


DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

POLICY AND PROCEDURE MANUAL

SUBJECT: Verification of Identity and Authority	POLICY: 01-78
SECTION: Administration	EFFECTIVE DATE: 4-14-03
REFERENCE: 45 C.F.R. Section 164.514(h)	PAGE: 1 of 3
AUTHORITY: 45 C.F.R. Part 164	SUPERSEDES: New Policy
	APPROVED BY: 

PURPOSE: To establish a policy for verifying the identity and authority of persons requesting protected health information (PHI) whose identity and authority are not known to Imperial County Behavioral Health Services and obtaining any documentation, statements or representations (whether oral or written) that are a condition of the disclosure.

SCOPE: The information in this document applies to all members of the workforce which includes employees, contract employees, volunteers, trainees, etc., granted access to protected health information (PHI).

NOTES: Under HIPAA, ICBHS' mental health and alcohol and drug programs, as covered entities, are required to (1) verify the identity of any person requesting PHI, and the authority of that person to have access to the information; and (2) obtain any documentation, statements, or representations (oral or written) where required under the regulations as a condition of the disclosure. [45 C.F.R. Section 164.514(h)(1)]

Under the Privacy Rule, verification is not a permission to use or disclose PHI. It is a special requirement that applies to determine that the person who requests PHI is the correct person and is permitted to receive the PHI. Verification is triggered where a person requests PHI and an exception does not apply. It is important as a barrier against the improper sharing of PHI with people other than the client or authorized persons.

DEFINITIONS: Verification: The process of confirming the identity and authority - whether by pre-existing relationship

and of obtaining any required documentation regarding the request.

Workforce: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the department, is under the direct control of the department, whether or not they are paid by the department.

POLICY: Imperial County Behavioral Health Services (ICBHS) will verify the identity of any person unknown to the department who requests PHI and the authority of any person known or unknown to the department. Staff must also obtain from the person requesting the PHI any documentation, statements, statements or representations (whether oral or written) that are a condition of the disclosure. [45 C.F.R. Section 164.514(h)(1)].

Exceptions to Verification:

Verification of the identity and authority is required for all persons requesting PHI, whether in person or by other means of communication, excepts for the following persons:

1. a person requesting the PHI known to the department as someone authorized to access PHI;
2. a person reasonably able to prevent or lessen a serious threat to health or safety of an individual or of the public in an emergency;
3. under circumstances where the individual is informed about a proposed disclosure of PHI to the person and has the opportunity to agree or object to that disclosure.

Verification:

If the person requesting the PHI is not known to ICBHS, and none of the above exceptions to verification applies, ICBHS must make a reasonable effort to determine that the PHI is being disclosed to a person or entity authorized to receive it. See Procedure 01-15, Verification.

Note: Since the verification process will be different depending upon the circumstances of the request and the person making the request, a reference guide is provided as Attachment I to assist in determining which verification procedure to use.

CAUTION: This verification guide is to be used if the identity and authority of the person requesting the PHI are not already known ONLY once it has been determined that the release is proper.

Enforcement

Management and supervisors are responsible for enforcing this policy and associated procedure(s). Members of the workforce who violate this policy or associated policies or procedures are subject to disciplinary actions appropriate to the nature of the violation in accordance with the ICBHS sanction policy.

REFERENCE GUIDE

VERIFICATION OF IDENTITY AND AUTHORITY

CAUTION: NEVER RELEASE PROTECTED HEALTH INFORMATION UNLESS THERE IS A LEGAL REASON THAT PERMITS OR REQUIRES THAT YOU DO SO. THIS VERIFICATION GUIDE IS TO BE USED IF THE IDENTITY AND AUTHORITY OF THE PERSON REQUESTING THE PHI ARE NOT ALREADY KNOWN ONCE IT HAS BEEN DETERMINED THAT THE RELEASE IS PROPER.

