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Release of Information in California: **Special Health Records**

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E-book Series, 12 of 12

The Release of Information (ROI) in California is a series of 12 E-books that will help you navigate and understand the complex state and federal laws, as well as best practices related to managing and releasing protected health information. The ROI E-book series contains content that falls under HIPAA, federal regulations, and is specific to California state laws.

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Printed in the United States of America

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Acknowledgements

The California Health Information Association (CHIA) Board of Directors extends its appreciation for the development of this E-book to:

Instructor

Diane Premeau, MHA, MCIS, RHIA, CHP, is adjunct faculty at Santa Barbara City College and Director of HIM & Privacy Officer for Daughters of Charity Health System at O'Connor Hospital. Diane has extensive years as program chair for Chabot College Health Information Technology program and was lead instructor for pathophysiology and preparing students for coding. Diane is also a CHIA Past President and a recipient of the CHIA Professional Achievement award.

The CHIA Board of Directors also extends their appreciation to the CHIA Online Education Committee who has secured and reviewed these e-books over the years, volunteering their time, effort and input as they reviewed drafts of the e-books as an editorial board. And special thanks to Gayle Old-Smith, RHIA, CHIA Copy Editor, who spent many hours diligently reviewing this E-book.

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Each ROI E-book includes an overview of the topic and extensive references. **Self Assessment Quizzes** are designed in multiple-choice and true/false format, and assess your understanding of the subject matter. A link to the Quiz is provided with each purchased E-book, and corrected answers will be displayed so you can receive automatic feedback.



Upon completion of the Self Assessment Quiz, a **Certificate of Completion (CEU)** will be made available to download and print. You will not be able to access the Certificate after exiting the Quiz, so be sure to download it immediately and retain as evidence of the earned continuing education.

Product Code	Release of Information in California:	CEU's Offered
E-book 001	Introduction **	Two
E-book 002	General Releases	Two
E-book 003	Medical Records and the Court System	Three
E-book 004	Workers Compensation	Three
E-book 005	Elder, Dependent Adult and Child Abuse	Two
E-book 006	Coroner's Office	Two
E-book 007	Public Health Agencies	Two
E-book 008	Business Associates	Two
E-book 009	Government Agencies	Two
E-book 010	Inmates	Two
E-book 011	Law Enforcement	Two
E-book 012	Special Health Records	Two

** CHIA recommends you read the *Release of Information in California: Introduction* E-book first. This E-book is offered at no charge and includes the "Glossary of Terms" that is used in all subsequent ROI E-books.

Additional CHIA Resources

To view sample pages or purchase these E-books, or to view more details about CHIA's publications and Webinar Replays, visit www.CaliforniaHIA.org/Resources

Forward

The purpose of this E-book is to provide accurate and authoritative information on proper and adequate disclosure of health information. The California Health Information Association (CHIA) is not engaged in rendering legal services, and providing legal advice is beyond the scope and intent of the E-books.

Release of Information in California: Special Health Records

The purpose of this e-book is to provide background and authoritative information on special health records, that includes mental health records, substance abuse records (alcohol and/or drugs), and human immunodeficiency virus (HIV) laboratory tests.

Student Learning Outcomes and Objectives

Upon completion of the CHIA *Release of Information in California: Special Health Records* E-book, students will be able to:

- Identify a request for documents that have restricted release.
- Understand current laws and regulations that govern special health records.
- Validate a request for special health records, to assure it is complete and correct.
- Define psychotherapy notes.
- Apply Lanterman-Petris-Short Act [California Welfare and Institutions Code 5328] to a request for record release.
- Define patient-physician privilege as it relates to mental health records.
- Process a mandatory disclosure for restricted release records.
- Identify and process a permissive disclosure of restricted-release records.
- Process a clinician refusal of access to or release of restricted-release records.
- Describe the Tarasoff Act [Welfare and Institutions Code 8105 (c)] and the application to mental health records
- Release of substance abuse records.
- Exceptions for release of minor records in substance abuse program.
- Release of HIV test results.
- Articulate the importance of releasing patient-specific health information according to current laws and regulations
- Understand and appreciate the complexities and responsibilities inherent to releasing protected health information to internal and external requestors.
- Understand the importance of maintaining the confidentiality of patient records and protected health information (PHI).
- Utilize resources to maintain current competencies and keep abreast of changing requirements.

Release of Information in California: Special Health Records

Introduction

Special health records, those pertaining to mental health, substance abuse, and human immunodeficiency virus (HIV) test results, present a challenge to maintaining the confidentiality of health care providers and the patient when releasing these records. The patient-physician relationship, which is required for optimal health care, is at risk if these records are released inappropriately. Inadvertent release of special records may cause harm to individuals and the patient-physician relationship if the information is inappropriately released, or released without specific authorization. The key concept of this unit is the protection of the patient-physician relationship and the individual's confidentiality of some of the most sensitive records.

Advocates for consumers have developed federal regulations and California laws that identify categories of special records. The Health Insurance Portability and Accountability Act (HIPAA, 45 CFR) established the minimum necessary rule, limiting the release of information to only what is needed to meet the purpose of the request. When more than one law or regulation applies, the stricter law governs the release.

In this e-book, records subject to restricted release that will be discussed include mental health records; substance abuse; and HIV laboratory result reports.

Authorization to release information from special health records

As with most release of information in health care, the patient and/or his representative must sign an authorization prior to release of information that is protected under the laws that govern special health information. Information that is required in an authorization includes, facility/program name, recipient name, patient name, purpose of disclosure, information to be disclosed, signature of patient or legal representative, date of signature, revocation statement and date authorization will expire, and notice to recipient of restrictions on re-disclosure. Specific to special records is a statement in the authorization that prohibits the requestor from re-release or disclosure of the information without a specific authorization from the patient.

The person signing the authorization must be a competent adult or legal representative, if the patient is either a minor or incompetent adult. If a legal representative is signing the authorization, the relationship to the patient must be specified. If the patient is an adult and a guardian is signing, the legal documents that identify the signer as the legal representative should be obtained and filed in the record.

Mental health records

Mental health records have a special challenge when requests for exchange of information are received. There are many regulations, nationally and specific to California, which restrict the release of information for a patient/client/consumer treated for a mental health diagnosis. In most cases, California law is more specific than the Health Insurance Portability and Accountability