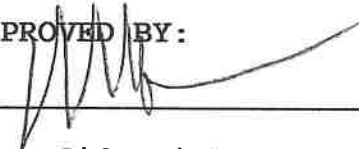


COUNTY OF IMPERIAL
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

POLICY AND PROCEDURE MANUAL

SUBJECT: Confidentiality Guidelines	POLICY: 01-12
SECTION: Administration	EFFECTIVE DATE: 8-29-12
REFERENCE:	PAGE: 1 of 5
AUTHORITY: Behavioral Health Director as the Local Mental Health Director/Alcohol and Drug Administrator	SUPERSEDES: 2-21-03
	APPROVED BY: 

PURPOSE: To establish a policy to ensure the confidential status of all records and information in accordance with Welfare and Institution Codes, the Code of Federal Regulations, and the Health Insurance Portability and Accountability Act (HIPAA).

NOTES: Sections 5328-5330 of the Welfare and Institutions Code are included as Attachment I. Section 42 of the California Federal Regulations is included as Attachment II. 42-CFR, Chapter 1, Subpart C, Section 2.31, is included as Attachment III. The Oath of Confidentiality form signed by all employees and volunteers is included as Attachment IV.

This policy applies to all ICBHS employees and contract employees under the jurisdiction of the Imperial County Department of Behavioral Health. This includes affiliated students, interns, and volunteer workers.

DEFINITIONS: "Department" means the California Department of Mental Health through June 30, 2012. On or after July 1, 2012, "Department" means the California Department of Health Care Services (DHCS)

Individually Identifiable Health Information means health information including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present, future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to the

individual that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR Section 160.103. Individually identifiable health information includes many common identifiers including: name; address; Social Security Number; telephone numbers; fax numbers; medical record number; email addresses; all elements of dates (except year) related to an individual (including dates of admission, discharge, birth, death, and, for individuals over 89 years old, the year of birth may not be used; account numbers; certificate/license numbers; vehicle identifiers and serial numbers including license plates; device identifiers and serial numbers; web URLs, internet protocol addresses; biometric identifiers; full face photos and comparable images; and any unique identifying number, characteristic or code.

Protected Health Information (PHI): The Privacy Rule protects all *individually identifiable health information* that is held or transmitted in any form or media whether electronic, paper, or oral. The Privacy Rule calls this information "protected health information (PHI)".

Personal Information (PI) means an individual's first name or first initial and the last name in combination with any one or more of the following data elements when either the name or the data elements are not encrypted: (1) Social security number; (2) Driver's license number or California Identification Card number; (3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account; 4) medical information; (5) Health insurance information. *California Civil Code Section 1798.25*

"Unattended" means that confidential information is not being observed by an employee authorized to access the information.

POLICY: Employees shall follow the main body of law on confidentiality that is set forth in section 5328-5330 of the California Welfare and Institutions Code, 11860 et. seq. of the California Health and Safety Code, and HIPAA Regulations found at 45 CFR Parts 160 and 164.

Client information and records (including a client's

name, address, and insurance data) must not be released unless they are clearly authorized within the guidelines which allow that release. With a client's consent and the approval of the clinician in charge of the client, information may be disclosed to whomever the client, parent, or caregiver designates. Without the client's, parent's, or caregiver's written consent information and records obtained in the course of providing mental health services can only be released in certain circumstances.

If there is any doubt about the legality of releasing information, do not release it without the approval of the program manager.

Employees are responsible for safeguarding all information regarding or pertaining to a client. Confidential information should not be left on a table, desk, or counter, etc., accessible to individuals not employed by Imperial County Behavioral Health. Confidential information shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Confidential information in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes. Furthermore, conversations about a client should not be held within hearing distance of individuals not employed by Imperial County Behavioral Health.

In order to protect the privacy of the client, all documents containing client information and records are required to be stamped or preprinted as follows:

"CONFIDENTIAL PATIENT INFORMATION:
See California Welfare and Institutions Code
Section 5328"

The use of the stamp informs the recipient of the document, as well as other persons who may thereafter maintain the confidentiality of the information set forth in the document.

Information pertaining to the diagnosis or treatment of alcohol or drug abuse must comply with 42-CFR confidentiality rules. Employees shall follow the strict Federal Confidentiality Law 42-CFR if the information contains the diagnosis and/or treatment of alcohol or abuse. 42-CFR, Chapter 1, Subpart C, states:

Section 2.31 Form of written consent.

a) Required elements. A written consent to

a disclosure under these regulations must include:

- (1) The specific name or general designation of the program or person permitted to make the disclosure.
- (2) The name or title of the individual or the name of the organization to which disclosure is to be made.
- (3) The name of the patient.
- (4) The purpose of the disclosure.
- (5) How much and what kind of information is to be disclosed.
- (6) The signature of the patient and when required for a patient who is a minor, the signature of a person authorized to give consent under Section 2.14; or, when required for a patient who is incompetent or deceased, the signature of a person authorized to sign under Section 2.15 in lieu of the patient.
- (7) The date on which the consent is signed.
- (8) A statement that the consent is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it. Acting in reliance includes the provision of treatment services in reliance on a valid consent to disclose information to a third party payer.
- (9) The date, event, or condition upon which the consent will expire if not revoked before. This date, event, or condition must insure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given.

Records which contain information about alcohol or drug abuse treatment will include the following statement:

This information has been disclosed to you from records that are confidential and protected by federal law.

Federal regulations (42 Code of Federal Regulations, part 2) prohibits you from making any further

disclosure of the records or information without specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for release of information is NOT sufficient for this purpose.

Individuals who normally forward records or correspondence to individuals or facilities outside of the department should always maintain a rubber stamp which may be ordered through ICBHS Purchasing Unit.

Mailings containing confidential information shall be sealed and secured from damage or inappropriate viewing of protected health information (PHI) or personal information (PI). Mailings which include 500 or more individually identifiable records of PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless prior permission from the Department to use another method is obtained.

Violation of the law concerning confidentiality subjects the person releasing the information to civil damage per California Welfare and Institutions Code 5330 (see attached Welfare and Institution Codes and California Federal Regulations Codes).