Sharing Between Continuums of Care and Counties

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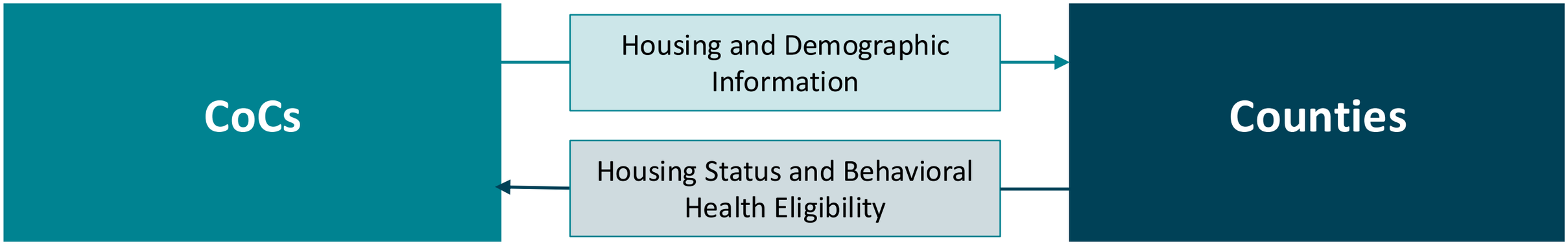
Why This Matters

- Counties and CoCs both serve populations experiencing homelessness and behavioral health challenges.
- Housing information sharing between CoC HMIS systems and County EHR systems is needed to track housing status for BHSA Housing Intervention reporting, and for other reporting that requires accurate housing status information.
- Effective care coordination requires a bidirectional flow of relevant and appropriately scoped information between them.
- CalAIM funds housing-related community supports and care coordination for Medi-Cal members at risk of or experiencing homelessness.
- Current uncertainty about what can be shared between CoCs and Counties without separate and specific consent creates barriers to timely service delivery.
- This guidance addresses two core questions about permitted sharing between these entities.

Core Questions

Question 1	Question 2
Can CoCs share housing and limited demographic information with Counties for care coordination without separate and specific client consent?	Can Counties share housing status information and behavioral health eligibility for care coordination with CoCs without separate and specific client consent?



Key Players and Systems

California Mental Health Services Authority ("CalMHSA")	CalMHSA County Behavioral Health Agencies (each a "County")	Continuums of Care (each a "CoC")	Homeless Management Information System ("HMIS")
A Joint Powers Authority formed by participating behavioral health cities and counties.	Serve as county behavioral health plans and provide services to clients with serious mental health conditions and substance use disorders. Coordinate care across county behavioral health and homelessness services.	Recognized by the U.S. Department of Housing and Urban Development ("HUD") as regional bodies that coordinate housing and homeless services.	A regional information system operated by each CoC to collect and share housing status information, including self-reported health conditions, mental health diagnoses and substance abuse disorder treatment status.

Relevant Federal Laws and Rules

- **HUD HMIS Privacy & Security Standards:** Govern CoC disclosures of HMIS information; no separate consent needed if the disclosure is covered by the CoC's privacy notice; consent may be inferred for described uses; individual CoCs can impose stricter requirements; do not apply to information flowing back from Counties.
- **HIPAA:** Counties are covered entities holding PHI, CoCs generally are not; permits use/disclosure of PHI for the covered entity's own Treatment, Payment and Health Care Operations (TPO) without authorization (Payment and Health Care Operations subject to "minimum necessary" standard), and the county's Notice of Privacy Practices.
- **42 C.F.R. Part 2:** Protects substance use disorder (SUD) records from a federally assisted Part 2 program; stricter than HIPAA; generally requires written consent for care-coordination disclosures; a 2024 rule allows a single TPO consent.

Relevant California Laws

- **AB 133:** Relaxes certain California consent laws to permit Medi-Cal Partners to share PII without consent for CalAIM care coordination. Does not supersede federal law such as HIPAA or Part 2. Applies to Clients enrolled in Medi-Cal managed care, receiving behavioral health services under Medi-Cal, or receiving pre-release services through the Justice-Involved Reentry Initiative.
- **AB 210:** Authorizes county homeless multidisciplinary personnel teams (each an “MDT”) to exchange otherwise confidential information to link homeless individuals to housing and services. Does not supersede federal law.

Information Flowing From a CoC to a County

CoC → County Sharing

Consent to share housing and demographic information is generally *not* required when:	Consent to share housing and demographic information *may* be required when:
▪ The information originates from an HMIS and the CoC's privacy notice permits data sharing for care coordination purposes.	▪ The information originates from an HMIS and (i) the disclosure falls outside the uses covered in the CoC's privacy notice and/or (ii) the CoC has adopted a restrictive privacy notice that requires additional consent.

