


**COUNTY OF IMPERIAL  
DEPARTMENT OF BEHAVIORAL HEALTH SERVICES**

**POLICY AND PROCEDURE MANUAL**

<b>SUBJECT:</b> Denial of a Request for Access to Inspect and Obtain a Copy of Protected Health Information	<b>PROCEDURE:</b> 01-30
<b>SECTION:</b> Administration	<b>EFFECTIVE DATE:</b> 10-29-21
<b>REFERENCE:</b> 45 C.F.R. Section 164.524	<b>PAGE:</b> 1 of 7
<b>AUTHORITY:</b> Behavioral Health Director as the Local Mental Health Director and Alcohol and Drug Administrator	<b>SUPERSEDES:</b> 4-14-03
	<b>APPROVED BY:</b> 

**PURPOSE:** To establish a procedure for denying individuals and their personal representative access to inspect and obtain a copy of the individual's protected health information (PHI) in the designated record set maintained and retained by ICBHS.

**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:** The Health Insurance and Portability and Accountability Act of 1996 (HIPAA) provides individuals with new rights regarding their protected health information. These patient rights are mandatory and ICBHS' mental health and alcohol and drug programs as covered entities under HIPAA, must assure, for example, in compliance with Section 164.524, that individuals have the right, with certain exceptions, of access to inspect and obtain a copy of protected health information kept in the designated record set. Section 164.524 (a) (2), (3) provides "unreviewable"

and "reviewable" grounds for denying a client access to his or her own records.

**DEFINITIONS:**

**Access:** The right of an individual to inspect and/or obtain a copy of PHI in the designated record set for as long as the information is maintained by the covered entity in the designated record set.

**Designated Record Set:** A group of records maintained by or for covered entity that is the medical records and billing records about individuals maintained by or for a health care provider; the enrollment, payments, claims adjudication, and case or management record systems maintained by or for a health care provider; or used, in whole or in part, by or for ICBHS 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. In this procedure, the term "client" is used to refer to the individual.

**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 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.

**Record:** Any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated.

**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 access to PHI to inspect and obtain a copy of PHI in designated record set.

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2. Denies requested based on the following criteria:
  - a. The information was obtained from a source other than ICBHS with the promise of confidentiality and the client's access would reveal the source.
  - b. The information was compiled for use in a court of law or administrative proceeding.
  - c. The information was created or obtained in the course of research that includes treatment and access is temporarily suspended for as

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- long as the research is in progress.
- d. The client's life or physical safety might be in jeopardy if he or she has access to his or her PHI.
  - e. Another person's life or physical safety might be in jeopardy if the client is given access to his or her PHI.
  - f. The information contains reference to another person and this information could cause substantial harm to the person.
  - g. The request is made by the client's personal representative and the licensed health care professional has determined that access could result in substantial harm to the client or another person.
  - h. The client is an unemancipated minor and the request is made by the client's personal representative for PHI involving treatment for which an unemancipated minor was capable of giving consent.
3. Within five (5) days of receipt of the request for access, documents the denial on the **Access to Records Request/Solicitud Para Acceso A Expediente** form and completes a **Denial Letter for Requests to Access Protected Health Information/Carta De Negativa A**

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**Solicitudes Para Acceso A  
Información Médica Protegida**, which  
indicates the following:

- a. The basis for the denial;
- b. A statement (for denial reasons "d", "e", "f" and "g" that the client has the right to have the denial reviewed by a licensed health care professional, designated by ICBHS to act as a reviewing official and who did not participate in the original denial decision. (See Procedure 01-31, Review of A Denial of a Request for Access to Inspect and Obtain a Copy of Protected Health Information)
- c. A description of how the client may complain to ICBHS or to the Secretary of DHHS that includes the name, or title, and telephone number of the ICBHS Privacy Officer.

**Note:** ICBHS may take one 30-day extension but, within the original time limit, must notify the client in writing of the reasons for the delay and the date by which it will process the access request. The delay and date by which the request will be processed must be documented on the **Access to Records Request/ Solicitud Para Acceso A Expediente** form. A copy of the form documenting the delay must be provided to the client and the Privacy Officer.

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4. If ICBHS denies access because ICBHS does not have the PHI that is the subject of the request and ICBHS knows where that PHI is maintained, ICBHS will inform the client where to direct the request for access.

5. If access is denied in part, provides, to the extent possible, the client access to or copies of any other PHI requested, after removing the PHI to which ICBHS has grounds to deny access.

Team Clerical Support

6. Files copy of the **Access to Records Request/Solicitud Para Acceso A Expediente** form and **Denial Letter for Requests to Access Protected Health Information/Carta De Negativa A Solicitudes Para Acceso A Información Médica Protegida** in the chart and routes copies to the client and to the Privacy Officer.

ICBHS

7. Documents the information requested by the client, what information was provided by the client, the name and titles of the employees who processed the request for access and any denial determinations and retains 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.

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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:**

Denial Letter for Requests to Access  
Protected Health Information

ICBHS 00-31

Carta De Negativa A Solicitudes  
Para Acceso A Información Médica Protegida

ICBHS 00-45