

KEEPING IT CONFIDENTIAL IN CALIFORNIA

New Privacy Protections Under CHIA + Confidential Medical Release refresher

Ruth Dawson

ACLU of Southern California

Christine Parker

UCLA Law

ACA Implementation in California: Expanding Health Care Coverage

4.1 million newly insured

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

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 Info to Policyholders

Common insurance communications that can reveal patient information:

- Explanation of Benefits forms (EOBs)
- 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.
- Etc...

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/ CHIA

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

New Confidentiality Protections in California Law Under CHIA

- Requires compliance when Confidential Communication Requests are submitted in one of two circumstances:
 - 1) Individuals seek sensitive services
 - 2) 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?

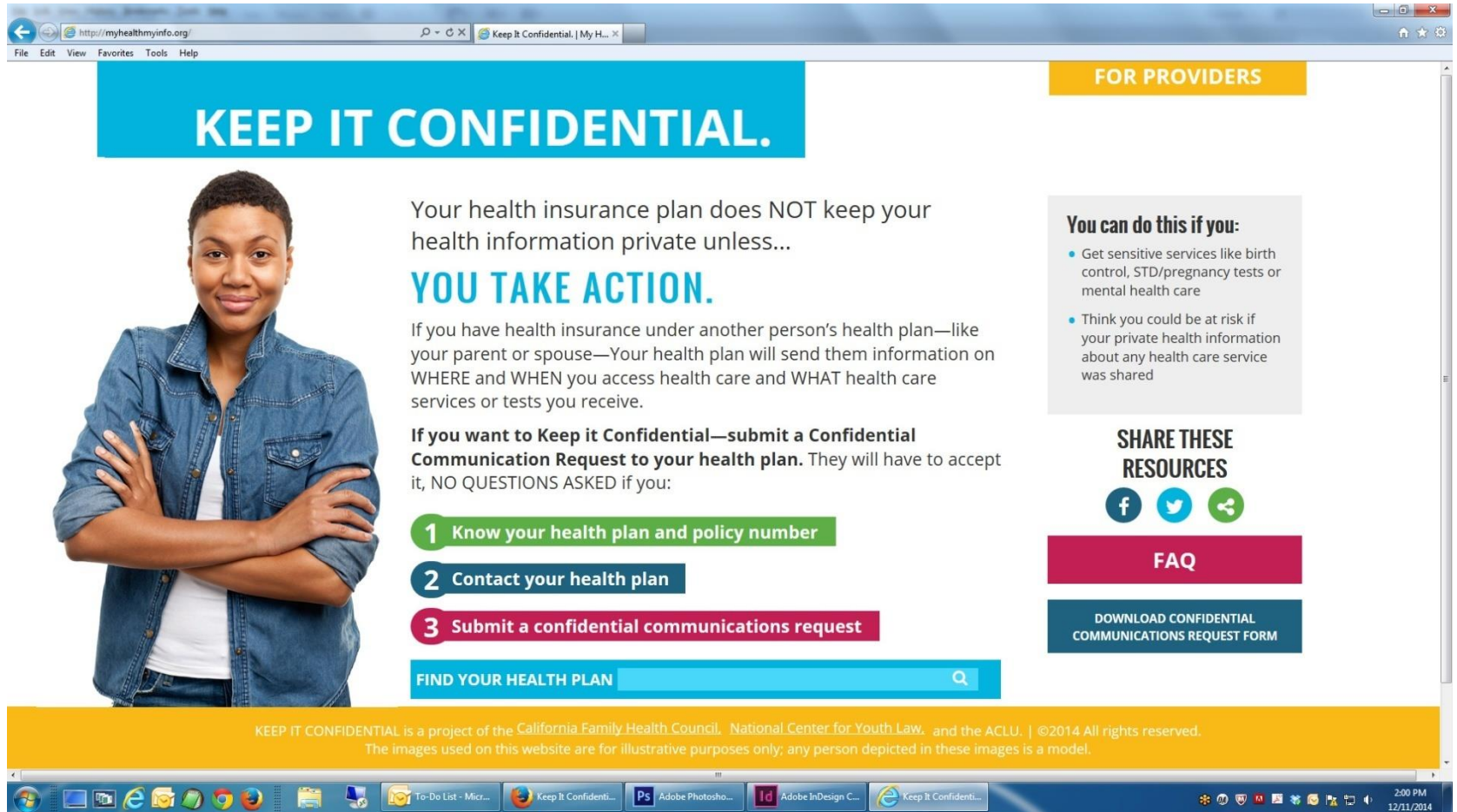
Examples of Frequently Asked Questions:

