STATE HEALTH INFORMATION GUIDANCE
What is the SHIG?
State Health Information Guidance

**Guiding**
State Health Information Guidance for California

**Authoritative**
Authoritative but non-binding guidance from the State of California

**Clarifying**
Clarification of state and federal law for non-state entities

**Explanatory**
When, where and why mental health and substance use disorder information can be exchanged

**Generalized**
Widely-applicable document in plain language for a general audience

**Assistive**
The Known Path to YES
Why Is the SHIG Needed?

**CONFUSION**
Confusion about the law is a major barrier to sharing patient information.

**DEFAULT TO NEGATIVE**
Providers often default to not sharing information even when it is legal to share.

**RISK AVOIDANCE**
The primary reasons are uncertainty, risk avoidance and liability concerns.

**GETTING TO YES**
The SHIG helps highlight the known path to legally and securely sharing patient information.
### Goal & Vision
Facilitating Coordination & Sharing

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<tr>
<td><strong>Exchange</strong></td>
<td>Increase appropriate exchange of patient information between health care providers</td>
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<td><strong>Coordinate</strong></td>
<td>Encourage greater coordination and integration of care through information sharing</td>
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<td><strong>Develop</strong></td>
<td>Promote dialogue for further applications of responsible health information sharing</td>
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To better articulate what California providers can do without consent today to share patient information, including who can share it, who can receive it, what can be done with it, and for what purpose. To accelerate the responsible and appropriate sharing of health information in California by facilitating a dialog among care providers of what can be done within current State and Federal laws.
Why CalOHII?
Authority and Expertise

**Authority**
California Office of Health Information Integrity has statutory authority to interpret and clarify state law

**Experience**
Created similar guidance for California State departments

**Relationships**
Strong working relationships with stakeholders across healthcare industry
How Was the SHIG Created?
A Collaborative Product

**Solicitation**
Stakeholders solicited about existing obstacles

**Research**
User stories generated by Advisory Group reflect cross-industry insights and experience

**Clarification**
Clarification built around scenario-based illustrations along with general guidance

**Advisement**
Advisory group formed from more than 20 organizations

**Consultation**
Patient and privacy advocacy organizations consulted
Benefits of Whole Person Coordinated Care
Supporting the Triple Aim

- Improved Patient Outcomes
- Improved Overall Patient Satisfaction
- Improved Efficiency and Reduced Costs
Who Can Use the SHIG?

Broad in Scope

- Physical Health Care Providers
- Mental Health Care Providers
- Substance Use Disorder Providers
- Emergency Service Providers
- Social Services
- Law Enforcement
- Payers
- Caregivers and Care Coordinators
- Key Users
The Problem of Complexity

Disparate regulations spread across multiple sources

Overlapping and conflicting Federal and State laws
Reducing Complexity
Ease of Comprehension

Clarification
The SHIG clarifies relevant law.

Generalization
The SHIG provides general principles and guidance.

Summarization
The SHIG summarizes applicable legal citations.
The Problem of Ambiguity

Statutes written in dense legal language

Unclear how to apply rules to current situations
Increasing Clarity

- Clear Examples
  - Clarifying what can and cannot be shared
  - Offering an authoritative interpretation and guidance
  - Reducing uncertainty and ambiguity
  - Creating a common understanding
  - Illustrating simple scenarios and applying rules practically
  - Presenting relevant law and regulation in plain language
Primary Regulation Sources
And Conflict Resolution

**Federal**
42 C.F.R. Part 2 (Substance Use Disorder)
45 C.F.R. Parts 160-164 (HIPAA)

**State**
CA Civil Code § 56 (CMIA)
CA WIC LPS § 5328 (LPS)
CA HSC § 11845, § 123100, § 123125

**Conflict Resolution**
In case of conflict the SHIG errs on the side of the more restrictive law or regulation

**Final Guidance**
Authoritative but non-binding guidance
How It Works
Authoritative Scenario-Based Guidance

- **SIMPLE, STRAIGHT-FORWARD, & ILLUSTRATED**
- **22 SCENARIOS**
- **RELEVANT TO A WIDE RANGE OF PROVIDER SECTORS**
- **PLAIN LANGUAGE FOR A LAY AUDIENCE**
- **ALL GUIDANCE TIED TO RELEVANT STATUTES, REGULATIONS AND LAWS**
Scenario Example
In the Event of an Emergency

Description:
An individual with mental health or substance use disorder (SUD) issues is being treated by an Emergency Medical Services (EMS) provider, emergency room physician, hospital emergency department or a triage team member.

What patient information can be shared in a medical emergency?

Scenario Assumptions:
- Must be a medical emergency as determined by qualified healthcare professional
- Patient is unable to provide health information to healthcare professionals
- No patient or Patient Representative Authorization
In the Event of an Emergency

Behavioral health providers including providers subject to 42 C.F.R. Part 2 (Substance Use Disorder regulations), health care service plans, contractors and other health care professionals and facilities can share the following, only to the extent necessary to meet a bona fide medical emergency for the purpose of diagnosis or treatment of the patient:

- Patient demographics
- Diagnosis
- Prognosis
- Treatment

[42 C.F.R. § 2.1 § 290ee-3 (b)(2)(A); CA Health and Safety Code § 11845(c)(1)]

Patient information may be communicated by radio transmissions or other means necessary between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at the licensed health facility.

[Civil Code Section 56.10(c)(1)]

The condition being treated must pose an immediate threat to the health of the individual and require immediate medical attention.

[42 C.F.R. § 2.51(a)]

Documentation Requirements When Provider is Regulated by 42 C.F.R. Part 2

Immediately following disclosure of substance use disorder information, the entity providing the information must document the following, in the patient’s records:

- Name and affiliation with any health care facility of the medical personnel to whom disclosure was made
- Name of the individual making the disclosure
- The date and time of the disclosure
- The nature of the emergency

[42 C.F.R. § 2.51(c)]

Citations & Related Guidance

[42 C.F.R. § 2.1 § 290ee-3 (b)(2)(A); 42 C.F.R. § 2.51(a); 42 C.F.R. § 2.51(c); 45 C.F.R. § 164.502(b), and § 164.514(d); 45 C.F.R. § 164.510(b)(3); CA Civil Code Section 56.10(c)(1); CA Health and Safety Code § 11845(c)(2); CA Welfare and Institutions Code § 5328(a).]

[Guidance on Behavioral Health Authorization Requirements – Appendix 2; Guidance on Court Orders (future).]
Other Resources

- SHIG Document
- One Sheet
- Website
- Newsletter Copy
- Talking Points
- Webinars
A Great Beginning

The SHIG is a first step.

Ongoing dialogue will continue to improve appropriate sharing of health information.

Possible future additions include HIV/AIDS, foster children, minors, criminal justice, and more.
The SHIG is for YOU!

SHIGinformation@ohi.ca.gov

http://www.chhs.ca.gov/OHII/Pages/shig.aspx