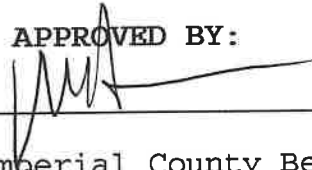


COUNTY OF IMPERIAL
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES
POLICY AND PROCEDURE MANUAL

SUBJECT: Minimum Necessary Standard	POLICY: 01-72
SECTION: Administration	EFFECTIVE DATE: 4-14-03
REFERENCE: 45 C.F.R. Section 164.502(b) & 514(d)	PAGE: 1 of 6
AUTHORITY: 45 C.F.R. Part 164	SUPERSEDES: New Policy
	APPROVED BY: 

PURPOSE: To establish a policy regarding Imperial County Behavioral Health Services' (ICBHS) obligations relating to the HIPAA requirement to use, disclose, or request only the minimum amount of protected health information (PHI) necessary to accomplish the intended purpose of the use, disclosure or request.

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: HIPAA requires covered entities to limit the protected health information being used, disclosed, or requested to the minimum necessary. [45 C.F.R. Section 164.528(a), (c)] This requirement is similar to 42 C.F.R. Part 2 which requires any disclosure to be "limited to that information which is necessary to carry out the purpose of the disclosure." [42 C.F.R. Section 2.13(a)]

DEFINITIONS: Covered Entity: A health plan, a health care clearing-house, or a health care provider that transmits any health information, disclosure or request.

HIPAA: Health Insurance Portability and Accountability Act. The federal law passed in 1996 that provides national standards for health information

Minimum Necessary: The minimum or reasonable amount of PHI necessary to accomplish the intended purpose of the use, disclosure, or request.

Need-to-Know: Limiting access to information of just the information for which an individual has a legitimate clinical or business need to know.

Non-Routine Disclosure: The disclosure of records outside ICBHS that is not for a purpose for which it was collected.

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.

Public Official: Any employee of a government agency who is authorized to act on behalf of that agency on in performing the lawful duties and responsibilities of that agency.

Required by law: A mandate contained in law that compels ICBHS to make a use or disclosure of protected health information which is enforceable in a court of law (e.g., court orders, subpoenas or summons issued by a court).

Role: The category or class of person or persons doing a type of job defined by a set of similar or identical responsibilities

Routine and Recurring: For the purpose of this policy "routine and recurring" means the disclosure of records outside ICBHS, without authorization of the individual, or a purpose that is compatible with the purpose for which the information was collected.

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: Imperial County Behavioral Health Services will make reasonable efforts to limit protected health information (PHI) to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request when using or disclosing PHI, or when requesting PHI from another entity. [45 C.F.R. Section 164.502(b) & 164.514(d)]

The minimum necessary requirement applies to:

1. Uses or disclosures for payment or health care operations;
2. Use and disclosures requiring the individual to have an opportunity to agree or object;
3. Uses and disclosures that are permitted without the client's permission except for those required by law)

Exceptions

The minimum necessary requirement does not apply to the use and disclosure of PHI in the following circumstances:

1. Disclosures or requests made to a provider for the purpose of treatment;
2. Uses and disclosures made to the individual or the individual's personal representative;
3. Uses and disclosures made to an individual in an accounting of disclosure (164.528)
4. Uses or disclosures of an individuals designated medical record when a request for access has been made by the individual (164.524);
5. Uses or disclosures made pursuant to an authorization under Section 164.508;
6. For required disclosures to the Department of Health Service, Office for Civil Rights, in accordance with subpart C of part 160 for enforcement purposes; or
7. For instances required by law as described in Section 164.512(a); and
8. Uses or disclosures required to comply with the HIPAA Privacy Rule.

Note: The mandatory requirements of 42 C.F.R. Part 2 override these permissible exceptions. To comply with both regulations, alcohol and drug programs must limit ALL disclosures to that information which is necessary to carry out the purpose of the disclosure. However, since 42 C.F.R. does not address the issue of disclosures made to patients, HIPAA prevails on this point

and programs do not have to limit the information to the minimum necessary when disclosing information to patients.

