

PARTNERSHIP HEALTHPLAN OF CALIFORNIA

POLICY/ PROCEDURE

Policy/Procedure Number: CMP-10 (Formerly ADM-2)			Lead Department: Administration	
Policy/Procedure Title: Confidentiality			<input checked="" type="checkbox"/> External Policy <input checked="" type="checkbox"/> Internal Policy	
Original Date: 04/24/1994		Next Review Date: 11/21/2025 Last Review Date: 11/21/2024		
Applies to:	<input checked="" type="checkbox"/> Medi-Cal	<input type="checkbox"/> Healthy Kids	<input checked="" type="checkbox"/> Employees	
Reviewing Entities:	<input type="checkbox"/> IQI	<input type="checkbox"/> P & T	<input type="checkbox"/> QUAC	
	<input type="checkbox"/> OPERATIONS	<input type="checkbox"/> EXECUTIVE	<input checked="" type="checkbox"/> COMPLIANCE	<input type="checkbox"/> DEPARTMENT
Approving Entities:	<input type="checkbox"/> BOARD	<input checked="" type="checkbox"/> COMPLIANCE	<input type="checkbox"/> FINANCE	<input type="checkbox"/> PAC
	<input checked="" type="checkbox"/> CEO <input type="checkbox"/> COO	<input type="checkbox"/> CREDENTIALING	<input type="checkbox"/> DEPT. DIRECTOR/OFFICER	
Approval Signature: Sonja Bjork, CEO			Approval Date: 11/21/2024	

I. RELATED POLICIES:

- A. CMP-13: Permitted Use, Disclosure, and Minimum Use of Member Information
- B. CMP-15: Amendment of Member's Protected Health Information
- C. CMP-18: Reporting Privacy Incidents and Breach Notifications
- D. CMP-26: Verification of Caller Identity and Release of Information
- E. CMP-30: Records Retention and Access Requirements
- F. CMP-37: Requirements for Offsite Storage and Records Destruction
- G. IT051 – Inbound and Outbound Data Governance
- H. MP CR 17 Standards for Contracted Primary Care Physicians
- I. MPQP 1008 Conflict of Interest Policy for QI Activities
- J. MPQP1053: Peer Review Committee

II. IMPACTED DEPTS:

All

III. DEFINITIONS:

- A. Gender identity: per National Committee for Quality Assurance (NCQA) health equity accreditation standards, means an individual's innermost concept of self and experience of gender, which may be different from the sex assigned at birth.
- B. Individually identifiable health information: health information, including demographics information collected from an individual, that is created or received by Partnership and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR section 160.103.
- C. Information Assets: Information classified as public, private, or restricted. Information classified as public would result in little or no risk. Examples of public information include press releases, public website content, marketing materials, and information that is ready to be disclosed under the California Public Records Act (CPRA) and Freedom of Information Act (FOIA). Private information is when unauthorized disclosure, alteration, or destruction of that information could result in a moderate level of risk to Partnership or its affiliates. By default, all organizational information that is not explicitly classified as restricted or public information should be treat as private information. A reasonable level of security controls should be applied to privacy information. Restricted information is when the unauthorized disclosure, alteration, or destruction of that information could cause a significant level of risk to Partnership or its affiliates. Examples of restricted information include information protected by state or federal privacy regulations, trade secrets, and information protected by confidentiality

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agreements. The highest level of security controls shall be applied to restricted information.

