The HIPAA Privacy Rule only applies to Covered Entities and Business Associates – however California health laws can apply to other entities that have health information.

For clarity – ***a patient authorization is defined as*** “a detailed document that gives covered entities permission to use health information for specified purposes which are generally other than treatment, payment, or healthcare operations, or to disclose health information to a third party specified by the individual. Relates to past, present, or future physical or mental conditions.”[[1]](#footnote-1)

The following assumptions apply for all emergency scenarios presented in this document:

* Health information covered by HIPAA to be disclosed or shared[[2]](#footnote-2) in an emergency
* If the scenario is a situational emergency, needing care is a medical emergency

Emergency Scenario– **Treatment:** *To another covered entity providing treatment, including during a medical emergency*

|  |  |
| --- | --- |
| **Medical, Dental, Vision** (Civil Code 56 et seq) | YES[[3]](#footnote-3) |
| **Behavioral Health –** **Mental Health** (Welfare & Institutions Code 5328 et seq) | YES |
| **Behavioral Health –** **Substance Use Disorder (SUD) / Medication Assisted Treatment (MAT)** (42 C.F.R Part 2; Health & Safety Code § 11845.5) | Yes, for non-medical emergencies, when within the same program; otherwise with patient authorization. No patient authorization is necessary during a medical emergency. |
| **Developmental Disabilities** (Welfare & Institutions Code 4514 et seq) | YES |
| **HIV/AIDS** (Health & Safety Code § 120980) | YES |

Emergency Scenario– **To prevent a Serious or Imminent Danger:** *With anyone necessary to prevent or lessen a serious or imminent threat of harm to the health or safety of a person or the public*

|  |  |
| --- | --- |
| **Medical, Dental, Vision** (Civil Code 56 et seq) | YES[[4]](#footnote-4) |
| **Behavioral Health –** **Mental Health** (Welfare & Institutions Code 5328 et seq) | YES |
| **Behavioral Health –** **SUD/MAT** (42 C.F.R Part 2; Health & Safety Code § 11845.5) | Yes[[5]](#footnote-5), if the report is for child abuse or does not include information that identifies the patient as having or having had a SUD. Otherwise a court order or authorization is required. |
| **Developmental Disabilities** (Welfare & Institutions Code 4514 et seq) | YES |
| **HIV/AIDS** (Health & Safety Code § 120980) | Yes, with patient authorization. |

Emergency Scenario– **Public Health:** *To a Public Health Authority*

|  |  |
| --- | --- |
| **Medical, Dental, Vision** (Civil Code 56 et seq)  | YES[[6]](#footnote-6) |
| **Behavioral Health –** **Mental Health** (Welfare & Institutions Code 5328 et seq) | Yes, when required by law or with patient authorization. |
| **Behavioral Health –** **SUD/MAT** (42 C.F.R Part 2; Health & Safety Code § 11845.5) | Yes, with patient authorization. |
| **Developmental Disabilities** (Welfare & Institutions Code 4514 et seq) | Yes, when required by law or with patient authorization. |
| **HIV/AIDS** (Health & Safety Code § 120980) | Yes, with patient authorization. |

Emergency Scenario– **Notifications – to locate or identify[[7]](#footnote-7):** *Law Enforcement/First Responders*

|  |  |
| --- | --- |
| **Medical, Dental, Vision** (Civil Code 56 et seq)  | YES |
| **Behavioral Health –** **Mental Health** (Welfare & Institutions Code 5328 et seq) | Yes, if the disclosure is to aid the patient. |
| **Behavioral Health –** **SUD/MAT** (42 C.F.R Part 2; Health & Safety Code § 11845.5) | Yes[[8]](#footnote-8), if the disclosure does not include information that identifies the patient as having or having had a SUD. |
| **Developmental Disabilities** (Welfare & Institutions Code 4514 et seq) | Yes, if the disclosure is to aid the patient. |
| **HIV/AIDS** (Health & Safety Code § 120980) | Yes, with patient authorization. |

