

February 2023 (Update to March 2022)

Q: Can students who are covered by their parent or guardian’s health plan or health insurance ensure that communications from the insurer that may disclose certain services received by the student are not provided to the parent or guardian?

A: Yes. Health plans and insurers must direct all communications regarding “sensitive” services to the person receiving them - without the individual’s request. California law also allows students to make a request for confidential communications (CCRs) to their health plan/insurer, which, when made, requires the health plan or insurer to direct all communications pertaining to medical services to the student instead of to their parent or guardian.

Background

Many students are covered by health insurance but are not the policyholder or subscriber for that coverage (i.e., the policyholder or subscriber¹ is a parent). Routine communications sent by plans and insurers, such as explanation of benefit letters, are often sent to the policyholder or subscriber and may contain personal and sensitive information about insureds or enrollees², such as students, who are not the policyholder or subscriber. [California’s Confidential Health Information Act](#) (CHIA), effective in 2015, is intended to provide greater privacy protection to “**protected individuals**”³— adult insureds and enrollees (and minors who have the right to consent to the relevant medical care) — where that individual is not the policyholder or subscriber.

This Alert is intended to raise provider, clinical staff, and student awareness to this pathway, in particular for those utilizing medication abortion, mental health, and other sensitive services from UC Student Health Services/Counseling and Psychological Services.

Confidential Health Information Act (CHIA)

[CHIA](#) gives rights to protected individuals regarding the confidentiality of their medical information and medical services they receive.

¹ With respect to group health insurance, “policyholder” means the individual who is the current group certificate holder. [Cal. Ins. Code § 791.02\(t\)](#). “Subscriber” means the individual responsible for payment to an insurance plan or whose employment is the basis for eligibility for membership in the plan. [Cal. Health & Safety Code § 1345\(p\)](#).

² “Insured” refers to a person covered under an insurance policy. [Cal. Ins. Code § 791.02](#). “Enrollee” means a person enrolled in an insurance plan and who is a recipient of plan services. [Cal. Health & Safety Code § 1345\(c\)](#).

³ In order to request confidentiality of communications relating to sensitive services, the individual must be legally able to consent to the services provided. Under California law, to the extent there is an age requirement to consent to such services, in most cases, the individual must be at least 12 years old. See [Cal. Civ. Code § 56.05\(l\)](#); [Cal. Ins. Code § 791.02\(ab\)](#).

1. Prohibits Authorization to Receive Sensitive Services

The law prohibits health plans and health insurers from requiring a protected individual to obtain the policyholder or primary subscriber's authorization to receive "**sensitive services**" or submit a claim for "**sensitive services**." "**Sensitive services**" include birth control, abortion services, sexual assault services, STD tests, mental and behavioral health care, substance use disorders, gender affirming care, and intimate partner services.⁴ Health plans and insurers are also prohibited from disclosing **medical information**⁵ related to sensitive services to the policyholder, primary subscriber, or any other enrollee or insured without authorization from the protected individual receiving sensitive services.

2. Requires Directing All Communications Regarding Sensitive Services to the Protected Individual

Health plans and health insurers are required to **direct all communications regarding a protected individual's receipt of sensitive services directly to the protected individual receiving care**.⁶ The types of "**communications**" that must be directed to the protected individual include:

- bills and attempts to collect payment;
- notices of adverse benefit determinations;
- explanation of benefits notice;
- requests for additional information regarding a claim;
- notices of contested claims;
- the name and address of a provider, description of services provided, and other information related to a visit; and
- any written, oral, or electronic communication from an insurer that contains protected health information as defined under the Health Insurance Portability and Accountability Act.

[Cal. Civ. Code § 56.107\(a\)](#); [Cal. Ins. Code § 791.29\(a\)](#).

3. Right of Protected Individuals to Request CCRs for All Medical Services

Health plans and health insurers are required, **upon request by a protected individual, to accommodate any request for confidential communications**. The protected individual may request that the communications be in any form and format, so long as readily producible.⁷

⁴ [Cal. Civ. Code § 56.05\(n\)](#); [Cal. Ins. Code § 791.02\(ac\)](#).

⁵ "Medical information" includes 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. [Cal. Civ. Code § 56.05\(i\)](#).

⁶ The law directs that if the protected individual has a designated alternative mailing address, email address or telephone number, the health plan or health insurer must send or make all communications related to the protected individual's receipt of sensitive services to the alternative contact information designated. If the protected individual has not designated an alternative mailing address, email address, or telephone number, the health plan or health insurer must send or make all communications related to the protected individual's receipt of sensitive services at the address or telephone number on file.

⁷ If not readily producible in the form and format requested by the protected individual, it may be produced in an alternative manner. The health plan and health insurer may require the protected individual to make a request for a confidential communication in writing or electronically. [Cal. Civ. Code § 56.107\(b\)](#); [Cal. Ins. Code § 791.29\(b\)](#).

Health plans and health insurers must implement a CCR within 7 calendar days of receiving an electronic or telephonic request, and within 14 calendar days of receiving a request via first-class mail.

Thereafter, health plans and health insurers must apply the CCR to all communications that disclose **medical information** of the protected individual, as well as to all communications that disclose the provider's name and address related to the protected individual's receipt of medical services. Health plans and health insurers must abide by the CCR until the subscriber or enrollee submits a revocation of the CCR, or submits a new CCR. [Cal. Civ. Code § 56.107\(b\)](#); [Cal. Ins. Code § 791.29\(b\)](#).

Health plans and health insurers are prohibited from conditioning enrollment or coverage on an enrollee or insured waiving their rights to receive confidential communications. [Cal. Civ. Code § 56.107\(e\)](#); [Cal. Ins. Code § 791.29\(e\)](#).

4. Requires Notification to Enrollees and Insureds Regarding CCRs

Health plans and health insurers must notify their enrollees and insureds that they may request a confidential communication in a specified format and how to make that request.⁸ Specifically, the information must be provided to subscribers/policyholders and enrollees/insureds upon initial enrollment and annually thereafter upon renewal. It must be provided:

- In a conspicuously visible location in the evidence of coverage; and
- On the health plan or health insurer's website, accessible through a hyperlink and in a manner that allows subscribers, policyholders, enrollees, insureds, and members of the public to easily locate the information.

[Cal. Civ. Code § 56.107\(c\)](#); [Cal. Ins. Code § 791.29\(c\)](#).

Conclusion: Submitting a CCR

Students can make a request for confidentiality by submitting a CCR to their health plan or insurer. Health plans and insurers must make information available to enrollees and insured that sets forth how individuals may request CCRs.⁹ A template CCR is available [here](#). Note that the template does not reflect the most recent updates to this law, which expanded right to request CCR beginning July 1, 2022.

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⁸ However, insurers are required to accommodate requests for confidential communications in any form and format requested by the individual, so long as it is readily producible.

⁹ Specifically, the information must be provided to subscribers/policyholders and enrollees/insureds upon initial enrollment and annually thereafter upon renewal. It must be provided: (i) in a conspicuously visible location in the evidence of coverage; and (ii) on the health plan or health insurer's website, accessible through a hyperlink and in a manner that allows all individuals to easily locate the information.