

New Privacy Protections Under SB 138

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Objectives

After this session participants will be able to:

- Explain the loopholes in insurance confidentiality law that allow disclosure of private information
- Describe what a Confidential Communications Request is and what it will do
- Discuss when a Confidential Communications Request can be submitted

ACA Implementation in California: Expanding Health Care Coverage

3.3 million newly insured

- 161,762 young adults
- 1.9 million Medi-Cal
- 1.4 million Covered California
 - 1,222,320 with subsidies

Enrollment Statistics

Covered California Enrollment Statistics April 17, 2014



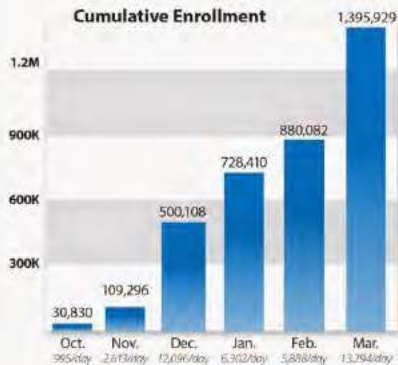
Covered California
Enrollment
Individuals Who Selected Plans

1,395,929

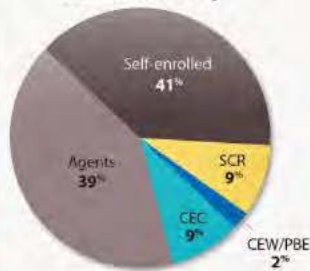
Subsidy eligible 1,222,320
Not subsidy eligible 173,609



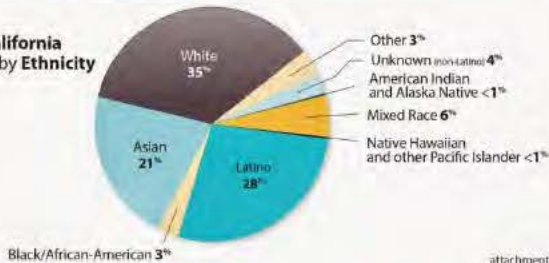
Cumulative Enrollment



Enrollment Pathway



Covered California Enrollment by Ethnicity



attachment 1

Medi-Cal Enrollment Statistics March 31, 2014



Medi-Cal
Enrollment*

1,930,000

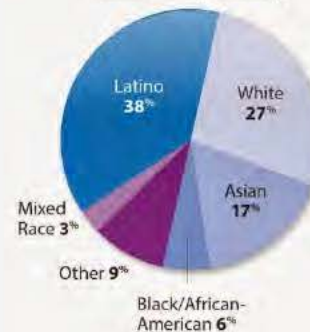
Transitioning from LIHP 650,000
Express Lane 180,000



Likely eligible* — 800,000

*Number reflects new Medi-Cal applicants and some ongoing caseload eligibility activity that is conducted via the state's marketplace.

Medi-Cal Enrollment by Ethnicity



Medi-Cal Enrollment by Language



attachment 2

ACA Implementation in California: 2nd Wave of Enrollment to Date

290,796 new applicants

- 160,557 Medi-Cal
- 130,239 Covered California

ACA Implementation in California: Preventive Services

Services that must be provided without cost to patients include:

- Contraception
- STD screening
- Some cancer screenings
- Depression screening
- Domestic violence screening + counseling

This is GREAT but...

Will individuals with health insurance
under another person's plan

FEEL SAFE ENOUGH TO USE IT?

Current Laws to Protect Confidentiality

- HIPAA protects the confidentiality of health information held by covered providers and insurers.
- California statutes also protect the confidentiality of health information held by providers and insurers.
- Other laws and regulations may apply in addition to or in lieu of HIPAA and state medical confidentiality law.

Current Laws to Protect Confidentiality

General Rule under HIPAA and CA law:

Providers and insurers must protect the confidentiality of personal health information.

Usually, they must have a signed “authorization” in order to share protected health information.

