

SAN MATEO COUNTY
MENTAL HEALTH SERVICES DIVISION

DATE: February 25, 2003; effective April 14, 2003

MENTAL HEALTH POLICY NO.: MH 03-07

SUBJECT: Disclosures of Protected Health Information (PHI), Request for an Accounting

AUTHORITY: 45 CFR Sections 160 & 164.528 (HIPAA Privacy Rule); Mental Health Policy 00-06, Client Access to Mental Health Records

SUPERSEDES: New Policy

ATTACHMENTS:

- A. Request for an Accounting of Disclosures
- B. Response to Request for an Accounting of Disclosures
- C. Log of Accountable Disclosures

POLICY: Mental Health clients and legal representatives of the client have the right to an accounting of certain disclosures of their protected health information (PHI).

PURPOSE: To affirm the client's right to an accounting of disclosures, and to facilitate this process by defining relevant terms and procedures for requesting an accounting of disclosures, including timelines for compliance and circumstances where no accounting of disclosures needs to be given.

DEFINITIONS

Legal Representative - The parent or legal guardian of a minor client, the guardian or legal conservator of an adult client, or the personal representative of a deceased client.

PHI – Protected Health Information (also known as “individually identifiable health information”.) Includes information relating to a person's health, the care received and payment for services, including demographics.

Provider - For purposes of this policy, “provider” is used interchangeably to refer to San Mateo County Mental Health Services, or to the individual administrative or clinical staff member processing the request for an accounting of PHI.

PROCEDURE

1. Each client chart shall have filed within it a form entitled Log of Accountable Disclosures (Attachment A). As appropriate, this log may be maintained in the working chart, so long as every accountable disclosure is written in the log.

2. As of April 14, 2003, the staff member facilitating the disclosure shall immediately log every disclosure, written or verbal, that must be accounted for (see 6., below).
3. The client shall request the accounting of disclosures in writing. This may be done by using the form entitled "Request for an Accounting of Disclosures" (Attachment B), or by otherwise communicating in writing all the information requested on the form. The provider shall give the form to the client whenever the client expresses a desire for an accounting of disclosures.
4. For clients with open charts, the assigned therapist or team shall manage the request. For clients with more than one open chart, the care coordinator shall manage the request and gather each separate Log of Disclosures to include in the Mental Health response.
5. For clients with closed charts, the lead administrative staff person at the site shall manage the request for an accounting of disclosures.
6. **No accounting is required of the following disclosures:**
 - a. To carry out treatment, payment or health care operations.
 - b. To individual's regarding their own information.
 - c. When authorization for the disclosure was given by the client/representative
 - d. For notification purposes (to notify a family member, personal representative or other person of the client's location, general condition [with client authorization] or death).
 - e. For national security or intelligence purposes.
 - f. To correctional institutions or law enforcement officials as legally allowed/required.
 - g. Those made prior to April 14, 2003.
7. **All other disclosures, even if allowed without authorization or mandated by law must be included in an accounting of disclosures.**
8. If the provider has made multiple disclosures of PHI to the same person or entity for a single purpose (example: repeated disclosures to the court), the accounting may be limited to
 - b. The information noted above regarding the first disclosure
 - c. The frequency, periodicity or number of disclosures made during the time period being considered
 - d. The date of the last disclosure.
9. The request for an accounting of disclosures must be replied to in writing and include the following:
 - a. Disclosures for the six years prior to the request, unless the client wants information for a shorter time. NOTE: the six-year rule begins with disclosures made on or after April 14, 2003.
 - b. Disclosures made to or by business associates.
 - c. The date of each disclosure.
 - d. The name of the person or entity that received the PHI, including an address, if possible.
 - e. A brief description of the information disclosed and the purpose of the disclosure. In lieu of this, the client may be given written requests for disclosure received under circumstances where the client's authorization or opportunity to agree or object with the disclosure is not required. An example would be the release of information to another agency about victims of neglect or abuse.

- f. Disclosures made orally must be accounted for. An example would be a telephone call to the Public Health Agency alerting them to a positive TB skin test.
10. For all clients, each request for an accounting of disclosures shall be reviewed with the most appropriate clinical supervisor. The final accounting shall also be reviewed by the supervisor prior to giving this to the client, to assure completeness and accuracy of information. All questions concerning the disclosure procedure should be referred to the QI Manager.
11. Timeline for an Accounting of Disclosures
- a. 60 days following receipt of a request
 - b. If the request cannot be met within 60 days, the provider shall respond in writing explaining the delay and specifying when the request will be met. This shall be no longer than 30 additional days. (See Attachment C – Response to Request for Accounting of Disclosures).
 - c. The provider may have only one such delay.
12. Fees for an Accounting of Disclosures
- a. No charge for the first accounting within a 12-month period.
 - b. A reasonable, cost-based fee may be assessed for subsequent requests within the same 12-month period by the same individual. The client must be notified in advance of the fee and given an opportunity to withdraw or modify the request in order to avoid or reduce the fee.
13. The provider must document in the Mental Health Chart all of the information pertinent to the accounting, copies of all written accountings that are provided to client/representatives, and the names and titles of staff members responsible for receiving and processing the requests for accountings.

Approved: _____
Gale Bataille, Director
Mental Health Services Division