Internal Access and Uses of Protected Health Information (PHI)

ICBHS shall grant access and use of PHI based on the employee's role as determined by the program manager in coordination with the privacy officer. Role-based categories will identify the following:

1. The persons or group of persons, including students, trainees and volunteers, who need access to PHI to carry out their job function;
2. The type of PHI to which each person or group needs access as well as the conditions under which they need the access; and

ICBHS shall make reasonable efforts to limit the access of its staff to only the types and amount of health information appropriate to their job requirements.

Note: Since these requirements are mandatory under HIPAA, and 42 C.F.R. Part 2 does not address these issues with such specificity, alcohol and drug programs must implement these HIPAA requirements.

Routine and Recurring Disclosures of, and Requests for, Protected Health Information

For any type of disclosure or request made on a routine and recurring basis, employees must limit the amount of PHI disclosed to the amount reasonably necessary to achieve the purpose of the disclosure.

If an employee is uncertain about any given disclosure, he or she should discuss it with his or her supervisor.

Note: Since these requirements are mandatory under HIPAA, and 42 C.F.R. Part 2 does not address these issues with such specificity, alcohol and drug programs must implement these HIPAA requirements,

Non-Routine Disclosures of, or Requests for, Protected Health Information

For non-routine disclosures of, and requests for PHI,

designated ICBHS employees will review requests for disclosures on an individual basis based on criteria designed to limit the PHI disclosed to that information which is reasonably necessary to accomplish the purpose for which the disclosure is sought.

Note: Since these requirements are mandatory under HIPAA, and 42 C.F.R. Part 2 does not address these issues with such specificity, alcohol and drug programs must implement these HIPAA requirements.

Reasonable Reliance Upon Requests by Others

In certain circumstance, as permitted by the Privacy Rule, ICBHS may rely on the judgement of the party requesting the disclosure as to the minimum necessary of information that is needed. The reliance is permitted when the request is made by:

1. The disclosure is to public officials that are permitted under 45 C.F.R. 164.512, and if the public official represents that the information requested is the minimum necessary for the stated purpose(s) (public health activities; about victims of abuse, neglect, or domestic violence; for health oversight activities, etc.);
2. The information is requested by another entity that is a covered entity under the HIPAA Privacy Rules;
3. The information is requested by a professional who is member of the workforce of a covered entity or is a covered entity or is a business associate of the covered entity for the purposes of providing professional services to the covered entity, if the professional represents the information requested is the minimum necessary for the stated purpose(s);
4. The requesting person provides documentation or representations required for research as provided by [45 C.F.R. Section 164.512(i)]

Note: The Privacy Rule does not require such reliance, however, and the covered entity always retains discretion to make its own minimum necessary determination for disclosures to which the standard applies. 42 C.F.R. Part 2 does require programs to ensure that these disclosures are limited to the minimum necessary.

Verification of Identity and Authority

Before PHI is disclosed for any purpose, an employee will verify the identity and, if applicable, authority of a requestor if the employee does not know the requestor. Such verification may include examination of official documents, badges, driver's license, etc. See Policy 01-78, Verification of Identity and Authority.

Entire Medical Record as Minimum Necessary

ICBHS will not disclose, or request an individual's entire medical record, except when the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request and applicable laws permit the disclosure of all of the information in the medical record to the requestor.

Employee Responsibilities

Each employee is responsible for adhering to this policy by using or disclose only the minimum information necessary to perform his or her responsibilities, regardless of the extent of access provided or available.

Only employees with a legitimate "need-to-know" may access, use, or disclose client information. If it is determined that an employee needs access to a class of PHI that is outside their assigned level of access, prior to such access the action must be approved by the employee's supervisor in consultation with the program manager.

The classification of employees who access protected health information is included as Attachment I.

Enforcement

Management and supervisors are responsible for enforcing this policy and associated procedure(s). Members of the workforce who violate this policy or associated policies or procedures are subject to disciplinary actions appropriate to the nature of the violation in accordance with the ICBHS sanction policy.