

KEEPING IT CONFIDENTIAL IN CALIFORNIA

CA's Confidential Health Information Act: Lessons Learned + Best Practices to Date

Amy Moy

California Family Health Council

Ruth Dawson

ACLU of Southern California

About Us: CFHC

California Family Health Council (CFHC)

- Champion + promote quality sexual + reproductive health care for all
- cfhc.org
- TeenSource.org/TalkWithYourKids.org
- [@calfamhealth](https://twitter.com/calfamhealth)



myhealthmyinfo.org

About Us: ACLU SoCal

ACLU of Southern California

- Multi-issue organization protecting civil rights and liberties for all, particularly the historically disenfranchised
- Integrated advocacy model: litigation, policy advocacy, community engagement
- LGBTQ, Gender & Reproductive Justice Project
- www.aclusocal.org
- @ACLU_SoCal   

Objectives

After this webinar you will be able to:

1. Describe the confidentiality protections in CHIA
2. Discuss best practices for implementation, including increasing awareness about the new law
3. Share resources for patient and provider education

A Time for Action

Affordable Care Act = Health Insurance Reform

- More People Insured
- Young Adults Can Stay on Parent's Insurance
- Preventive Services Available at No-Cost

California

- Commitment to Health Care Reform
 - Covered California
 - Medi-Cal -> Medi-Cal Managed Care

This is GREAT but...

Do individuals with health insurance
under another person's plan

FEEL SAFE ENOUGH TO USE IT?

Keeping it Confidential

**STATE + FEDERAL CONFIDENTIALITY
PROTECTIONS**

Existing 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.

Existing 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?

- Right to Request Restricted Communications
 - Must permit patients to request
 - Insurers not required to accept requests
- 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 Under CHIA

- SB 138 (Hernandez) – the Confidential Health Information Act (CHIA)
- Passed and signed in 2013
- Took effect January 1, 2015

Confidentiality Protections in California Law Under CHIA

- Health care service plans must allow enrollees to submit Confidential Communication Requests (CCRs)
- Plans must comply when Confidential Communication Requests seek confidentiality related to:
 - 1. Sensitive services information
 - 2. All information if individuals state disclosure could endanger the individuals

New Confidentiality Protections in California Law Under CHIA

Key terms defined in new law:

- Communication containing medical information
- Endanger
- Sensitive services

Sensitive Services = Minor Consent

- Pregnancy related care, including abortion and contraception **AT ANY AGE**
- Outpatient mental health counseling, 12 and older
- STD/communicable disease testing/treatment/prevention, 12 and older
- Substance abuse treatment, 12 and older
- Rape/sexual assault treatment
- 15 and older, living apart from parents, and managing own financial affairs

How Does 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?

Implementation + Monitoring

MAKING NEW PROTECTIONS REAL

Implementation + Monitoring

What we are doing:

- Information
- Supporting CCR Submission
- Complaints
- Communication with Insurers

Lessons Learned

Lessons Learned

- Especially Good for Patients 18+
- Submit + Confirm CCRs BEFORE Appt.
- Good for Services Not Covered by Limited Benefit Programs
- Be Prepared to Educate Customer Service
- The More CCRs Submitted, the Better!

