



**Department of Public Health
Emergency Medical Services Agency**

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Policy #: 710.00
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This policy supersedes any other existing policy on this subject.

Subject: **Protected Health Information and Patient Confidentiality**

Authority: Confidentiality of Medical Information Act (Civil Code, Section 56 et. seq.) Title 22, Division 9, Sections 100075, 100159, Health Insurance Portability and Accountability Act (HIPAA).

Purpose: To describe the conditions and circumstances by which protected health information may be released and provide guidance regarding issues of patient confidentiality.

Definitions: Protected Health Information (PHI) – HIPAA regulations define health information as “any information, whether oral or recorded in any form or medium” that:

- ❖ “is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse” 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 to an individual.”

Social Media – shall, for the purpose of this policy, mean any medium used to transmit or share information in an open, public forum, such as Facebook, Twitter, MySpace, etc. as well as blogs or other venues for posting information.

Policy: A. PERSONAL HEALTH INFORMATION

1. All prehospital provider agencies shall have policies in place regarding the disclosure of PHI of EMS patients and the use of social media and patient confidentiality.
2. Prehospital provider agencies shall designate a Public Information Officer (PIO) or other designated person(s) authorized to release operational or general information, as authorized by State and Federal law.
3. PHI may not be disclosed by prehospital personnel, except as follows:
 - A) To other care givers to whom patient care is turned over, for continuity of patient care (including the prehospital patient record).
 - B) To the Merced County EMS Agency, Base Hospital or provider agency quality improvement program (including the provider agency supervisory personnel).

APPROVED:

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- C) To the patient or legal guardian.
 - D) To law enforcement officers in the course of their investigation under the following circumstances:
 - 1) As required by law (e.g. court orders, court-ordered warrants, subpoenas and administrative requests).
 - 2) To identify or locate a suspect, fugitive, material witness or missing person.
 - 3) In response to a law enforcement official's request for information about a victim or suspected victim of a crime.
 - 4) To alert law enforcement of a person's death if the covered entity suspects that criminal activity caused the death.
 - 5) When a covered entity believes that PHI is evidence of a crime that has occurred on the premises.
 - 6) In a medical emergency and it is necessary to inform law enforcement about the commission and nature of a crime, the location of the crime or crime victims, and/or the perpetrator of the crime.
 - E) To the provider agency's billing department, as needed for billing purposes.
 - F) In response to a properly noticed subpoena, court order or other legally authorized disclosure.
4. Any prehospital records (recorded or written), used for training or continuing education purposes, must be edited to remove identifying patient/incident information.

B. USE OF SOCIAL MEDIA IN EMS

- 1. Any disclosure of patient identifying information through any public medium is prohibited, unless authorized by the patient, the patient's legal representative or as otherwise permitted by law.
- 2. Pictures or videos of patients shall not be taken by EMS personnel without the written consent of the patient.
- 3. Patient identifying information must be viewed broadly and taken into proper context. In a small community, any of the below examples ¹ could reveal patient identifying information:
 - A) the location and date of a motor vehicle crash;
 - B) an uncommon characteristic such as a condition, extremes of age (e.g. patient that is 108 years of age or a newborn could be easily identified), etc.
 - C) an incident that took place in a public location with witnesses.
- 4. EMS Personnel should avoid posting on or responding to blogs or other public information mediums regarding EMS incidents with which they are familiar.
- 5. Discussion on such sites regarding policies, protocols, current research, etc. can be very valuable and a good forum for such dialogue.
- 6. Personnel should refer questions regarding the appropriateness of specific discussions with their HIPAA Compliance Officer or supervisor. Questions may also be directed to the EMS Agency.

¹ These are used for reference only. Many other scenarios could reveal patient identity.