


COUNTY OF IMPERIAL  
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

POLICY AND PROCEDURE MANUAL

<b>SUBJECT:</b> Revocation of Authorization to Use or Disclose Protected Health Information	<b>POLICY:</b> 01-64
<b>SECTION:</b> Administration	<b>EFFECTIVE DATE:</b> 4-14-03
<b>REFERENCE:</b> 45 C.F.R. Sections 164.508 (b) (5) & 164.508(b) (6)	<b>PAGE:</b> 1 of 4
<b>AUTHORITY:</b> 45 C.F.R. Part 164	<b>SUPERSEDES:</b> New Policy
	<b>APPROVED BY:</b> 

**PURPOSE:** To establish a policy regarding the revocation of an authorization to use or disclose protected health information (PHI).

**SCOPE:** The information in this document applies to all members of the workforce which includes employees, contract employees, volunteers, trainees, etc., granted access to protected health information (PHI).

**NOTES:** 42 C.F.R Part 2 is silent on the issue of whether the revocation can be oral or must be in writing. As a result, drug and alcohol programs have honored oral revocation. However, HIPAA now specifically requires the revocation to be written. Therefore, HIPAA's more explicit provision overrides 42 C.F.R.Part 2's less specific provision and a revocation of consent must now be in writing.

**DEFINITIONS:** Authorization: Permission by an individual, his or her personal representative(s) for the release or use of information. An "authorization" is a written document that gives ICBHS permission to obtain and use information from third parties for specified purposes or to disclose information to a third party specified by the individual.

Consent: HIPAA uses the term "authorization" when discussing patient consent. (42 C.F.R. Section 2.31)

Disclosure: The release, transfer, provision of access to, or divulgence in any other manner, of information to any organization external to ICBHS.

**Individual:** Under HIPAA, individual means the person who is the subject of PHI. (45 C.F.R. Section 164.501). Individuals may also include the parents of minor children. The parents' roles with regard to HIPAA depend on state law. Minors may become individuals when they meet the requirements and conditions set in state law.

**Revocation:** An individual exercises the right to void a prior authorization to use and disclose PHI. After the revocation, ICBHS may no longer use or disclose the individual's PHI without the individual's authorization. However, ICBHS will not be liable for a use or disclosure of an individual's PHI after revocation if ICBHS in good faith based its actions upon a prior authorization, and has already acted in reliance upon the authorization.

**Protected Health Information (PHI):** Individually identifiable information relating to past, present, or future physical or mental health condition of an individual, provision of health care to an individual, or the past, present, or future payment for health care provided to an individual transmitted or maintained in any form or medium including oral, written, or electronic communication.

**Personal Representative:** A person who has authority under applicable law to make decisions related to health care on behalf of an adult or an emancipated minor, or the parent, guardian, or other person acting in loco parentis who is authorized under law to make health care decisions on behalf of an unemancipated minor, except where the minor is authorized by law to consent, on his/her own via court approval, to a health care service, or where the parent, guardian or person acting in loco parentis has assented to an agreement of confidentiality between the provider and the minor.

**Use:** With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within ICBHS.

**Workforce:** Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the department, is under the direct control of the department, whether or not they are paid by the department.

**POLICY:** An individual or personal representative may revoke an authorization at any time, provided that the revocation is in writing, except to the extent ICBHS has already provided PHI based on the individual's authorization.

A request to revoke an authorization must be submitted on a Revocation of Authorization to Use or Disclose Protected Health Information (PHI)/Revocacion De Autorizacion Para Divulgar Informacion form.

All requests to revoke an authorization to use or disclose protected health information must be submitted to the program supervisor or designee immediately upon receipt. The program supervisor is responsible for completing a Notification of Revocation of an Authorization form and forwarding it to all staff providing direct patient care. Upon notification of the revocation, ICBHS staff are responsible for ensuring the individual's PHI is no longer subject to further use or disclosure.

The program supervisor is responsible for ensuring that original Revocation of Authorization to Use or Disclose Protected Health Information (PHI)/Revocacion De Autorizacion Para Divulgar Informacion form is attached to the associated authorization to release information, that the canary copy is forwarded to the individual and the pink copy is forwarded to the ICBHS privacy officer. The privacy officer is responsible for recording the revocation on the Disclosure of Protected Health Information Log.

Note: In the event the individual/personal representative makes a verbal request to revoke an authorization, staff shall honor the request and attach a note to the authorization documenting the oral request. Staff shall explain the department's policy requiring a written revocation and send the requestor a form to be completed and returned to ICBHS.

#### Documentation

ICBHS must document and retain the signed authorization and revocation for a period of six (6) years from the later of the date of creation or the last effective date or such longer period that may be required under state or other federal law.

It is ICBHS' records retention policy, in accordance with

DMH Letter 93-07, that all records be kept a minimum of seven (7) years from the date of discharge, except for minors, whose records shall be kept at least one (1) year after the minor has reached the age of eighteen (18), but in no case less than seven (7) years.

Enforcement

Supervisors are responsible for enforcing this policy and associated procedures. Members of the workforce who violate this policy or associated procedures are subject to disciplinary actions appropriate to the nature of the violation in accordance with the ICBHS Sanction Policy.