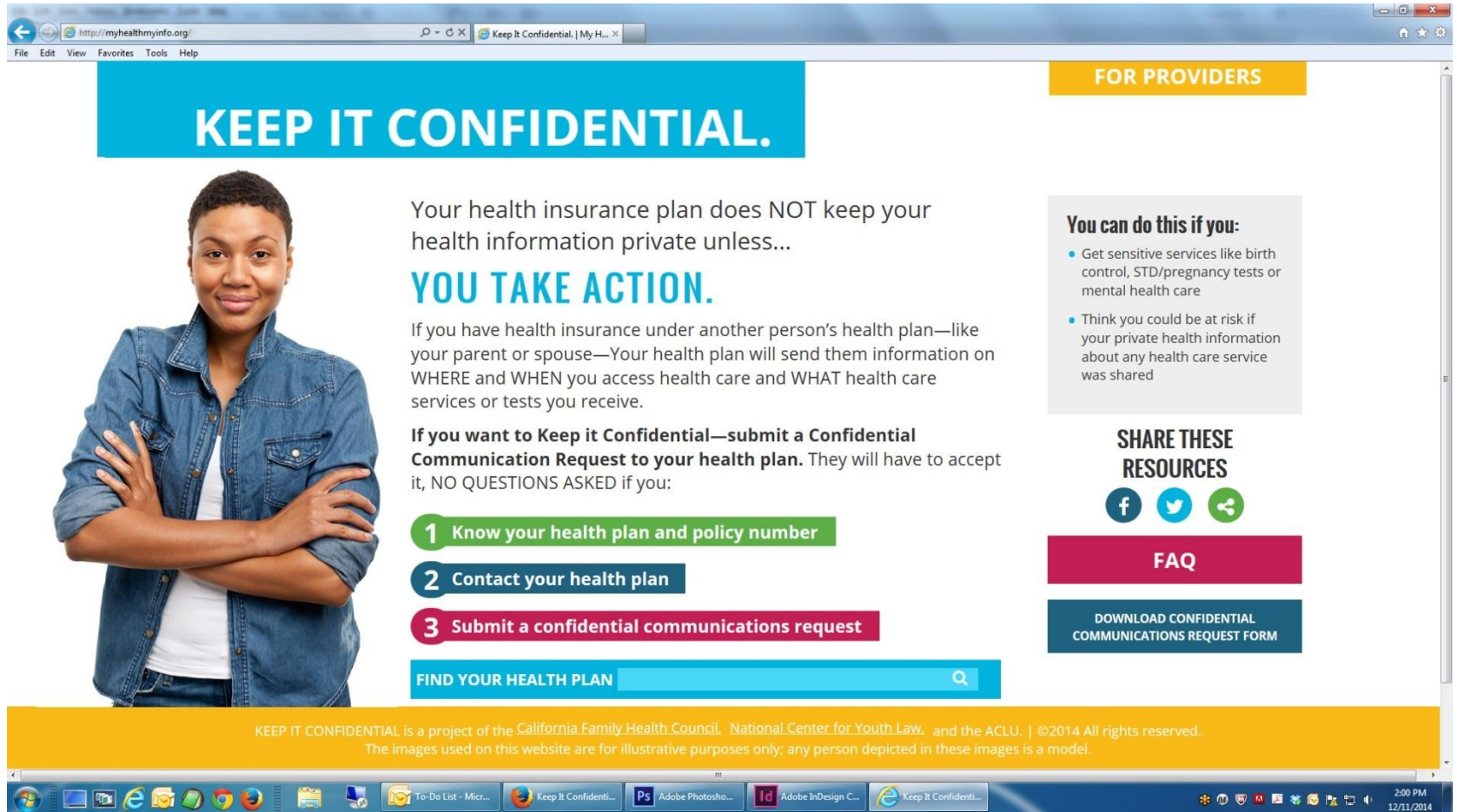
Best Practices for Implementation

1. 360 Staff Training
2. Assign a Patient Advocate
3. Patient Education for All, Multiple Points, ESPECIALLY During Scheduling
4. Incorporate Prompts in EHR/Appt Reminders
5. Have Insurance Co. Info Readily Available

