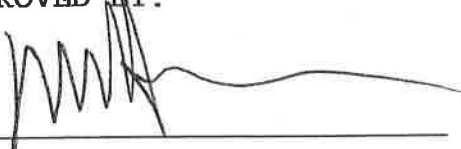


COUNTY OF IMPERIAL
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES
POLICY AND PROCEDURE MANUAL

SUBJECT: Investigation of a Violation of a Contractual Provision Related to the Privacy of Protected Health Information by a Business Associate	PROCEDURE: 01-22
SECTION: Administration	EFFECTIVE DATE: 4-14-03
REFERENCE: 45 C.F.R Section 160.504(e) (1)(ii)	PAGE: 1 of 4
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 investigating a complaint of a violation of a contractual provision relating to the privacy of protected health information (PHI).

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: Both HIPAA and 42 C.F.R. Part 2 provide a mechanism that allows programs to disclose information without the individual's authorization/consent to an outside organization that provides services to the program. HIPAA refers to these outside organizations as "business associates" while 42 C.F.R. Part 2 uses the term "qualified service organizations". Programs can continue their QSOA arrangements as allowed under 42 C.F.R. Part 2, but must amend the written agreement to include elements required under HIPAA.

A privacy complaint includes any complaint, whether presented in person, by telephone, in writing, or electronically, made by an individual (including a member of ICBHS' workforce) regarding ICBHS' privacy policies and procedures, or compliance with the HIPAA Privacy Rule in general.

DEFINITIONS: Business Associate: A person or entity who provides certain functions, activities, or services for or to

ICBHS, involving the use and/or disclosure of PHI. This includes, but is not limited to, lawyers, auditors, third party administrators, health care clearinghouses, data processing firms, billing firms, and other covered entities. Disclosure of PHI by ICBHS to a health care provider for treatment purposes are not considered a business associate function.

DHHS: The United States Department of Health and Human Services. This is the federal agency that is responsible for the implementation of the HIPAA Rule. Within DHHS, the Office of Civil Rights is the office responsible for the HIPAA Privacy Rule and the Centers for Medicare and Medicaid Services (CMS) is the organization responsible for the Transactions and Code Sets Rule.

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 members of the workforce.

PROCEDURE:

PERSON RESPONSIBLE

ACTION:

Complainant

1. Contacts the privacy officer by telephone, in writing, or electronically to file a complaint regarding an alleged

Complainant (cont.)

violation of a contractual provision regarding the privacy of PHI.

Complainant/
Privacy Officer

2. Documents the complaint on the **Privacy Complaint** form.

Privacy Officer

3. Reviews the complaint.

4. Contacts the business associate and determines whether a contractual provision has been violated.

Privacy Officer
and Business Associate

5. If a contract provision has been violated, identify steps to be taken by ICBHS that will enable the business associate to comply with the contractual provisions.

6. Review the corrective steps.

7. Determine if the corrective steps or suggestions made by the business associate will correct the violation.

Privacy Officer

8. If an agreement is reached, summarizes the steps in writing and provides a copy to the business associate.

9. Monitors the implementation of the corrective step(s) and discontinues monitoring when assured that the corrective measures have been implemented and that the contract provisions will be complied with in the future.

10. If it is not possible to develop an acceptable corrective action plan, contacts the ICBHS director to discuss possible termination of the contract, or where termination

Privacy Officer (cont.)

is not feasible, reports the
problem to DHHS.

Forms used in this procedure:

Privacy Complaint ICBHS 00-56