Sharing-Permissive CoC Privacy Notice

C. How We Use and Disclose Personal Information

1. We use or disclose personal information for activities described in this part of the notice. We may or may not make any of these uses or disclosures with your information. We assume that you consent to the use or disclosure of your personal information for the purposes described here and for other uses and disclosures that we determine to be compatible with these uses or disclosures:

   a. to **provide or coordinate services** to individuals

   b. for functions related to **payment or reimbursement for services**

   c. to **carry out administrative functions** such as legal, audits, personnel, oversight, and management functions

   d. to **create de-identified (anonymous) information** that can be used for research and statistical purposes without identifying clients

Note: *This language is from Model Privacy Notice developed by the U.S. Department of Housing and Urban Development, available at https://www.hudexchange.info/resource/1320/hmis-privacy-notice-development-template.*

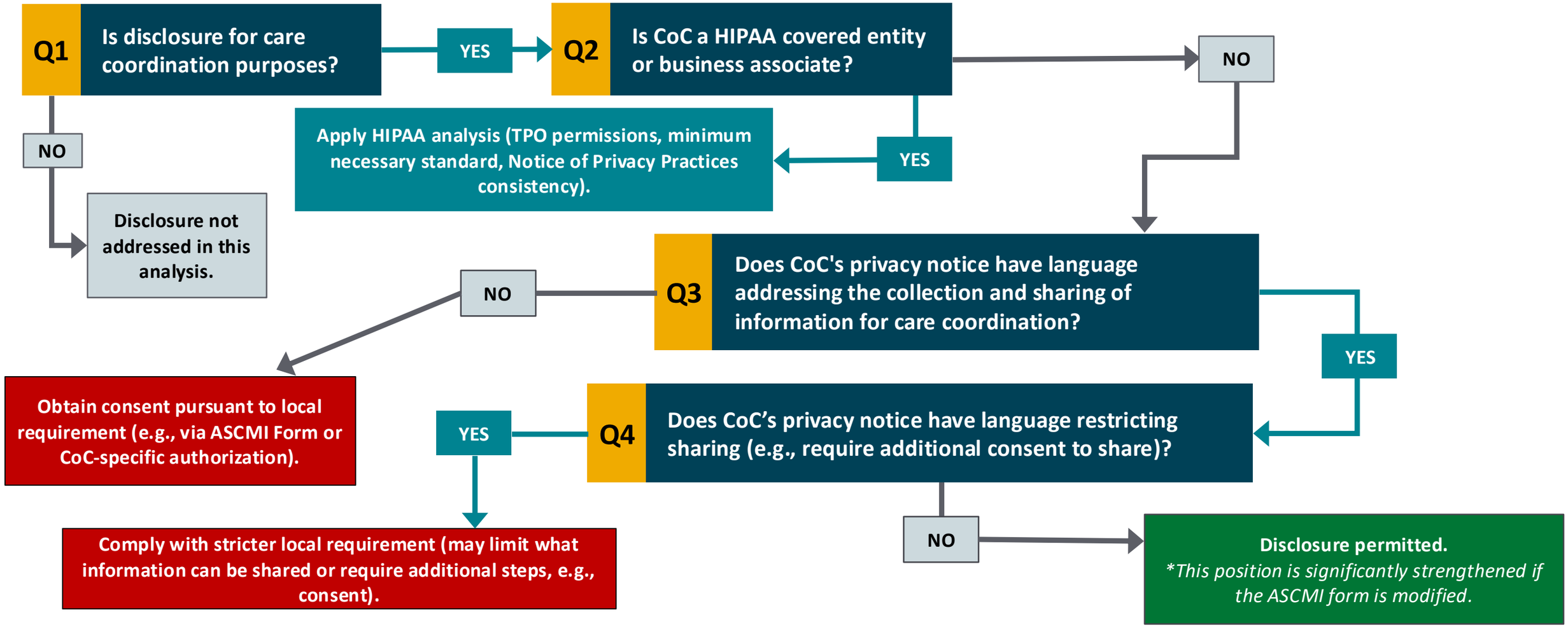
CoC privacy notices vary considerably and are not all publicly available online. Accordingly, we cannot confirm that they all permit the data sharing contemplated by this guidance.

ASCMI Form

The Authorization to Share Confidential Member Information ("ASCMI") Form is a standardized tool administered by DHCS under AB 133 that CoCs can use to obtain client consent to share information among Care Partners for care coordination.

