


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

SUBJECT: Mitigation of Harmful Effects of Unauthorized Use or Disclosure of Protected Health Information	PROCEDURE: 01-23
SECTION: Administration	EFFECTIVE DATE: 4-14-03
REFERENCE: 45 C.F.R. Section 164.530(f)	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 mitigating the harmful effect that is known to ICBHS as a result of unauthorized use or disclosure 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: Section 164.530 of the HIPAA Privacy Rules requires that ICBHS put into place several administrative measures. Section 164.530(f) requires ICBHS to mitigate, to the extent practicable, any harmful effect that is known to the entity as a result of any unauthorized use or disclosure of PHI by ICBHS or its business associate.

DEFINITIONS: Harmful Effects: As it relates to the breach of privacy of an individual's PHI, harmful effects may be determined by the impact of an unauthorized use or disclosure of PHI on such things as reputation, safety of the person and significant others, health, employability, financial and social status, and emotional distress, etc.

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. In this procedure, the term "client" is used to refer to the individual.

Mitigation: The act of causing an event or circumstance to become less harsh or hostile, or making an event or circumstance less severe or painful.

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

Privacy Officer

ACTION:

1. Notified that PHI has been misused by ICBHS or a business associate.
2. Depending on the nature of the alleged breach, convenes an investigative team. (See Policy 01-60, Sanctions for Violations of the Privacy Rule)

Note: The investigative team may consist of the program supervisor, and/or manager, Human Resource representation, and County Counsel representation, as appropriate.

Investigative Team

3. Investigates the alleged breach and confirms that a breach has occurred.

ICBHS

4. Takes reasonable and practicable steps to minimize the damage associated with the unauthorized use or disclosure of an individual's PHI including, but not limited to:
 - a. Taking operational and procedural corrective measures to remedy violations;
 - b. Taking employment action to retrain, reprimand, or discipline as necessary, up to and including termination;
 - c. Incorporating mitigation solutions into ICBHS policies and procedures;
 - d. Addressing problems with business associates once ICBHS is aware of the breach of privacy.
 - e. Addressing and investigating employee violations.

Note: The reasonable steps shall be implemented based on ICBHS' knowledge of:

- 1) To whom the information has been disclosed;
- 2) How the information might be used to cause harm to the individual or another individual; and
- 3) What steps can actually have a mitigating effect with respect to the particular situation.

Privacy Officer

5. Contacts the complainant to inform him or her regarding the results of the investigation, and what changes, if any, have been made to prevent further violations of the HIPAA Privacy Rule requirements.
6. 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 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:

Privacy Complaint ICBHS 00-56