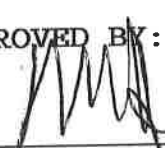


COUNTY OF IMPERIAL
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

POLICY AND PROCEDURE MANUAL

SUBJECT: Granting a Request to Amend Protected Health Information	PROCEDURE: 01-13
SECTION: Administration	EFFECTIVE DATE: 4-14-03
REFERENCE: 45 C.F.R. Section 164.526 Health and Safety Code	PAGE: 1 of 10
AUTHORITY: Behavioral Health Director as the Local Mental Health Director and Alcohol and Drug Administrator	SUPERSEDES: New Procedure
	APPROVED BY: 

PURPOSE: To establish a procedure for appropriately amending, as required by law, the protected health information (PHI) collected and maintained in their designated record set based on an individual's request.

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

NOTES: Section 164.526 of the HIPAA Privacy Rule provides individuals with the right to request that a covered entity amend the PHI kept in their records. The individual cannot require that the records be removed, deleted or altered.

ICBHS recognizes the individual's right to request an amendment of his or her PHI for as long as the information is maintained in the designated record set. ICBHS may deny the request for amendment. If the request is granted, the information that is the subject of the request may be amended by the author of the entry, or by allowing the individual to insert a statement in the designated record set. The amendment should document the information believed to be inaccurate and the information the individual/personal representative believes to be correct. In any event, at no time should the documentation in the chart be removed or obliterated in any way.

DEFINITIONS: Amendment: The request by an individual or personal representative to make an addendum, alteration, or attachment to a designated record containing their protected health information.

Designated Record Set: A group of records maintained by or for ICBHS that includes medical, billing, enrollment, payment, claims adjudication, and case or medical management record systems and other records used to make decisions about individuals.

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

Individual: Under HIPAA, individual means the person who is the subject of PHI. [45 C.F.R. Section 164.501] In this procedure, the term "client" will be used to be used to refer to the individual.

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.

Workforce: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity. In this procedure, the term "employee" is used to refer to the workforce.

PROCEDURE:

PERSON RESPONSIBLE

ACTION:

Client/Personal
Representative

1. Contacts ICBHS to request an amendment to his or her PHI or record.

Caution: Do not disclose any PHI to the person requesting an amendment without first verifying the identity and authority to receive the PHI. In some cases,

Cont.
disclosure of PHI may occur simply by confirming that the individual is a client of ICBHS.

ICBHS Employee

2. Responds to the request for an amendment as follows:
 - a. If the identity and authority of the requestor is known, responds to oral requests by:
 - 1) Stating that the requests must be in writing.
 - 2) Providing/sending the requestor a **Request to Amend Protected Health Information/ Solicitud De Enmienda De Informacion Protegida** form.
 - 3) Explaining that the form must be completed, signed, and turned into the team center or sent to the privacy officer.
 - a) If the Request to Amend Protected Health Information/ Solicitud De Enmienda De Informacion Protegida form is received at the team center, date stamps the form the date of receipt and forwards it to the privacy officer. Go to step 3.
 - b. If the identity and authority of the requestor is known, responds to a written request by forwarding the Request to Amend Protected Health Information/Solicitud De Enmienda De Informacion Protegida form to the privacy officer.

ICBHS Employee (cont.)

c. If the identity and authority of the requestor is not known, responds to the request by either following the Procedure 01-16, Verification of Identity and Authority, or by responding to the request without disclosing any PHI.

Privacy Officer

3. Upon receipt of the written request, records the request to amend PHI on the **Amendment Request Log** including the deadline for a response.

Note: If the written request is received directly from the requestor, date stamps the form the date of receipt.

4. Within 10 days, takes action to respond to the client's request.

Note: ICBHS must respond to the client's amendment request no later than 60 days after ICBHS receives the request. If it is determined that ICBHS is unable to respond to the request within 60 days, it may extend the time to respond to the request by no more than 30 days provided ICBHS gives a written statement (Response to Request to Amend Protected Health Information) to the client telling the reason for the delay and the date by which ICBHS will complete its action on the request. ICBHS must give this written statement to the client within the first 60 days.

5. If an extension is required, records the new deadline in the Amendment Request Log.

Privacy Officer (cont.)

6. Reviews the request form and determines whether the request contains sufficient information to act on the request by confirming:
 - a. The request contains a reason to support the request. If no, go to step 7. If yes, go to step 8.
 - b. The request that challenges the accuracy or completeness of a record, contains sufficient information to evaluate whether the records are accurate and complete. If no, go to step 7. If yes, go to step 8.
7. If the Request to Amend Protected Health Information/Solicitud De Enmienda De Informacion Protegida form does not contain sufficient information for ICBHS to act on the request, completes and forwards to the client a **Response To Request To Amend Protected Information/Respuesta A La Solicitud En Enmienda A Informacion Medica Protegida** form, to request any necessary additional information identified in steps "a." and "b." above.
8. If the Request to Amend Protected Health Information/Solicitud De Enmienda De Informacion Protegida is completed in sufficient detail to make a determination:
 - a. Discusses the request for an amendment with the clinician or program supervisor responsible for the record, as appropriate, to determine if the request should be accepted, accepted in part, or denied.