Best Practices for Increasing Patient Awareness

CLIENT EDUCATION + OUTREACH

myhealthmyinfo.org



The screenshot shows a web browser window with the URL <http://myhealthmyinfo.org/>. The browser's address bar and menu bar are visible. The website itself has a blue header with the text "KEEP IT CONFIDENTIAL." in white. Below this, on the left, is a photo of a smiling woman with her arms crossed. To her right, the text reads: "Your health insurance plan does NOT keep your health information private unless... YOU TAKE ACTION." followed by a paragraph explaining that health plans may share information with parents or spouses. Below this is a bold instruction: "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:". To the right of the woman, there is a numbered list of three steps: 1. Know your health plan and policy number, 2. Contact your health plan, and 3. Submit a confidential communications request. Further right, under the heading "FOR PROVIDERS", is a section titled "You can do this if you:" with two bullet points about sensitive services and risk of sharing information. Below that are social media icons for Facebook, Twitter, and Google+, and buttons for "FAQ" and "DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM". At the bottom of the main content area is a search bar labeled "FIND YOUR HEALTH PLAN". The footer of the website is yellow and contains a disclaimer about the project's affiliation with the California Family Health Council, National Center for Youth Law, and the ACLU, along with a copyright notice for 2014. The browser's taskbar at the bottom shows various open applications like Microsoft Word, Photoshop, and InDesign, along with the system clock showing 2:00 PM on 12/11/2014.

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

KEEP IT CONFIDENTIAL.

[RETURN HOME](#)

KEEP IT CONFIDENTIAL.

As providers you have an important role to play in safeguarding your patient's private health information. The resources below were developed to support providers interested in educating their patients about their confidentiality rights and helping them utilize new privacy protections. All patient education and health center staff training materials were developed in partnership by the ACLU of California, California Family Health Council and the National Center for Youth Law and are available to download for free.

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](#)
[Flyer 1 \(with Bleeds + Crop Marks\)](#)
[Flyer 2](#)
[Flyer 2 \(with Bleeds + Crop Marks\)](#)
[Flyer 3](#)
[Flyer 3 \(with Bleeds + Crop Marks\)](#)
[Flyer 4](#)
[Flyer 4 \(with Bleeds + Crop Marks\)](#)

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

[f](#) [t](#) [g](#)

FAQ

DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

FIND YOUR HEALTH PLAN

myhealthmyinfo.org

myhealthmyinfo.org (CCR form)

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

File Edit Go to Fgavorites 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: _____