- D. Network Provider: Pursuant to 42 CFR 438.2, any provider, group of providers, or entity that has a network provider agreement with Partnership (a Managed Care Organization) to order, refer, or render covered services.
- E. Prolonged Time: Any duration of time greater than 15 minutes.
- F. Protected Health Information (PHI): all individually identifiable health information that is transmitted electronic media, maintained in any electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR section 160.103, additionally, includes SOGI and REaL data.
- G. Race/ethnicity and language (REAL) data: refers to member's self-identified and reported REAL information, which may be collected by Partnership directly as self-reported from the individual or reported via state eligibility and enrollment data
- H. Sexual orientation: per NCQA health equity accreditation standards, means an inherent or immutable and enduring emotional, romantic or sexual attraction or nonattraction to individuals of the same and/or other genders
- I. Sexual orientation and gender identity (SOGI) data: refers to member's self-identified SOGI information, which may be collected by Partnership directly from the individual or known via health record data
- J. Subcontractor: A person or entity who enters into a subcontract with Partnership. Assessing whether an entity is a Subcontractor depends on the relationship between the entities and the services being performed, not on the type of persons or companies involved. A person or entity is deemed a subcontractor if: 1) they are either a provider of health care services that agreed to furnish Covered Services to Partnership Members, or 2) has agreed to perform any administrative function or service for Partnership specifically related to fulfilling Partnership's obligations to DHCS under the terms of the DHCS/Medi-Cal contract.

IV. ATTACHMENTS:

- A. Confidentiality Agreement
- B. PHI Evacuation Process

V. PURPOSE:

It is the policy of Partnership HealthPlan of California (PHC) that all members of the Partnership workforce treat patient, personnel, and organizational records as confidential and to protect and ensure the appropriate use of Partnership's property, information assets, and communication's systems.

VI. POLICY / PROCEDURE:

A. Policy

All information created, sent, received or stored using Partnership resources is owned by Partnership and no employee or agent of Partnership should have any expectation of privacy with regard to information or data created, sent, received or stored using Partnership information resources. In addition, the classification of information may change upon request per the California Public Records Act (CPRA).

Partnership is committed to fair and ethical business practices and to ensuring confidentiality of records and information related to all Partnership workforce, members, contractors and business operations. Partnership workforce members and affiliates and its contractors may only access files or programs, whether computerized or otherwise, that are necessary to perform their job functions. Unauthorized review, duplication, dissemination, removal, damage or alteration of files, passwords, computer systems, or programs, or other property of Partnership or improper use of information obtained by unauthorized means, may be grounds for disciplinary action, up to and including termination.

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In the event that an exception to this policy is required, the exception must be documented in writing, approved by PHC Privacy/Compliance Officer and in an IT Helpdesk Ticket and approved by the PHC Chief Information Officer (CIO). Suspected violations must be promptly reported to ITSecurity@partnershiphp.org via a high priority IT HelpDesk ticket, and to EthicsPoint, PHC's internal reporting system, or to the toll-free Hotline (800) 601-2146.

1. Governance:
 - a. The Compliance Committee is designated as the internal body charged with reviewing and approving all compliance policies and procedures as well as any related initiatives on confidentiality or privacy and is chaired by the Partnership Compliance Officer.
 - b. Partnership's appointed Privacy Officer will sit on the Compliance Committee
 - c. The Physical, Technical, and Administrative Safeguards (PTAS) sub-committee is responsible for advising on the development and implementation of reasonable and appropriate security measures to safeguard protected health information. This includes advising on appropriateness of staff access and operational mechanisms for abiding by specific member requests to limit access to data.
2. Routine Member Consent
 - a. All Partnership members sign a consent form at the time of enrollment in the Medi-Cal program. This consent allows the County and Partnership to utilize PHI in order to verify their eligibility.
 - b. Members who obtain Medi-Cal benefits through the Social Security Administration are made aware that their PHI may be used in order to provide medical care.
 - c. Partnership adheres to confidentiality and PHI related member consent processes as described by its Notice of Privacy Practices.
3. Safeguarding Member Confidentiality and Disclosure of Conflicts in accordance with DHCS Medi-Cal Contract 23-30236, Exhibit G, Business Associate Addendum (9.2)
 - a. All Partnership workforce members and affiliates are apprised of Partnership's prohibition against impermissible and/or inappropriate disclosure of confidential information and are required to sign Partnership's Confidentiality Agreement found in Attachment A.
 - b. Partnership workforce members shall agree to Partnership's Confidentiality Agreement on their date of hire as part of their orientation to Partnership. In lieu of entering into this agreement annually, Partnership workforce members annually attest to Partnership's Code of Conduct.
 1. This confidentiality agreement includes a written attestation that the employee has read and understands this policy.
 2. Failure to sign Partnership's confidentiality agreement may result in disciplinary action.
 - c. Partnership affiliates, such as Members of the Board of Commissioners, plan partners such as physicians, or any external individual who participates on a Partnership committee where member PHI, personally identifiable SOGI/REAL data, or proprietary information may be shared shall agree to Partnership's Confidentiality Agreement on their date of appointment and annually thereafter.
 1. This confidentiality agreement includes a written attestation that the Partnership affiliate has read and understands this policy.
 2. Failure to sign Partnership's confidentiality agreement may result in loss of capacity to act in an advisory or committee member role.
 - d. In compliance with Partnership policy and procedure MPQP1008 Conflict of Interest for QI Activities, Partnership affiliates who are directly involved in quality improvement activities, such as physician members of Partnership quality improvement committees, must also disclose any conflicts of interest that may pose an impediment in objective review or advisement.