Privacy Officer (cont.)

Note: Requests requiring a clinical decision will be forwarded to a clinician. Requests of a non-clinical nature will be forwarded to the program supervisor

b. Contacts business associates of ICBHS that may have designated record sets that may contain PHI that may be the subject of the amendment request.

1) Asks business associate to identify and produce any designated record sets that contain PHI subject to the request.

Clinician/Program
Supervisor

9. Reviews the request to determine if there are grounds for denying the request for an amendment based on the following criteria:

- a. The information was not created by ICBHS or a business associate, unless the client provides a reasonable basis to believe that the originator of the PHI is no longer available to act on the request.
- b. The information the client wants amended is not part of the designated record set.
- c. The information the client wants amended is not information that the client has a right to access. (See Policy 01-61, Access to Protected Health Information)
- d. The information the client wants amended is accurate and complete.

Clinician/Program
Supervisor

10. If there are grounds to deny, the amendment request, completes an **Amendment Request Determination** form, indicates the reason for the denial in section B "Denial of Amendment Request" and forwards the form to the privacy officer. (See Procedure 01-28, Denial of a Request to Deny a Request to Amend Protected Health Information. Go to step 13.
11. If there are no grounds to deny the record, determines if the request for an amendment is accepted, or accepted in part.
12. Completes section A "Approval of Amendment" indicating that the request was approved or approved in part, and forwards it to the privacy officer.

Privacy Officer

13. Within 10 days of receipt of the Amendment Request Determination form from the clinician/supervisor responsible for the record, completes a **Response to Request to Amend Protected Health Information/Respuesta A La Solicitud De Enmienda A Informacion Medica Protegida** form.
14. Records the decision in the Amendment Request Log.
15. If the request is denied, separates the Response to Request to Amend Protected Health Information/Respuesta A La Solicitud De Enmienda A Informacion Medica Protegida form and route the form according to step 16 c below, and go to step 17.

Privacy Officer (cont.)

16. If the request is approved, or approved in part, does the following:

- a. Ensures that the amendment is inserted, or a link to the amendment is made at the site of the information that is the subject of the request for amendment.

Note: As appropriate and feasible, ensures that an electronic version of the amendment is linked to the designated record set in information system that contains the subject PHI.

- b. Completes a Response to Request to Amend Protected Health Information/Respuesta A La Solicitud De Enmienda A Informacion Medica Protegida form to inform the client that the amendment has been accepted/accepted in part.
- c. Processes the Amendment Request Determination form as follows:

Original: Attach to records containing the subject PHI.

Canary : File

Note: Accepting the amendment does not entail deleting the original information that is the subject to the amendment. Instead, the statement "See attached amendment", the date and employee's initials should be entered at the site of the information being amended.

Privacy Officer (cont.)

d. Makes reasonable efforts to notify the following persons of the accepted amendment on a **Notification of Amendment to Protected Health Information/Notificacion De Enmienda De Informacion Medica Protegida:**

- 1) Persons the client identified and agreed to have ICBHS notify; and
- 2) Persons, including business associates, who ICBHS knows have PHI that is subject to the amendment and who may have relied, or could foreseeably rely on it to the detriment of the requesting client.

e. Documents in the **Amendment Notification Log** when notification is provided to an authorized person.

17. Sends the Response to Request to Amend Protected Health Information/Respuesta A La Solicitud De Enmienda A Informacion Medica Protegida form to the client.

ICBHS

18. Retains documentation of the request for an amendment, the ICBHS response to the request for amendment, the name title of the person responsible for processing the request for an amendment Retains documentation for six (6) years from the date of its creation or the date it was last in effect, whichever is later, or such longer period required by state law or other federal law.

It is ICBHS' records retention policy 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 years.

Forms used in this procedure:

Request to Amend Protected Health Information ICBHS 00-32
Solicitud De Enmienda De Informacion Protegida ICBHS 00-46
Response to Request to Amend Protected Health
Information ICBHS 00-33
Respuesta a La Solicitud De Enmienda a Informacion
Medica Protegida ICBHS 00-47
Notification of Amendment of Protected Health
Information ICBHS 00-34
Notificacion de Enmienda De Informacion Medica
Protegida ICBHS 00-48
Requests For Amendments to PHI Log ICBHS 00-63
Amendment Request Determination ICBHS 00-66
Amendment Notification Log ICBHS 00-64