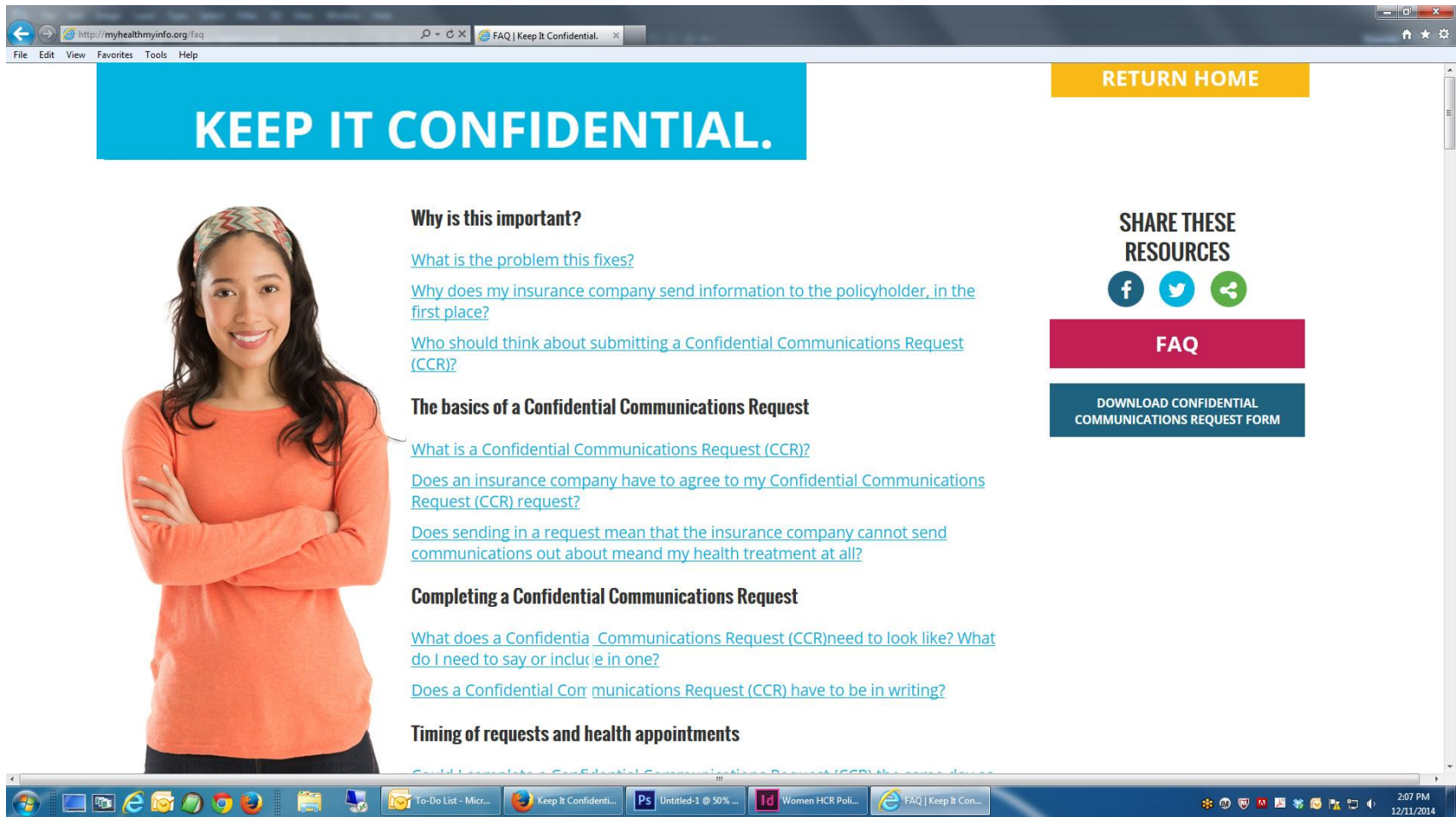
DRAFT 2-7-14

KIC Webinar Dece... Inbox - Microsoft ... Keep It Confidential... Microsoft PowerP... http://myhealth... Ps mockups.2014121...

3:57 PM
12/12/2014

myhealthmyinfo.org

myhealthmyinfo.org (FAQ)



KEEP IT CONFIDENTIAL.

RETURN HOME

SHARE THESE RESOURCES

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 complete a Confidential Communications Request \(CCR\) the same day as...](#)

myhealthmyinfo.org

myhealthmyinfo.org

Search for Health Plans

The screenshot shows a web browser window with the URL <http://myhealthmyinfo.org/insurance-contact-search?title=aetna&=Submit>. The page features a large blue banner at the top with the text "KEEP IT CONFIDENTIAL." and a yellow button labeled "RETURN HOME". On the left, there is a photo of a smiling man with his arms crossed. The main content area is titled "Search Results" and displays the Aetna logo along with contact information for the HIPAA Member Rights Team. Below this, a message advises users to check their insurance card for a Customer Service number if they cannot find their health plan. Two buttons are provided: "Frequently Asked Questions" and "Confidential Communications Request". On the right side, a section titled "You can do this if you:" lists two bullet points about sensitive services and private health information. Below this are links to "SHARE THESE RESOURCES" (Facebook, Twitter, and a share icon), "FAQ", "DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM", and a "FIND YOUR HEALTH PLAN" search bar with "aetna" entered.