Emergency Scenario– **Notifications – to locate or identify[[9]](#footnote-9):** *Family/Friends/Caregivers – identified by patient as involved with care*

|  |  |
| --- | --- |
| **Medical, Dental, Vision** (Civil Code 56 et seq)  | Yes, with verbal permission or professional judgement. |
| **Behavioral Health –** **Mental Health** (Welfare & Institutions Code 5328 et seq) | YES |
| **Behavioral Health –** **SUD/MAT** (42 C.F.R Part 2; Health & Safety Code § 11845.5) | Yes, with patient authorization. |
| **Developmental Disabilities** (Welfare & Institutions Code 4514 et seq) | YES |
| **HIV/AIDS** (Health & Safety Code § 120980) | Yes, with patient authorization. |

Emergency Scenario– **Notifications – to locate or identify[[10]](#footnote-10):** *Disaster Relief Organizations[[11]](#footnote-11)*

|  |  |
| --- | --- |
| **Medical, Dental, Vision** (Civil Code 56 et seq)  | YES  |
| **Behavioral Health –** **Mental Health** (Welfare & Institutions Code 5328 et seq) | YES |
| **Behavioral Health –** **SUD/MAT** (42 C.F.R Part 2; Health & Safety Code § 11845.5) | Yes, if the disclosure does not include information that identifies the patient as having or having had a SUD or with patient authorization. |
| **Developmental Disabilities** (Welfare & Institutions Code 4514 et seq) | YES |
| **HIV/AIDS** (Health & Safety Code § 120980) | YES |

Emergency Scenario– **Facility Directory (for transport/evacuation):** *Law Enforcement/First Responders*

|  |  |
| --- | --- |
| **Medical, Dental, Vision** (Civil Code 56 et seq)  | YES  |
| **Behavioral Health –** **Mental Health** (Welfare & Institutions Code 5328 et seq) | YES |
| **Behavioral Health –** **SUD/MAT** (42 C.F.R Part 2; Health & Safety Code § 11845.5) | Yes, if the disclosure does not include information that identifies the patient as having or having had a SUD or with patient authorization |
| **Developmental Disabilities** (Welfare & Institutions Code 4514 et seq) | YES |
| **HIV/AIDS** (Health & Safety Code § 120980) | Yes, with patient authorization. |

Emergency Scenario– **Facility Directory (for transport/evacuation):** *Family/Friends*

|  |  |
| --- | --- |
| **Medical, Dental, Vision** (Civil Code 56 et seq)  | YES  |
| **Behavioral Health –** **Mental Health** (Welfare & Institutions Code 5328 et seq) | YES |
| **Behavioral Health –** **SUD/MAT** (42 C.F.R Part 2; Health & Safety Code § 11845.5) | Yes, if the disclosure does not include information that identifies the patient as having or having had a SUD or with patient authorization. |
| **Developmental Disabilities** (Welfare & Institutions Code 4514 et seq) | YES |
| **HIV/AIDS** (Health & Safety Code § 120980) | Yes, with patient authorization. |

1. <https://www.hhs.gov/hipaa/for-professionals/faq/264/what-is-the-difference-between-consent-and-authorization/index.html> [↑](#footnote-ref-1)
2. For most disclosures, a covered entity must make reasonable efforts to limit the information disclosed to that which is the “minimum necessary” to accomplish the purpose. See 45 C.F.R. §§ 164.502(b) and 164.514(d). This does not apply to disclosures for treatment purposes. [↑](#footnote-ref-2)
3. 45 C.F.R. §§ 164.502(a)(1)(ii) and 164.506(c). [↑](#footnote-ref-3)
4. See 45 C.F.R. § 164.512(j). [↑](#footnote-ref-4)
5. 42 CFR §2.12(c)(6) and 2.63; Health & Safety Code § 11845.5(c)(2). [↑](#footnote-ref-5)
6. See 45 C.F.R. §§ 164.501 and 164.512(b)(1)(i).  [↑](#footnote-ref-6)
7. See 45 C.F.R. § 164.510(b)(4). [↑](#footnote-ref-7)
8. 42 C.F.R. § 2.12 and Health & Safety Code § 11845.5(a). [↑](#footnote-ref-8)
9. See 45 C.F.R. § 164.510(b)(4). [↑](#footnote-ref-9)
10. See 45 C.F.R. § 164.510(b)(4). [↑](#footnote-ref-10)
11. When authorized by law or by their charter to assist in disaster relief efforts, for the purpose of coordinating the notification of family members or other persons involved in the patient’s care. [↑](#footnote-ref-11)