- 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



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 to submit a Confidential Communication Request. A three-step numbered list follows: 1. Know your health plan and policy number, 2. Contact your health plan, and 3. Submit a confidential communications request. At the bottom of this section is a search bar labeled "FIND YOUR HEALTH PLAN". On the right side of the page, there is a yellow "FOR PROVIDERS" button, a grey box titled "You can do this if you:" with two bullet points about sensitive services and risk, a "SHARE THESE RESOURCES" section with social media icons, a pink "FAQ" button, and a blue "DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM" button. The footer 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 Windows taskbar at the bottom shows various open applications and the system clock indicating 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

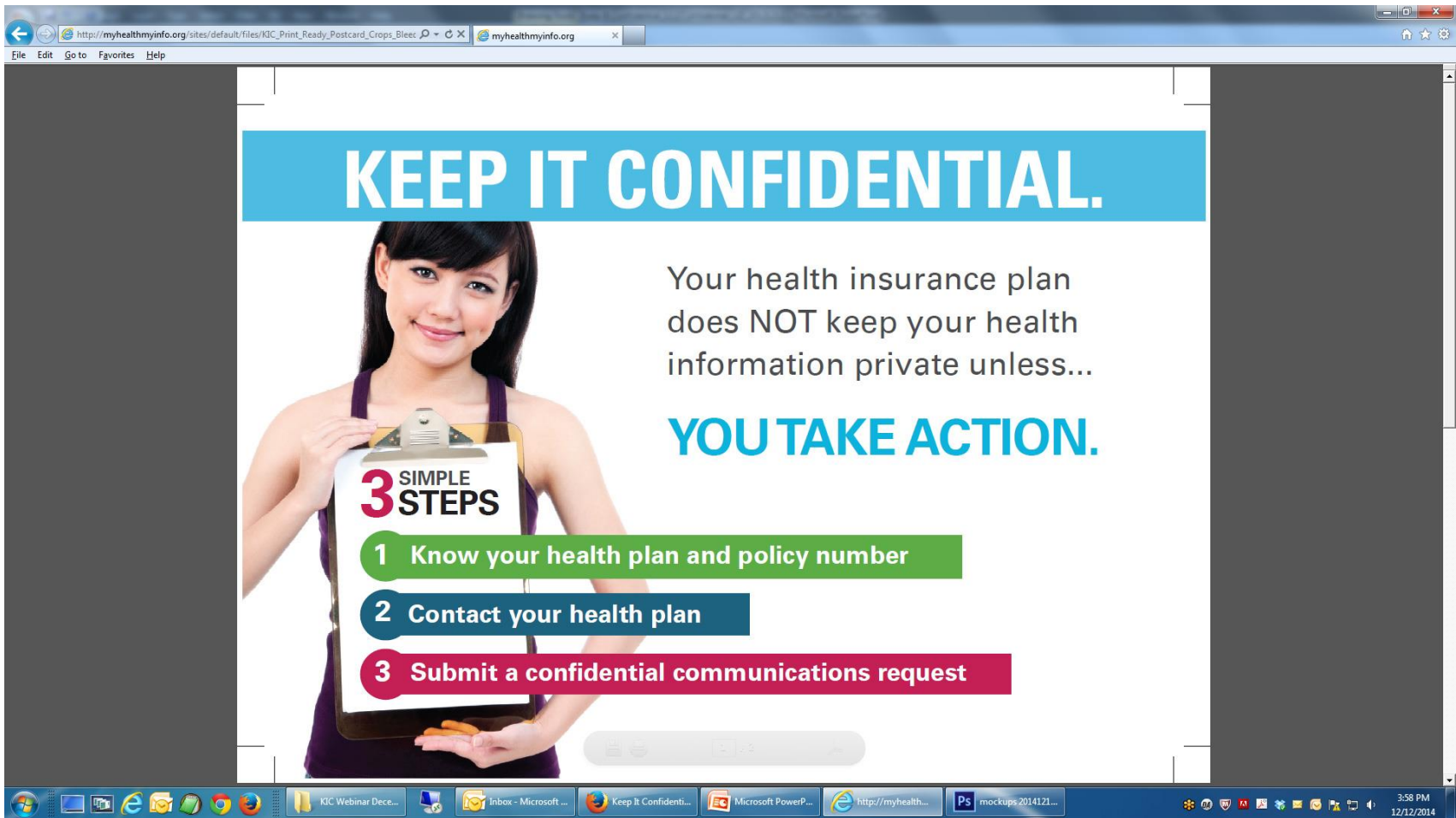
DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