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

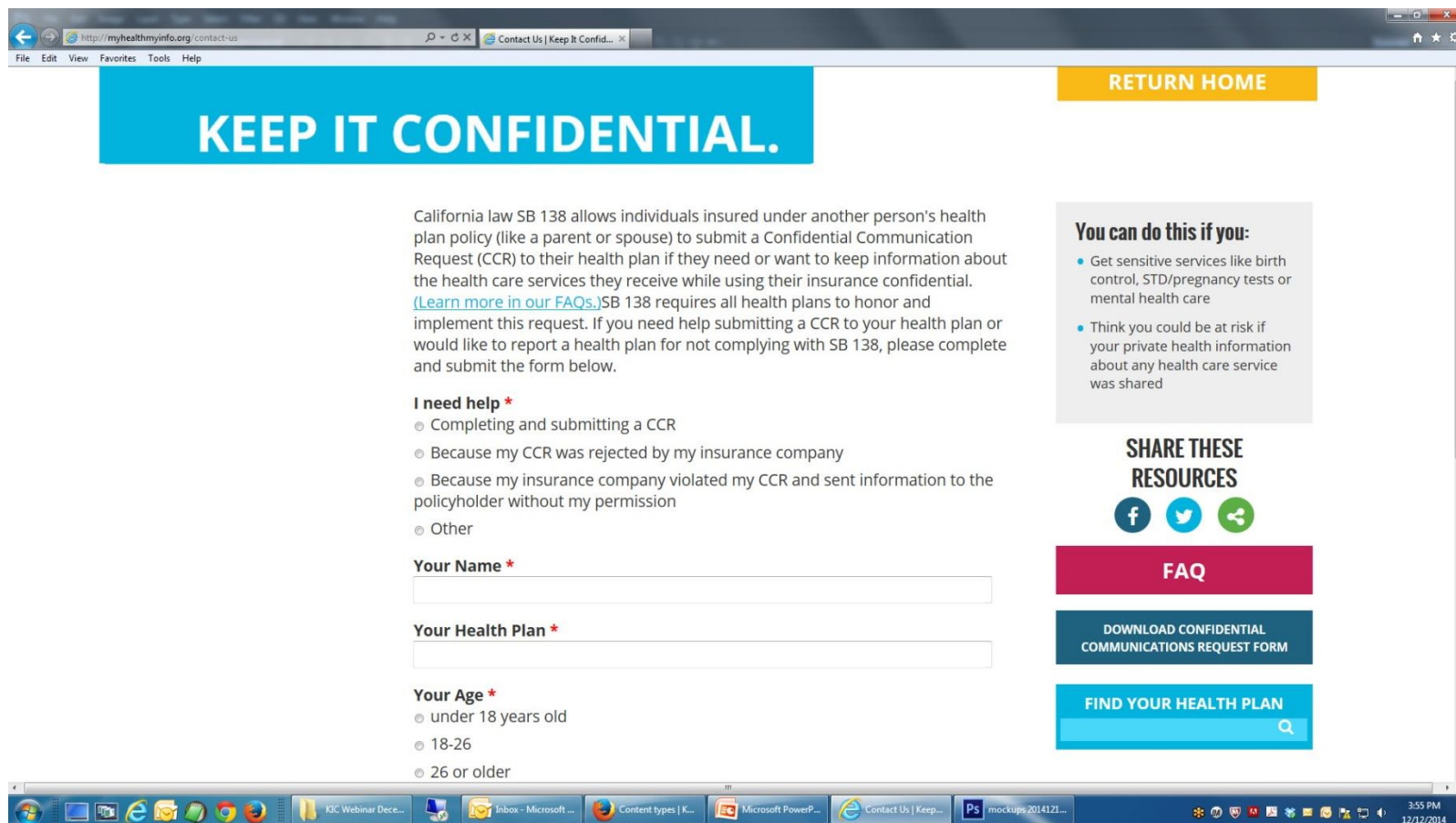
FIND YOUR HEALTH PLAN

aetna

myhealthmyinfo.org

myhealthmyinfo.org

Contact Form



The screenshot shows a web browser window with the URL <http://myhealthmyinfo.org/contact-us>. The page has a blue header with the text "KEEP IT CONFIDENTIAL." and a yellow "RETURN HOME" button. The main content area explains California law SB 138 and provides a form to submit a Confidential Communication Request (CCR). The form includes sections for "I need help" (with radio button options), "Your Name", "Your Health Plan", and "Your Age" (with radio button options). On the right, there is a box titled "You can do this if you:" with two bullet points, a "SHARE THESE RESOURCES" section with social media icons, and 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 open applications and the system clock.

