



POLICY TYPE:

Corporate Divisional

EFFECTIVE DATE:
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APPLIES TO PRODUCT TYPE:
 Medi-Cal CMC

PAGE:
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POLICY APPLIES TO:
All Divisions and Departments

CLASSIFICATION SERIES:
Compliance

SUBJECT:
Policy on Disclosures by Whistleblowers

Purpose/Statement:

The purpose of this statement is to outline the policy of Community Health Group and Community Health Group Partnership Plan (collectively, "CHG") on Disclosures of PHI by Workforce Members (and in certain cases, its Business Associates) under the circumstances where such Workforce Member or Business Associate makes the Disclosure as a whistleblower ("Whistleblower Disclosure") or the Workforce Member Discloses PHI as the victim of a crime.

1.0 **POLICY**

1.1. It is the policy of CHG that its Workforce Members and Business Associates may make Whistleblower Disclosures in accordance with the requirements of this Policy and Workforce Members may make Disclosures as crime victims in accordance with the requirements of this Policy.

2.0 **AREAS INVOLVED**

2.1. All Departments

3.0 **CROSS-REFERENCED DOCUMENTS**

3.1. HIPAA

3.2. Policy on Refraining from Retaliatory or Intimidating Acts

3.3. Policy for Uses and Disclosures of PHI for which Authorization and Opportunity to Agree or Object is not required

3.4. Policy for Business Associate Arrangements

3.5. Policy for Sanctions against Employees

4.0 **KEY DEFINITIONS**

The following are definitions of key terms used in this policy. The definitions of other capitalized terms used in this policy and not defined in this Section 4.0 can be found in the Glossary.



- 4.1. **“Authorization”** means the signed Authorization language used by CHG to obtain an individual’s permission prior to using or disclosing that individual’s PHI for purposes that do not fall within the definitions of Treatment, Payment or Health Care Operations activities.
- 4.2. **“Business Associate”** means a person or entity who is not a member of CHG’s Workforce and who, on behalf of CHG, performs or assists in the performance of:
- (a) A function or activity involving the use or disclosure of PHI, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or
 - (b) Any other function or activity regulated by HIPAA; or
 - (c) Provides legal, actuarial, accounting, consulting, data aggregation (as defined in HIPAA), management, administrative, accreditation, or financial services to or for CHG.
- 4.3. **“Protected Health Information”** (“PHI”) means information that (i) is created or received by a Health Care Provider, Health Plan, employer or Health Care Clearinghouse; (ii) 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 to an individual; and (iii) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual).
- 4.4. **“Whistleblower Disclosure”** shall mean a Disclosure of PHI by a Workforce Member or Business Associate of CHG that meets the following requirements:
- (a) The Workforce Member or Business Associate believes in good faith that CHG engaged in unlawful conduct or otherwise violated professional or clinical standards, or that the care provided by CHG may potentially endanger patients, other Workforce Members or the public; and
 - (b) The Disclosure is to an agency responsible for overseeing health care programs, or to a public health authority or to health care accreditation organization or to an attorney.
- 4.5. **“Workforce”** or **“Workforce Member”** means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for CHG, is under the direct control of such entity, whether or not they are paid by CHG.

5.0 **PROCEDURE**

5.1. **WHISTLEBLOWER DISCLOSURES**

- 5.1.1. Members of CHG’s Workforce and Business Associates of CHG are permitted to make Whistleblower Disclosures, without Authorization.



- 5.1.2. Members of CHG's Workforce will not be subject to sanctions by CHG for making Whistleblower Disclosures.
- 5.1.3. CHG will not take any intimidating or retaliatory acts against Members of CHG's Workforce and CHG's Business Associates who make Whistleblower Disclosures related to CHG's handling of PHI and compliance with HIPAA.
- 5.1.4. CHG shall not be considered to have violated HIPAA if a Member of its Workforce or its Business Associate makes a Whistleblower Disclosure in compliance with the requirements of this policy.

5.2. CRIME VICTIM DISCLOSURE

- 5.2.1. Members of CHG's Workforce are permitted to make Disclosures of PHI to a law enforcement official if the Workforce Member is the victim of a crime and the PHI to be disclosed is about the suspect who allegedly committed the crime against the Workforce Member.
- 5.2.2. Under this policy, the Workforce Member may only disclose the following PHI to law enforcement:
 - a) Name and address of the suspect;
 - b) Date and place of birth;
 - c) Type of injury suspect has;
 - d) Date and time of treatment;
 - e) Date and time of death, if applicable; and
 - f) A description of distinguishing physical characteristics including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars and tattoos.
- 5.2.3. Workforce Members making disclosures of PHI that meet the requirements of this Section 5.2 will not be subject to sanctions.
- 5.2.4. CHG shall not be considered to have violated HIPAA if a Workforce Member who is the victim of a crime discloses PHI to law enforcement in compliance with the requirements of this policy.

5.3. DISCLOSURES NOT IN COMPLIANCE WITH THIS POLICY

- 5.3.1. If a Workforce Member reasonably believes that another Workforce Member or Business Associate, as applicable, has made a Whistleblower Disclosure or a Disclosure as a crime victim that does not comply with the requirements of this policy, such Workforce Member shall contact the Compliance Officer and make a report of such suspected non-compliance.



5.3.2. The Compliance Officer, with advice from outside legal counsel, shall investigate all such reports and take steps necessary to mitigate the harmful effects of any violations of this Policy or other of CHG's privacy-related policies.

6.0 **DOCUMENTATION RETENTION**

6.1. All forms completed under this policy shall be placed in the individual's medical record or the Compliance Department.

7.0 **CONTACT FOR QUESTIONS**

7.1. If a Workforce Member has any questions or is uncertain about this policy, such Workforce Member should contact the Compliance Officer.

Access Privileges: All _____

Regulatory:

NCQA:

Attachments: None

Policy Status: Signed (Signature on File) Active Draft Policy in Development

Approved By: Signature: _____

Department Head: _____ Chief Compliance & Regulatory Affairs Officer

Date: _____

Signature: _____

Division Chief: _____ Chief Executive Officer

Date: _____