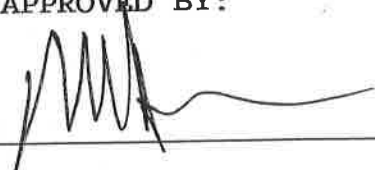


COUNTY OF IMPERIAL  
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

POLICY AND PROCEDURE MANUAL

<b>SUBJECT:</b> Requests for Special Restriction on the Use or Disclosure of Protected Health Information	<b>PROCEDURE:</b> 01-21
	<b>EFFECTIVE DATE:</b> 4-14-03
<b>SECTION:</b> Administration	<b>PAGE:</b> 1 of 5
<b>REFERENCE:</b> 45 C.F.R. Section 164.522(a)(1)	<b>SUPERSEDES:</b> New Procedure
<b>AUTHORITY:</b> Behavioral Health Director as the Local Mental Health Director and Alcohol and Drug Administrator	<b>APPROVED BY:</b> 

**PURPOSE:** To establish a procedure to permit an individual to request restrictions to the use and or disclosure of protected health information (PHI) under the HIPAA Privacy Rule.

**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:** HIPAA provides individuals with new rights regarding how their health information is maintained and communicated. These rights are mandatory and Mental Health and Alcohol & Drug programs, as covered entities under HIPAA, must assure that individuals are allowed, for example, the opportunity to request that the program restrict certain uses and disclosures of the individuals protected health information to carry out treatment, or health care operations. [45 C.F.R. Section 164.522(a)]

If ICBHS does agree to a restriction, ICBHS must honor the restriction. For this reason employees must refer all requests to the privacy officer who will handle the request in consultation with the program manager.

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

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

**Health Care Operations:** Activities related to covered functions that include: Quality assessment and improvement activities; staff evaluations; insurance-related activities; administrative functions including legal services, auditing functions, fraud investigations, etc; business planning and development; and business management and general administrative activities.

**Individual:** Under HIPAA, individual means the person who is the subject of protected health information (PHI). In this procedure, the term "client" is used to refer to the individual.

**Payment:** Activities undertaken by a provider to obtain reimbursement for the provision of health care.

**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.

**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.

**Restriction:** An agreed upon limitation on uses and disclosure of PHI about an individual to carry out treatment, payment, or health care operations (TPO) and disclosures for involvement in the individual's care.

**Treatment:** Providing, coordinating, or managing an individual's care, including consultations

between providers and referrals.

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 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 members of the workforce.

**PROCEDURE:**

PERSON RESPONSIBLE

ACTION:

- |                                |  |
|--------------------------------|--|
| Client/Personal Representative | 1. Requests special restriction on use and/or disclosure of PHI.   |
| ICBHS Employee                 | 2. Provides a Request for Special Restriction on the Use or Disclosure of Protected Health Information/Solicitud De Restriccion Especial Para El Uso O Divulgacion De Informacion Medica Protegida form. |
| ICBHS Employee/<br>Individual  | 3. Forwards the written request for special restrictions to the privacy officer.   |
| Privacy Officer                | 4. Reviews the request for special restriction with the appropriate program manager.   |
|                                | 5. Within ten (10) working days of receipt of the request, makes a determination of final action.  |
|                                | 6. Documents the decision using the Response to a Request for Special Restrictions/ Respuesta A La Solicitud De Restricciones Especiales En El   |

Privacy Officer (cont.)

**Uso O Divulgacion De Informacion Medica Protegida** form and routes the form as follows:

Original: Chart  
Canary : Individual  
Pink : Privacy officer

ICBHS Employee

7. If the request for restriction has been accepted, assures that the restriction is adhered to by notifying separately any ICBHS entity or business associate to which the restriction may apply.
8. Files the Response To A Request For Special Restrictions/ Respuesta A La Solicitud De Restricciones Especiales En El Uso O Divulgacion De Informacion Medica Protegida form in the individual's chart.
9. Uses and discloses PHI consistent with the accepted restriction.

Note: Prior to any use or disclosure of client information, staff must confirm that such use or disclosure has not been restricted, by reviewing the chart.

ICBHS

10. Retains all documentation associated with an agreement or denial of a special restriction 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 as required by state 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 for Special Restriction on Use and  
Disclosure of Protected Health Information ICBHS 00-38  
Solicitud De Restriccion Especial Para El Uso O  
Divulgacion De Informacion Medica Protegida ICBHS 00-52  
Response to a Request for Special Restrictions on  
the Use or Disclosure of Protected Health  
Information ICBHS 00-40  
Respuesta A La Solicitud De Restricciones Especiales En El  
Uso O Divulgacion De Informacion Medica Protegida ICBHS 00-53