More Privacy Protections Needed to Keep It Confidential

Exceptions in confidentiality law allow disclosure without patient knowledge:

- Reporting certain violence
- Child abuse reporting
- Sharing for health care operations
- Billing and payment processing

Unauthorized Disclosures of Confidential Health Information to Policyholders

Common insurance communications that can reveal patient information:

- Explanation of Benefits forms
- Denial of Claims notices
- Quality improvement surveys
- Requests for additional information
- Payment of claims notices

Lack of Confidentiality Protections Can Lead to Harm

- Patients forgo care for sensitive issues.
- Survivors of violence choose not to seek care when there is risk an abusive partner may find out.
- Patients with private insurance choose to enroll in public insurance plans to avoid privacy breaches.
- Or Worse...

Any Confidentiality Protections in HIPAA?

1. Right to Request Restricted Communications
 - Must permit patients to request
 - Insurers not required to accept requests
2. Right to **Confidential Communications Request** (receive communications by alternative means or at alternative locations)
 - Must permit patients to request
 - Must accommodate reasonable requests if the patient clearly states the disclosure could endanger the patient

New Confidentiality Protections in California Law Under SB 138

- SB 138 (Hernandez) – the Confidential Health Information Act
- Passed and signed in 2013
- Takes effect January 1, 2015
- Requires compliance when Confidential Communication Requests are submitted when:
 - Individuals seek sensitive services
 - Individuals believe disclosure could lead to harm or harassment

How Will it Work?

1. Patient **submits confidential communication request** to insurer verbally or in writing.
2. Patient must **provide an alternate address and/or preferred form of communication** as part of CCR.
3. Insurer has **7 or 14 days** to implement.
4. CCR lasts until the patient sends in another one or tells the insurer that he/she wants to cancel it.
5. The CCR does not limit provider from talking to patient or patient's insurer.

Questions?

Examples of Frequently Asked Questions:

- How old does someone have to be to submit a CCR?
- What about co-pays? Who is responsible for paying those?
- What obligations does this put on providers of care?

What's Been Done So Far?

- Stakeholder Roundtables
- Discussions with Health Plans
- Confidential Request Form
- Provider Training Materials
- Keep it Confidential Campaign Materials
- myhealthmyinfo.org

myhealthmyinfo.org

KEEP IT CONFIDENTIAL.

Your health insurance plan does NOT keep your health information private unless...

YOU TAKE ACTION.

If you have health insurance under another person's health plan—like your parent or spouse—Your health plan will send them information on WHERE and WHEN you access health care and WHAT health care services or tests you receive.

If you want to Keep it Confidential—submit a Confidential Communication Request to your health plan. They will have to accept it, NO QUESTIONS ASKED if you:

- 1 Know your health plan and policy number
- 2 Contact your health plan
- 3 Submit a confidential communications request

FIND YOUR HEALTH PLAN

FOR PROVIDERS

You can do this if you:

- Get sensitive services like birth control, STD/pregnancy tests or mental health care
- Think you could be at risk if your private health information about any health care service was shared

SHARE THESE RESOURCES

FAQ

DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

KEEP IT CONFIDENTIAL is a project of the California Family Health Council, National Center for Youth Law, and the ACLU. | ©2014 All rights reserved.
The images used on this website are for illustrative purposes only; any person depicted in these images is a model.

