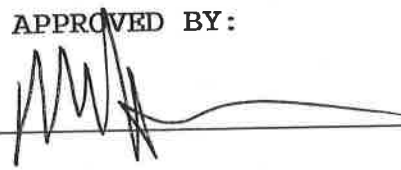


COUNTY OF IMPERIAL  
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

POLICY AND PROCEDURE MANUAL

<b>SUBJECT:</b> Denial of a Request to Amend Protected Health Information	<b>PROCEDURE:</b> 01-28
<b>SECTION:</b> Administration	<b>EFFECTIVE DATE:</b> 4-14-03
<b>REFERENCE:</b> 45 C.F.R. Section 164.526(2)	<b>PAGE:</b> 1 of 5
<b>AUTHORITY:</b> Behavioral Health Director as the Local Mental Health Director and Alcohol and Drug Administrator	<b>SUPERSEDES:</b> New Procedure
	<b>APPROVED BY:</b> 

**PURPOSE:** To establish a procedure for denying a request to amend 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 164.526 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, in accordance with Section 164.526(a)(2), deny the request for amendment based on the criteria described in Step 1 below.

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

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

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. In this procedure, the term "client" is 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 a member of the workforce.

**PROCEDURE:**

PERSON RESPONSIBLE

ACTION:

ICBHS Clinician/Program  
Supervisor

1. Reviews the request to amend PHI 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

ICBHS Clinician/Program  
Supervisor (cont.)

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. (Refer to Policy 01-61 Access to Protected Health Information)
- d. The information the client wants to amend is accurate and complete.

2. Documents decision on an **Amendment Request Determination** form.

3. Forwards the Amendment Request Determination form to the privacy officer.

Privacy Officer

4. Within 10 days of receipt of the Amendment Request Determination form from the clinician/supervisor, completes a **Response to Request to Amend Protected Health Information/ Respuesta A La Solicitud De Enmienda A Informacion Medica Protegida** form that explains the following:

a. The reason for the denial in section B "Denial of Amendment Request" in plain language.

b. The client's right to submit a written statement disagreeing with the denial and how the client may file

Privacy Officer (cont.)

such a statement. (See Procedure 01-14, Statement of Disagreement With Denial To Amend Protected Health Information)

- c. The client's right, if he or she does not submit a written statement of dis-disagreement, to request that if ICBHS makes any future disclosure of the the relevant information, that ICBHS will also include the client's request for amendment and ICBHS' denial.
  - d. A description of how the client may file a complaint with ICBHS.
  - e. A description of how the client may file a complaint with the DHHS.
  - f. The name or title and the telephone number of the designated contact person who handles this type of complaint.
5. Sends the completed Response To Request To Amend Protected Health Information/Respuesta A La Solicitud De Enmienda A Informacion Medica Protegida form to the client.
  6. Retains documentation of the request for an amendment, the ICBHS response to the request for amendment, the name and title of the person responsible for processing the request for an amendment six (6) years from the date of its creation or the date it was last in effect, whichever is later, or such

ICBHS

ICBHS (cont.)

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:**

Response to Request to Amend Protected Health Information ICBHS 00-33  
Respuesta a La Solicitud de Enmienda a Informacion Medica Protegida ICBHS 00-47  
Requests For Amendments to PHI Log ICBHS 00-63  
Amendment Request Determination ICBHS 00-66  
Statement of Disagreement/Request to Include Amendment Request and Denial With Future Disclosures ICBHS 00-35  
Manifestacion de Desacuerdo/Solicitud de Enmienda Y La Negativa A Divulgaciones Futuras ICBHS 00-54