FIND YOUR HEALTH PLAN

myhealthmyinfo.org

myhealthmyinfo.org

Patient Education Materials



The screenshot shows a web browser window with the URL http://myhealthmyinfo.org/sites/default/files/KIC_Print_Ready_Postcard_Crops_Bleed. The browser's address bar and menu bar are visible. The main content area displays a patient education poster. The poster has a blue header with the text "KEEP IT CONFIDENTIAL." in white. Below the header, a woman with dark hair is smiling and holding a clipboard. The clipboard has a white sheet of paper with the text "3 SIMPLE STEPS" in red and black. To the right of the woman, the text reads: "Your health insurance plan does NOT keep your health information private unless..." followed by "YOU TAKE ACTION." in blue. Below this, there are three numbered steps, each in a colored box: 1. Know your health plan and policy number (green), 2. Contact your health plan (blue), and 3. Submit a confidential communications request (red). The browser's taskbar at the bottom shows various icons, including the Windows Start button, Internet Explorer, and several open applications like "KIC Webinar Dece...", "Inbox - Microsoft ...", "Keep It Confident...", "Microsoft PowerP...", and "http://myhealth...". The system clock in the bottom right corner shows "3:58 PM 12/12/2014".

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

myhealthmyinfo.org

myhealthmyinfo.org (CCR form)

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: _____

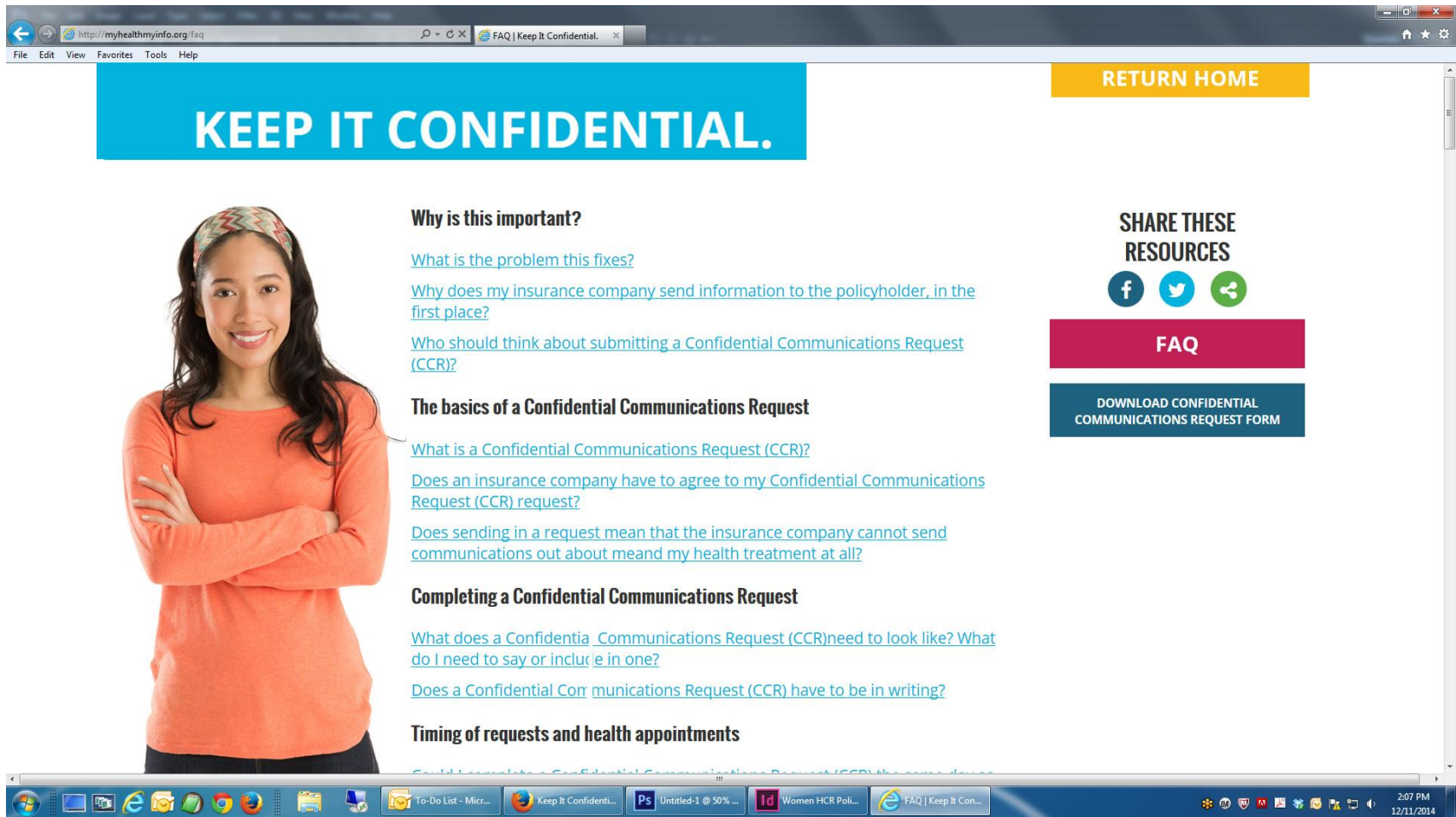
This request is valid until I submit a revocation or a new request.