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- e. All Partnership employees are obligated to ensure compliance with physical and administrative safeguards for access to workstations and handling of paper data containing PHI pursuant to Partnership policy and procedure CMP-24 Physical and Administrative Safeguards.
 - f. All Partnership employees are directed to securely destroy (shred) or otherwise properly dispose of paper data containing PHI in confidential and secure shred bins located throughout the building. Paper data containing PHI are not to be disposed of through regular trash or recycle bins. Electronic records containing PHI shall be maintained in compliance with Partnership policy and procedure CMP 30 Records Retention and Access Requirements.
4. Member's Rights to Confidentiality for SOGI/REAL Data
 - a. Members who self-identify and disclose SOGI/REAL data do so on their own volition.
 - b. When collecting SOGI/REAL data, Partnership does so in a way that does not stigmatize individuals by designing respectful questions through use of collective input, and provides staff training on culturally competent data collection.
 - c. Partnership ensures permitted disclosure and minimum use of SOGI data consistent with policy CMP13 Permitted Use, Disclosure, and Minimum Use of Member Information
 5. Members' Rights to Request Privacy Protection for PHI in accordance to DHCS Medi-Cal Contract 23-30236, Exhibit A, Attachment III, 5.1.1 (B)
 - a. Partnership shall permit a member to request restriction of uses and disclosures of PHI about the member to carry out treatment, payment, or healthcare operations, and disclosures to individuals involved in the member's care. Partnership is not required to agree to a restriction, unless the request is to restrict disclosure of PHI to a health plan for the purpose of carrying out payment or healthcare operations and is not otherwise required by law, and the PHI pertains solely to a health care item or service for which the member paid for out-of-pocket, in full. (45 CFR § 164.522(a))
 - b. Partnership shall permit members to request and will accommodate reasonable requests by individuals to receive communication of PHI from Partnership by alternative means or at alternative locations, if the member clearly states that the disclosure of that information could endanger the member. (45 CFR § 164.522(b))
 - c. Requests in a. and b. above must be in writing and can be terminated by the member verbally or in writing. (45 CFR § 164.522(a) & (b))
 6. Subcontractor, Network Provider, and Business Associate Requirements in compliance with DHCS Medi-Cal Contract 23-30236, Exhibit G, Business Associate Addendum (7-7.1)
 - a. All Subcontractor, Network Provider, and Business Associate Agreements (BAA), shall explicitly state Partnership's expectations about maintenance of confidentiality of member information and records.
 - b. Primary care providers are assessed as to their ability to safeguard confidentiality of members' PHI in accordance with the facility site review (FSR) process as described under Partnership policy and procedure MP CR 17 Standards for Contracted Primary Care Providers.
 7. Research and Quality Measurement
 - a. To the extent possible, Partnership utilizes aggregate or other non-personally identifiable health information when conducting research, quality studies, or other measurements. When this is not possible, Partnership ensures that those parties with access to data are acting within the scope of agreed upon business needs in compliance with Partnership policy and procedure CMP-13 Minimum Necessary Use or Disclosure of Member Information.