myhealthmyinfo.org

myhealthmyinfo.org Provider Resources

The screenshot shows a web browser window displaying the myhealthmyinfo.org website. The browser's address bar shows the URL 'http://myhealthmyinfo.org/privacy-resources'. The website has a blue header with the text 'KEEP IT CONFIDENTIAL.' and a yellow button labeled 'RETURN HOME'. Below the header, there is a large image of a smiling woman with long dark hair wearing a yellow cardigan over a red and white striped shirt. To the right of the image, there is a paragraph of text explaining the importance of safeguarding patient health information and listing the organizations involved in developing the resources: the ACLU of California, California Family Health Council, and the National Center for Youth Law. Below this text is a section titled 'RESOURCES' with a link to 'Download Confidential Request Form'. Underneath, there are two categories: 'WALLET CARDS' and 'INFO SHEETS'. Each category has a 'KEEP IT CONFIDENTIAL' badge and a list of resources. The 'WALLET CARDS' section includes a 'Wallet Card' and a 'Wallet Card (with Bleeds + Crop Marks)'. The 'INFO SHEETS' section includes five flyers, each with a 'KEEP IT CONFIDENTIAL' badge and a title: 'Flyer 1 (with Bleeds + Crop Marks)', 'Flyer 2 (with Bleeds + Crop Marks)', 'Flyer 3 (with Bleeds + Crop Marks)', 'Flyer 4 (with Bleeds + Crop Marks)', and 'Flyer 4 (with Bleeds + Crop Marks)'. On the right side of the page, there is a section titled 'You can do this if you:' with two bullet points: 'Get sensitive services like birth control, STD/pregnancy tests or mental health care' and 'Think you could be at risk if your private health information about any health care service was shared'. Below this is a 'SHARE THESE RESOURCES' section with social media icons for Facebook, Twitter, and LinkedIn. At the bottom of the page, there are three buttons: 'FAQ', 'DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM', and 'FIND YOUR HEALTH PLAN' with a search icon. The browser's taskbar at the bottom shows various icons and the system clock indicating 2:11 PM on 12/11/2014.

KEEP IT CONFIDENTIAL.

RETURN HOME

You can do this if you:

- Get sensitive services like birth control, STD/pregnancy tests or mental health care
- Think you could be at risk if your private health information about any health care service was shared

SHARE THESE RESOURCES

FAQ

DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

FIND YOUR HEALTH PLAN

RESOURCES

Download Confidential Request Form

WALLET CARDS

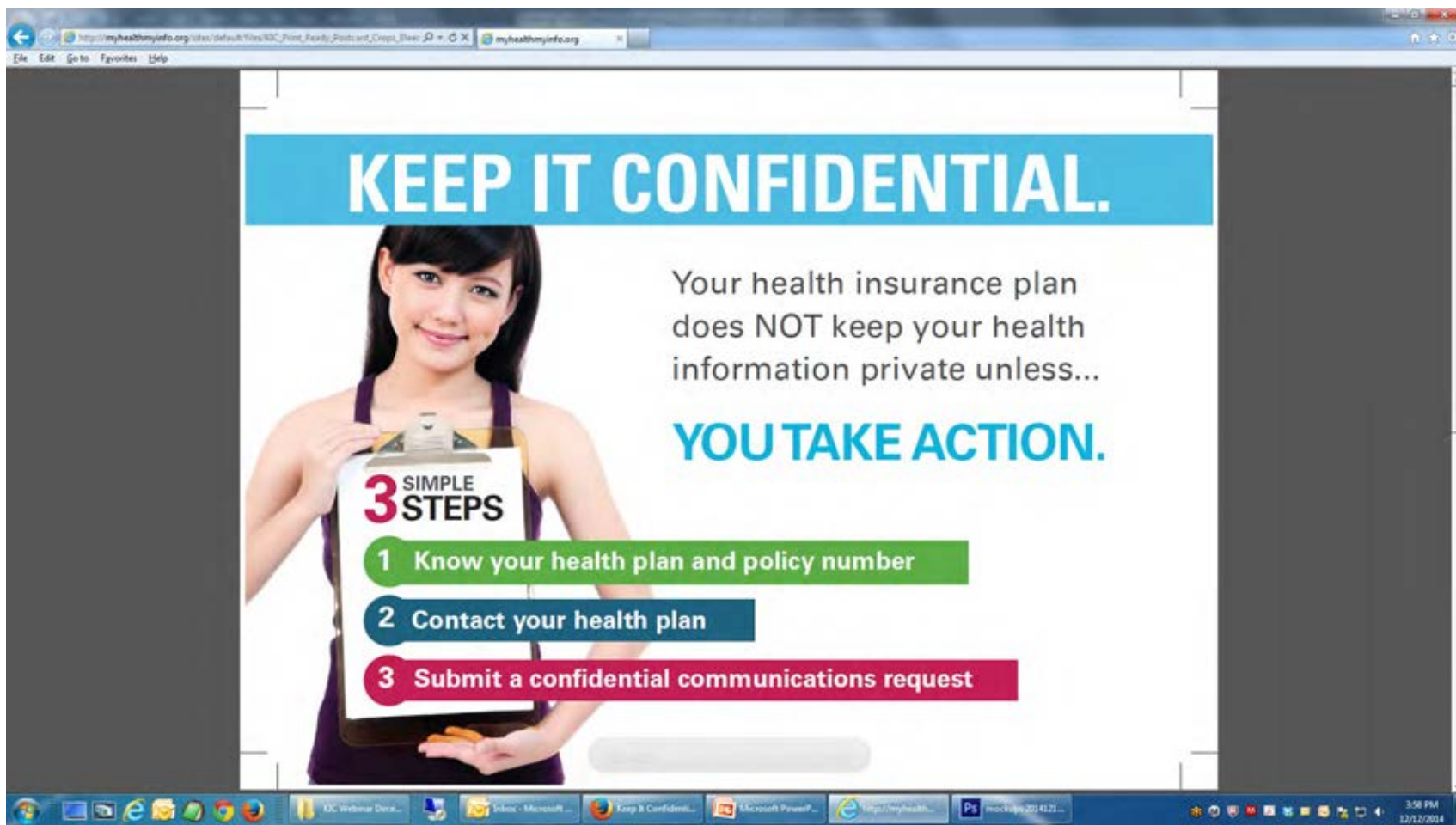
KEEP IT CONFIDENTIAL **Wallet Card**
Wallet Card (with Bleeds + Crop Marks)