Signature: _____ **Date:** _____

DRAFT 2-7-14

myhealthmyinfo.org

myhealthmyinfo.org (FAQ)



KEEP IT CONFIDENTIAL.

RETURN HOME

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...](#)

SHARE THESE RESOURCES

FAQ

DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

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 browser's address bar also shows a tab titled "Find Your Health Plan | Kee...". The website's navigation bar includes a blue button labeled "KEEP IT CONFIDENTIAL." and a yellow button labeled "RETURN HOME".

On the left side of the page is a large image of a smiling man with dark hair, wearing a blue shirt and a maroon cardigan, with his arms crossed.

The main content area features a "Search Results" section. It includes the Aetna logo and the following text:

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

Below the search results, 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 below the message:

- [? Frequently Asked Questions](#)
- [↓ Confidential Communications Request](#)

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
- Think you could be at risk if your private health information about any health care service was shared

Below this is a section titled "SHARE THESE RESOURCES" with three social media icons: Facebook, Twitter, and Google+.

Further down are three buttons:

- [FAQ](#)
- [DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM](#)
- [FIND YOUR HEALTH PLAN](#)

The "FIND YOUR HEALTH PLAN" button has a search bar with the text "aetna" and a magnifying glass icon.

The Windows taskbar at the bottom shows several open applications: "To-Do List - Mic...", "Keep It Confidential...", "Ps Untitled-1 @ 50%...", "Id Women HCR Poli...", and "Find Your Health...". The system clock in the bottom right corner shows "2:04 PM 12/11/2014".

myhealthmyinfo.org

myhealthmyinfo.org

Help

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". A sidebar on the right contains a "You can do this if you:" section, "SHARE THESE RESOURCES" with social media icons, and three buttons: "FAQ", "DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM", and "FIND YOUR HEALTH PLAN" with a search icon. The Windows taskbar at the bottom shows various open applications and the system clock at 3:55 PM on 12/12/2014.

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

f t g

FAQ

DOWNLOAD CONFIDENTIAL COMMUNICATIONS REQUEST FORM

FIND YOUR HEALTH PLAN

myhealthmyinfo.org

Implementation Progress

- Patient and provider resources:
 - myhealthmyinfo.org
- Tracking patients' CCRs
- Advocacy with insurance providers

Confidential Medical Release

- Young people 12 years of age or older have the right to leave school to seek confidential medical services. Sensitive services can include but are not limited to:
 - HIV or Sexually transmitted infection (STI) testing
 - Mental health or counseling services
 - Drug or alcohol treatment/ counseling
 - Abortion care
 - Obtaining birth control

Confidential Medical Release

- Students have the right to be excused without the consent or notification of parents/guardians
- Students must be allowed to make up all assignments

Confidential Medical Release

- ACLU + NCYL campaign at school district level
 - Blatantly noncompliant districts
 - Changed ~ 25 noncompliant school districts, assisted numerous others
- Remaining issues:
 - Practical implementation (e.g. robocall systems)

Confidential Medical Release

- We want to hear from you!
 - Did anyone know about CMR rights in CA?
 - CMR violations
 - Can we be a resource?

Thank you!

- Ruth Dawson
 - rdawson@aclusocal.org
- Christine Parker
 - cparker@aclusocal.org