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8. Peer Review Records

- a. Proceedings and records obtained for the quality/peer review process are protected by California Evidence Code § 1157 and are not subject to discovery when confidentiality has been maintained. To maintain confidentiality, peer review records are retained by the Quality Monitoring and Improvement department and are not released to anyone for purposes other than peer review.
 - 1) As described under Partnership policy and procedure MPQP1053: Peer Review Committee, peer review records are maintained in a locked file cabinet with limited access. .
 - 2) While records are being reviewed, or during transport to peer review meetings, a Quality Improvement staff person accompanies them at all times.

B. Procedure

1. Safeguarding Member Confidentiality – Partnership workforce members and affiliates shall enter into Partnership’s Confidentiality agreement as described under this policy. Records of confidentiality agreements shall be maintained and made accessible as follows and in compliance with Partnership policy and procedure CMP-30 Records Retention and Access Requirements:
 - a. Partnership workforce: In each employee’s personnel file, Human Resources shall maintain paper or scanned copies of confidentiality agreements as entered into upon hire.
 - b. Board of Commissioners and other affiliates: the Partnership employee who staffs committees with participation from external parties including Partnership Board of Commission members or other physician members are responsible for ensuring the execution and maintenance of confidentiality agreements.
 - i. Prior to the affiliates assumption of duties as a committee member, the Partnership employee who staffs the committee shall ensure that the affiliate has read and agrees to the terms of this policy and procedure, which includes entering into Partnership’s confidentiality agreement.
 - ii. Paper or scanned copies of initial and annual signed agreements shall be maintained in the preferred filing method of the Partnership employee who staffs said committee and the committee chair and as appropriate, within member files for each member of the Board of Commissioners.
 - iii. Records of initial and annual execution of confidentiality agreements shall be made available to Regulatory Affairs and Compliance and/or a governing agency within a reasonable timeframe in the manner and format requested.
2. Breach of Member Confidentiality - when breaches of member confidentiality are identified, Partnership workforce members and affiliates shall immediately report the incident in compliance with Partnership policy and procedure CMP-18 Reporting Privacy Incidents.
3. Enforcement of Partnership’s Confidentiality Agreement – Upon discovery of a breach with Partnership’s confidentiality agreement, Partnership’s Compliance Officer, Privacy Officer, or their designee may seek to impose disciplinary action up to termination or revocation of appointment on a Partnership committee.
 - a. Workforce members – disciplinary action for workforce member’s breach of confidentiality shall be developed in collaboration with Human Resources and department leadership.
 - b. Affiliates – disciplinary action for affiliates in breach of confidentiality shall be developed in collaboration with the committee chair and as necessary executive leadership.

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VII. REFERENCES:

- A. DHCS Medi-Cal Contract 23-30236, Exhibit A, Attachment III, 5.1.1 (B)
- B. DHCS Medi-Cal Contract 23-30236, Exhibit G, Business Associate Addendum

VIII. DISTRIBUTION:

- A. PowerDMS
- B. Directors

IX. POSITION RESPONSIBLE FOR IMPLEMENTING PROCEDURE:

Privacy Officer

X. REVISION DATES:

Medi-Cal

01/27/95, 10/10/97 (name only), 12/98, 02/13/01, 10/30/02, 12/11/02; 01/26/04, 10/13/06, 05/01/09, 06/18/10, 12/06/11, 12/04/12, 03/26/13, 09/07/16, 11/15/2017, 11/15/2018, 03/07/2019, 11/21/2019, 11/19/2020, 12/02/2021, 11/17/2022, 11/16/2023, 11/21/2024

PREVIOUSLY APPLIED TO:

Partnership Advantage:

CMP-10 – 06/01/2006 to 01/01/2015

Healthy Families:

CMP-10 – 10/01/2010 to 03/01/2013

Healthy Kids:

CMP-10 – 01/01/2006 to 12/06/2016