

# Medical Records Law in California

Sacramento, CA • May 11, 2012 • ID# 383635



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Gain new insights in the latest changes to medical records law.

Medical records law continues to evolve and the complexities of how your organization manages these sensitive records now will impact your *legal liability later*. The medical-legal implications of your medical records management practices are far reaching and potentially damaging to your organization.

Proper records management strategy is only a small part of protecting your business from potentially damaging legal issues that will happen without understanding the full scope of what your responsibilities are as it pertains to HIPAA and patient's rights. **Not knowing does not protect your business from financial responsibility for damages.**

Our faculty has extensive experience in all aspects of this complicated subject and will share insights and examples of "**what you must do**" and "**what you should never do**" when handling this very sensitive subject matter.

## You Will Learn

- What is a medical record and what is not
- Knowing and understanding what must be done when a security breach takes place
- How you must handle subpoenas and stay within legal guidelines
- Learn about e-discovery issues and restrictions on the disclosure of medical records

## Faculty

**Moderator:**

**Kathryn Doi**, *Murphy Austin Adams Schoenfeld LLP*

**Jana H. Aagaard**, *Law Office of Jana H. Aagaard*

**Craig C. Allison**, *DLA Piper LLP*

**Marcia L. Augsburger**, *DLA Piper LLP*

**Steven L. Simas**, *Simas & Associates, Ltd.*

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8:30 AM – 9:00 AM

### Registration

9:00 AM – 11:15 AM

(Break 10:30 AM – 10:45 AM)

### Overview of HIPAA and California Health Privacy Law

— *Jana H. Aagaard*

- Very Brief History and Overview of California Privacy Law
- Very Brief History and Overview of Federal Privacy Law

### Medical Records and Designated Records Set in California and Federal Law

- Differences Between Legal Health Record and Designated Record Set
- How the HITECH Act is Changing Health Information Management
- How Meaningful Use is Changing Health Information Management
- How Health Information Exchange is Changing Health Information Management

11:15 AM – 12:00 PM

### Consequences of a Breach – The Rise in Class Action Lawsuits for Privacy Breaches

— *Kathryn Doi*

- How Does the Public Learn About Breaches?
  - Breach Notification Requirements
- Key Elements of the Plaintiff Class Actions
  - Certification of a Class
  - State vs. Federal Court
  - Private Cause of Action
  - Role of Nominal Damages Under Civil Code § 56.36
  - Availability of Equitable Relief
  - Availability of Attorneys' Fees to Plaintiffs' Attorneys
  - Status of Ongoing Cases
- What Can Providers Do to Protect Themselves? How Much Does Encryption Help?

12:00 PM – 1:00 PM

### Lunch (On Your Own)

1:00 PM – 1:45 PM

### Medical Records as a Defense to Your License to Practice

— *Steven L. Simas*

- Medical Board and Other Agencies Expectations for Recordkeeping
- How Licensing Agencies Build Cases Upon Medical Records
- Accusations and Citations For Improper Recordkeeping

1:45 PM – 2:45 PM

### Release of Records in Response to Requests of Law Enforcement and Regulatory Agencies

— *Craig C. Allison*

- General Principles
- Release to Law Enforcement Officers
- Requests From Regulatory Agencies
- Protecting Legal Privileges

2:45 PM – 3:00 PM

### Break

3:00 PM – 4:30 PM

### HIPAA, E-Discovery and the Legal Medical Record

— *Marcia L. Augsburger*

- How Can Providers Ensure That Medical Records Include What Is Necessary to Support Providers' Litigation Arguments?
- What Can Providers Do to Maintain Patient Privacy in Compliance With HIPAA and State Law While Also Meeting Their Disclosure Obligations Under E-Discovery Laws?
  - Responding to Subpoenas
  - Protecting Legal Privileges
- How Can Providers Implement and Maintain Effective E-Discovery Processes to Avoid Fines and Sanctions?

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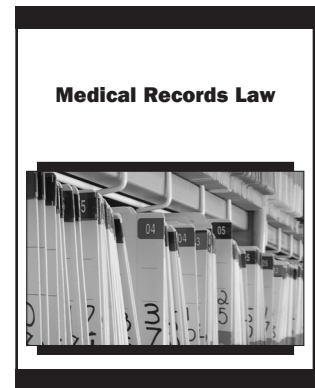


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## Where Is It?

Crowne Plaza Sacramento  
 5321 Date Avenue  
 916-338-5800  
 Sacramento, CA

## Who Will Be There?

This seminar is designed for medical records directors, health information directors, business managers, office managers, nurses, hospital administrators, compliance directors, release of records professionals and attorneys.