

SAN MATEO COUNTY HEALTH SYSTEM
BEHAVIORAL HEALTH AND RECOVERY SERVICES

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

BHRS POLICY: 03-08

SUBJECT: Restrictions on Use or Disclosure of Protected Health Information (PHI),
Client Request

AUTHORITY: 45 CFR, Part 160 (HIPAA Privacy Rule); Divisional

AMENDED: Technical Edits 1/23/14

ATTACHMENTS:

- A. Request for Special Restriction on Use or Disclosure of Protected Health Information
- B. Response to Request for Special Restriction on Use or Disclosure of Protected Health Information

PURPOSE

To provide direction to staff when a mental health client requests a restriction on the use and/or disclosure of Protected Health Information.

DEFINITIONS

Protected Health Information (PHI) - Information that relates to a person's health, the care received, and payment for services, including demographic information.

Provider - For purposes of this policy, "provider" is used interchangeably to refer to San Mateo County Behavioral Health Services, or the individual administrative or clinical staff member processing the request to restrict the use or disclosure of protected health information.

BACKGROUND

Under HIPAA and California law, client authorization is not required to use or disclose protected health information for purposes of mental health treatment, payment or health care operations.

However, HIPAA regulations give individuals the right to ask providers to voluntarily restrict uses or disclosures of PHI that are otherwise allowed by law.

Although the right to request is given to the individual, providers are *not* required to agree to any such request.

POLICY

San Mateo County Behavioral Health and Recovery Services (BHRS) will not agree to the restriction of any PHI required to carry out the functions of treatment, payment or operations or for any other purpose mandated by state or federal law.

BHRS will follow the client's request restricting or allowing disclosures for which authorization is required. (See BHRS Policy, 03-06, Disclosures of Protected Health Information (PHI) with Client Authorization.)

The clinical staff is responsible for the management of the request to restrict the use or disclosure of PHI.

PROCEDURE

The clinician or team serving a client who requests special restrictions on the use or disclosure of PHI necessary for treatment, payment or operations will do the following:

1. Describe the behavioral health policy to the client emphasizing the following points:
 - We need to have access to PHI for such reasons as providing appropriate treatment, obtaining reimbursement from all available providers, and internal review and management purposes.
 - Even if it appears to the client that the restriction would not negatively impact treatment, payment or operations, we have no internal mechanism to track and prevent inadvertent releases.
 - We will not release information beyond the needs for treatment, payment and operations (and other areas mandated by State or Federal Law), without specific authorization by the client or client's representative.
 - The client has the right to limit disclosures or restrictions on any authorization they fill out, i.e., where the burden is on the client to release or not to release PHI.

2. If the client continues to request restrictions on the use or disclosure of protected health information, the clinician shall provide the form entitled Request for Special Restriction on Use or Disclosure of Protected Health Information (Attachment A)
 - The clinician shall continue to explain that Federal law mandates the form, but that BHRS will not agree to restrictions of PHI used for treatment, payment or operations.

- The clinical supervisor will be notified that the client has presented the form to the clinician.
 - The form shall be filed in the medical record.
3. When a written request for restrictions is received, the form entitled Response to Request for Special Restriction on use or Disclosure of Protected Health Information (Attachment B) shall be completed by the supervisor and given to the client. A copy of the form shall be filed in the medical record.
 4. All discussions with clients concerning restrictions on the release of PHI shall be documented in the medical record on progress notes. If a form was submitted and responded to, this shall be referenced in the note.

Approved: Signature on file
Stephen Kaplan, Director
Behavioral Health and Recovery Services

Reviewed: _____