INFO SHEETS

KEEP IT CONFIDENTIAL **Flyer 1 (with Bleeds + Crop Marks)**
Flyer 2 (with Bleeds + Crop Marks)
Flyer 3 (with Bleeds + Crop Marks)
Flyer 4 (with Bleeds + Crop Marks)
Flyer 4 (with Bleeds + Crop Marks)

myhealthmyinfo.org

Patient Education Materials



KEEP IT CONFIDENTIAL.

Your health insurance plan does NOT keep your health information private unless...

YOU TAKE ACTION.

3 SIMPLE STEPS

- 1 Know your health plan and policy number
- 2 Contact your health plan
- 3 Submit a confidential communications request

The screenshot shows a web browser window with the URL http://myhealthmyinfo.org/sites/default/files/3C_Front_Feely_Postcard_Crept_Step3. The browser's address bar and menu bar are visible at the top. The main content area displays the educational material. At the bottom, the Windows taskbar is visible, showing various application icons and the system clock indicating 3:58 PM on 12/11/2014.

myhealthmyinfo.org

myhealthmyinfo.org

Confidential Communications Request Form

http://myhealthmyinfo.org/sites/default/files/DRAFT-california-confidential-comm... myhealthmyinfo.org

File Edit Go to Favorites Help

Confidential Communications Request

TO: _____
Name of your Health Insurance Company

FROM: _____ **Insurance Member #:** _____
Your Name

This request pertains to the following information:
(Please check one or both boxes below)

All medical information related to my receipt of sensitive services including protected health information and providers' names and addresses.

All my medical information/protected health information because disclosure of all or part of my medical information or my providers' names and addresses could put my well-being at risk or could subject me to harassment or abuse. (You will never be asked to explain why you feel this way.)

I, _____, request that communications containing any of the above information be sent to me, under my name, as follows.
(Please mark the way(s) that are safe for you to receive information. If you mark more than one way, put a "1" next to your first choice, "2" next to your second choice and so on.)

Email to the following email address: _____

Message through my online insurance patient portal: _____

Text to the following telephone #: _____

Other way your insurance company communicates:
(please describe) _____

U.S. Mail to the address below

IMPORTANT! The following section must be completed:
If a communication cannot be sent in the above selected format(s), then it should be sent U.S. Mail to me at the following address:
Address: _____

This request is valid until I submit a revocation or a new request.

Signature: _____ **Date:** _____

DRAFT 2-7-14

3:57 PM 12/11/2014

myhealthmyinfo.org

myhealthmyinfo.org

Frequently Asked Questions

KEEP IT CONFIDENTIAL.

[RETURN HOME](#)

SHARE THESE RESOURCES

[f](#) [t](#) [s](#)

FAQ

[DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM](#)

Why is this important?