If the person requesting PHI is ...	Then...
A. Claiming to be the client and in person	<ul style="list-style-type: none"> ■ Require a driver's license, passport, a state identification, or similar evidence of identity ■ Request his/her social security number or other personal information that can be verified from his/her medical record. ■ Rely on documentation, statements, or representations presented that, on their face, meet the applicable requirements for establishing identity - if our reliance is reasonable under the circumstances and is in good faith.
B. Claiming to be the client, but not in person	<ul style="list-style-type: none"> ■ Request his/her social security number or other personal information that can be verified from his/her medical record. ■ Call the requestor back to verify the instructions if the PHI is to be transmitted by fax, telephone, or e-mail. ■ Use some other appropriate common-sense means of verifying that the person making the request is in fact the client. ■ Rely on documentation, statements, or representations presented that, on their face, meet the applicable requirements for establishing identity - if our reliance is reasonable under the circumstances and is in good faith.
C. Not the client, but in person with the client	<ul style="list-style-type: none"> ■ Generally, if the client is known to us or his or her identity is verified, and if the client is with the person and identifies the person as someone entitled to receive the client's PHI, that is sufficient verification of the person's identity and authority. ■ If the client is not known or recognized, verify the client's identity under B above.
D. Not the client, but in person without the client.	<ul style="list-style-type: none"> ■ Use reasonable means to verify the person's identity: ■ Require a driver's license, passport, a state identification, or similar evidence of identity

D (Cont.)

- Rely on documentation, statements, or representations presented that, on their face, meet the applicable requirements for establishing identity - if our reliance is reasonable under the circumstances and is in good faith.

Use reasonable means to verify the person's **authority**:

- Require a copy of a power of attorney, a letter on official letterhead, a subpoena, or similar official document evidence of authority
- If the authorization you have identified for the use or disclosure requires a particular documentation, statements, or representations by the person requesting PHI, request the required items and determine whether the evidence offered is sufficient.
- In making this determination, the department may rely on documentation, statements, or representations presented that, on their face, meet the applicable requirements for establishing identity - if our reliance is reasonable under the circumstances and is in good faith.
- For certain disclosures required by law, the condition of the permission can be met by administrative subpoena or by a separate written statement that, on its face, shows the requirements have been made.

E

Not the client and not in person

Use reasonable means to verify the person's **identity** by:

- Sending the PHI to a recognizable organizational mailing address, or
- Calling the requestor back through the main organization switchboard rather than through a direct dial number to verify the instructions, if the PHI is to be transmitted by fax or telephone or e-mail.
- Using some other common-sense means of verifying that the person making the request is in fact the person authorized to receive the client's PHI

Use reasonable means to verify the person's **authority**:

Require a copy of power of attorney, a letter, on official letterhead, a subpoena, or similar official document to evidence authority.

- If the permission identified for the use or disclosure of PHI requires a particular documentation, statements, or representations by the person requesting PHI, request the required items and determine whether and determine whether the evidence offered is sufficient.
- In making this determination, the department may rely on documentation, statements, or representations presented that, on their face, meet the applicable requirements for establishing identity - if our reliance is reasonable under the circumstances and is in good faith.

E. (Cont.)

- For certain disclosures required by law, the condition of the permission can be met by administrative subpoena or by a separate written statement that, on its face, shows the requirements have been made.

F

Claiming to be the client's personal representative

Use reasonable means to verify the person's **identity** and **authority** to act for the client as follows:

- Ask questions to determine that an adult acting for a young child has the requisite relationship to the child to support his/her status as a personal representative to child.
- Examine a copy of the power of attorney for a personal representative of an adult patient or a copy of the court appointment if the personal representative has been appointed by the court, or other reasonable evidence of representative's authority to act for the client.
- Examine a copy of the personal representative's court appointment as executor of a deceased client's estate or other reasonable evidence of the personal representative's authority.

G

Claiming to be a public official or acting on behalf of a public official

If it is reasonable, under the circumstances to do so, you may rely on the following to verify the **identity** of a public official or a person acting on behalf of a public official:

If the person is in person, presentation of an agency identification badge, other official credentials, or other proof of government status;

- If the request is in writing, the request is on appropriate government letterhead; or
- If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order that establishes that the person is acting on behalf of the public official
- A written statement of the legal authority under which the information is requested, or, if a written statement would be impractical;
- an oral statement of such legal authority.
- If the request is made pursuant to a legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal, it is presumed to constitute legal authority.