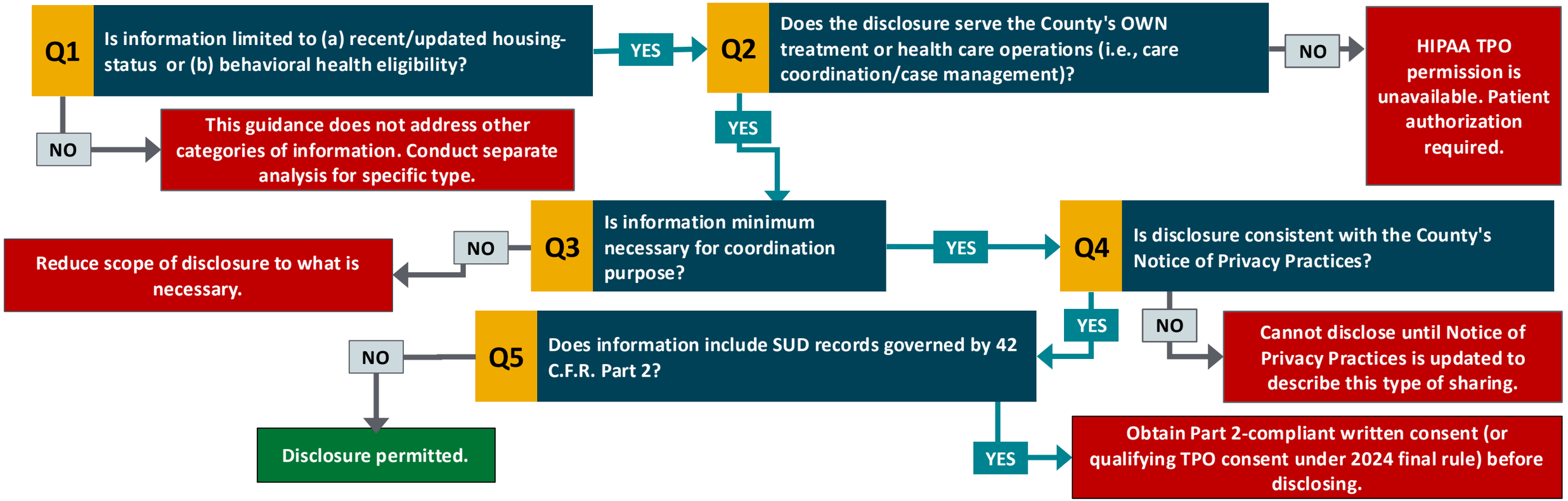
- **The ASCMI Form includes an opt-in checkbox for "housing-related information" (i.e., housing status, history, and supports). The intent of this checkbox is to capture consent only where the CoC's privacy notice does not already permit the sharing.**
  - This intent is supported by the Care Partner FAQs that clarify this.
  - Some have asked whether checkbox could be interpreted as modifying client's prior consent regarding the CoC's ability to share information, including housing information.
  - Accompanying instructions on the form acknowledge sharing by Care Partners for care coordination without separate consent, but do not expressly include housing information in the list of examples of information that this includes. By contrast, the list of types of information that "may be shared" with consent include "[s]ome housing information collected by your [CoC]." The instructions elsewhere state that organizations "*may* need your permission to share your housing-related information with . . . other Care Partners" (emphasis added).
- The ASCMI Form may soon be revised to remove the checkbox and/or include this clarification.

CoC → County Sharing: Decision Tree



Information Flowing from a County to a CoC

Decision Tree: County → CoC



Key Takeaways

- **Generally: (1) a CoC may share housing and limited demographic information with a County without separate, specific consent for the purposes of care coordination if sharing is consistent with the applicable CoC's privacy notice; and (2) a County may share housing status data and behavioral health eligibility data to a CoC without separate, specific consent for the County's care coordination if sharing is consistent with County's notice of privacy practices and the eligibility information does not include Part 2 SUD information.**
- For CoC → County Sharing:
  - DHCS has reviewed all each CoC's privacy notice to identify which include the contemplated sharing and thus do not require separate consent, and which need to be strengthened.
  - CalMHSA has subcontracted with Homebase to provide CoCs needed changes to their privacy notices.
  - Note: Client FAQs and/or ASCMI Form may be revised to further clarify that the housing checkbox applies only to sharing that the CoC's privacy notice does not otherwise permit.
- For County → CoC Sharing:
  - Obtain written consent where eligibility information originated from a Part 2 program and could reasonably identify the individual as having an SUD (or use qualifying TPO consent under 2024 final rule).

Q & A

Survey

Please use the link below to complete a brief survey

- [Insert hyperlink to survey]