- [What is the problem this fixes?](#)
- [Why does my insurance company send information to the policyholder, in the first place?](#)
- [Who should think about submitting a Confidential Communications Request \(CCR\)?](#)

The basics of a Confidential Communications Request

- [What is a Confidential Communications Request \(CCR\)?](#)
- [Does an insurance company have to agree to my Confidential Communications Request \(CCR\) request?](#)
- [Does sending in a request mean that the insurance company cannot send communications out about me and my health treatment at all?](#)

Completing a Confidential Communications Request

- [What does a Confidential Communications Request \(CCR\) need to look like? What do I need to say or include in one?](#)
- [Does a Confidential Communications Request \(CCR\) have to be in writing?](#)

Timing of requests and health appointments

[Could I have my Confidential Communications Request \(CCR\) done before my doctor's appointment?](#)

2:07 PM 12/11/2014

myhealthmyinfo.org

Search for Health Plans

The screenshot shows a web browser window with the URL <http://myhealthmyinfo.org/insurance/contact-search?site=aetna&Submit>. The page features a blue header with the text "KEEP IT CONFIDENTIAL." and a yellow "RETURN HOME" button. On the left, a man in a maroon cardigan stands with his arms crossed. The main content area is titled "Search Results" and displays the Aetna logo and contact information: "Aetna HIPAA Member Rights Team Aetna Inc. 151 Farmington Avenue - RT65 Hartford, CT 06156 Phone number not available Email address not available". Below this, a message reads: "Can't find your health plan? No customer service number or email? Check your insurance card for a Customer Service number. When you call, ask them where to send your Confidential Communication Request." Two buttons are visible: "Frequently Asked Questions" and "Confidential Communications Request". On the right, a section titled "You can do this if you:" lists two bullet points: "Get sensitive services like birth control, STD/pregnancy tests or mental health care" and "Think you could be at risk if your private health information about any health care service was shared." Below this is a "SHARE THESE RESOURCES" section with social media icons for Facebook, Twitter, and LinkedIn. Further down are buttons for "FAQ", "DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM", and "FIND YOUR HEALTH PLAN" with a search bar containing "aetna". The Windows taskbar at the bottom shows various open applications and the system clock at 2:04 PM on 12/11/2014.

KEEP IT CONFIDENTIAL.

RETURN HOME

Search Results

aetna Aetna
HIPAA Member Rights Team
Aetna Inc.
151 Farmington Avenue - RT65
Hartford, CT 06156
Phone number not available
Email address not available

Can't find your health plan? No customer service number or email? Check your insurance card for a Customer Service number. When you call, ask them where to send your Confidential Communication Request.

Frequently Asked Questions

Confidential Communications Request

You can do this if you:

- Get sensitive services like birth control, STD/pregnancy tests or mental health care
- Think you could be at risk if your private health information about any health care service was shared.

SHARE THESE RESOURCES

FAQ

DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

FIND YOUR HEALTH PLAN
aetna

2:04 PM
12/11/2014

myhealthmyinfo.org

myhealthmyinfo.org

Contact Form

KEEP IT CONFIDENTIAL.

RETURN HOME

California law SB 138 allows individuals insured under another person's health plan policy (like a parent or spouse) to submit a Confidential Communication Request (CCR) to their health plan if they need or want to keep information about the health care services they receive while using their insurance confidential. [\(Learn more in our FAQs.\)](#) SB 138 requires all health plans to honor and implement this request. If you need help submitting a CCR to your health plan or would like to report a health plan for not complying with SB 138, please complete and submit the form below.

I need help *

- Completing and submitting a CCR
- Because my CCR was rejected by my insurance company
- Because my insurance company violated my CCR and sent information to the policyholder without my permission
- Other

Your Name *

Your Health Plan *

Your Age *

- under 18 years old
- 18-26
- 26 or older

You can do this if you:

- Get sensitive services like birth control, STD/pregnancy tests or mental health care
- Think you could be at risk if your private health information about any health care service was shared

SHARE THESE RESOURCES

FAQ

DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

FIND YOUR HEALTH PLAN

3:55 PM 12/12/2014

myhealthmyinfo.org