shall not release medical information to any individual or organization with the exception of sworn law enforcement personnel (City, County, State or Federal) for the purpose of general administration of the detention facility (classification, appropriate housing and transportation) or the health and safety of staff and other incarcerated people (infectious diseases).

All requests for medical information must be directed to the health information management services officer for release and accountability in accordance with federal and state laws.

This policy section is not intended to apply to subpoenas seeking medical records.

**DEFINITIONS:**

"Medical Information" means any information, including demographic information, in any form, that the Sheriff's Department possesses or may access, regarding an incarcerated person's medical history, mental or physical condition, or treatment. State and Federal statute and regulations may also refer to this information as "individually identifiable health information" or "Protected Health Information (PHI)".

This section is not intended to prohibit the release of statistical information that does not identify incarcerated persons' (e.g., number of TB cases in a particular facility).

**PROCEDURE**

**I. REQUESTS FOR MEDICAL INFORMATION**

All requests for medical information shall be forwarded to the health information management (HIM) unit at each facility for the appropriate release of information.

## II. IDENTIFYING WHAT IS MEDICAL INFORMATION

- A. If there is a question as to whether certain information constitutes PHI, medical information, or individually identifiable health information, DSB staff should err on the side of nondisclosure, and forward the request to the HIM unit.
- B. The following examples are intended to provide an illustration as to what may constitute PHI, medical information, or individually identifiable health information that is subject to stringent state and federal statutes concerning privacy of incarcerated persons. These examples are not an exhaustive list of all information that could possibly be construed as health information. Rather, they are intended to provide guidance as to the type of information that should not be disclosed.
1. The presence or absence of a disease. Examples:
    - a. An individual is HIV+ (or presents any other STD)
    - b. Any psychiatric/mental health information
    - c. Alcohol or drug usage
  2. Bodily characteristics that are not discerned from ordinary observation. Examples:
    - a. An individual's blood type
    - b. An individual's DNA
  3. The occurrence of a traumatic event. Examples:
    - a. An individual suffered a heart attack
    - b. An individual suffered a stroke
    - c. An individual suffered a broken bone
  4. Details of any treatment, procedures, or tests, by a medical, dental, or mental health provider, including the prescription of any medication. Examples:
    - a. An individual is being tested for HIV+
    - b. An individual is being evaluated for a mental disorder
    - c. An individual has been prescribed any psychiatric medication(s)
    - d. An individual has been treated for alcohol or drug abuse
  5. Pregnancy - a pregnant person's pregnancy may be obvious at some point during her pregnancy. Nonetheless, DSB staff may not disclose, confirm, or deny the fact of any pregnancy, even when it may be obvious to a casual observer.
- C. The following examples are intended to provide an illustration of information that would not constitute PHI, medical information, or individually identifiable health information, even though they may be indicative of a medical problem.
1. An observed action or perception that was observed not in the course of providing medical treatment. Examples:
    - a. An individual is bleeding

- b. An individual is walking with a limp
- c. An individual appears groggy
- d. An individual has thrown up
- e. An individual has bruises on their rib cage

2. An observed trauma to a person. Examples:

- a. An individual was shot
- b. An individual was beaten
- c. An individual collapsed
- d. An individual has burns

D. DSB staff should take care to understand the distinction between disclosing an observable trauma (which is permissible) and disclosing the effect of that observable trauma (which is not permissible). The distinction can be illustrated with the following examples:

- 1. "An individual was beaten in an altercation," is not medical information. That the individual suffered a broken jaw and internal bleeding is medical information.
- 2. "An individual collapsed," is not medical information. That the individual collapsed because he suffered a stroke is medical information.
- 3. "An individual was shot in the leg," is not medical information. That as a result, the individual's tendon was ruptured is medical information.
- 4. "An individual fell out of his bed," is not medical information. That he broke his arm falling out of bed is medical information.

### III. LAW ENFORCEMENT (CUSTODIAL) EXEMPTIONS

A. Health staff may disclose protected health information about an incarcerated person or individual to a detention facility or law enforcement official having lawful custody of such person or other individual, if the detention facility or law enforcement official represents that such protected health information is necessary for:

- 1. The provision of health care to the individual.
- 2. The health and safety of the incarcerated person or other individuals.
- 3. The health and safety of the deputy and other staff members.
- 4. The health and safety of the deputy responsible for the transportation of the individual.
- 5. Law Enforcement on the premises of the detention facility.
- 6. The administration and maintenance of the safety, security, and good order of the detention facility.