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



myhealthmyinfo.org

Getting the Word Out

CAN MY DOCTOR TELL MY PARENTS I GOT HEALTH CARE?

No.

Your health care provider **cannot tell your parents** that you took a pregnancy test, or that you got an abortion without getting your written permission. **You are protected by the California Constitution and state law!**

If you want your parents involved, you should tell your doctor and ask them to give them permission to share.

If you don't want your doctor to tell your parents, let the doctor know you want to keep your health information private from your parents and tell them to keep the information confidential under California law. Do not sign any document that gives permission to share your information with your parents or adults in your life.

Where does this right come from? It comes from the following state laws:

- The California Confidentiality of Medical Information Act, Cal. Civil Code § 56.02
- The Patient Access to Health Records Act, Cal. Health and Safety Code § 123115(a)(1).

Warning! If you use your parents' insurance to pay for your visit, your parents may be able to find out. Take some additional steps. For information on other ways to pay, click here.

Warning! Even though the law says your doctor cannot share with your parents, your doctor may be able to share certain information with other people. For example, if you are a victim of child abuse, the doctor is required to help. For more information, ask your doctor to explain their confidentiality rules and when the doctor might share information.

PregnantYouth.org

WANT TO GET HEALTH CARE SERVICES ON YOUR OWN?

In California, depending on your age, you can access confidential health care services without parents' or guardians' consent.

YOU RIGHTS!

MINORS OF ANY AGE:

- Contraceptive services: birth control pills, IUDs, emergency contraception, condoms, and more
- Pregnancy testing and prenatal care
- Abortion services
- Emergency medical services

MINORS 12 AND OVER:

- Everything listed above
- STI/HIV testing, treatment, and prevention services including PEP and PrEP
- Mental health services
- Drug and alcohol treatment and support

Under someone else's insurance plan?
Take the next step to ensure your confidentiality.

How to complete your Confidential Communications Request:

- Download the form from MyHealthMyInfo.org
- Have your health plan and policy number ready
- Contact your health plan
- Submit your confidential communications request and confirm that they have received it

PROTECT YOUR INFO

YOU SUPPORT

YourHealthYourRights.org
PregnantYouth.org

THE LAW

SB 138: Confidential Health Information Act (2013): This law ensures confidential access to sensitive services like sexual and reproductive health care and other services. Health plans are required to honor confidential communications when a request is submitted by an individual to communicate with them without the knowledge of the main policy holder such as a parent.

This is a project by Fully Charged Life and LAICSS supported with funds from the Office of Minority Health. #ORHP241004-02-00 (9/30/14-8/31/17)
FullyChargedLife.tumblr.com

FULLY CHARGED LIFE

YOUR HEALTH, YOUR RIGHTS

FREE AND LOW COST SEXUAL HEALTH CARE FOR WOMEN IN CALIFORNIA

FOR TEENS PARA ADULTOS PARA JOVENES HELP & RESOURCES

and hit enter

Know Your Rights - For Teens » Insurance Coverage

Coverage

[Tweet](#) [Share](#)

get birth control if I have insurance?

Insurance, your plan must cover birth control methods, including emergency contraception and intrauterine devices (IUDs), for free (with a few exceptions, for example if you are covered through a religious employer). This means you probably will be able to get birth control without paying anything out of pocket. Call your insurer to learn more and find out if you can get covered contraception. Insurance plans are not required to cover drugs for emergency contraception (see [information on medication abortion](#)) or care related to men's sexual health.

YourHealthYourRights.org

myhealthmyinfo.org

Contact Us With Your Feedback, Ideas + ?s
Thank You!

Amy Moy
moya@cfhc.org

Ruth Dawson
rdawson@aclusocal.org

Learn More at myhealthmyinfo.org