

 <p style="text-align: center;"><b>County of Sacramento</b>  <b>Department of Health Services</b>  <b>Division of Behavioral Health Services</b>  <b>Policy and Procedure</b></p>	Policy Issuer (Unit/Program)	BHS-CMH-YDF
	Policy Number	08-11
	Effective Date	10/2009
	Revision Date	07/2017
Title: Methods for Releasing Protected Health Information	Functional Area: Health Information Management	
Approved By:		
Matthew Quinley, LCSW Health Program Manager	Christopher Eldridge, LMFT Mental Health Program Coordinator	

**Background/Context:**

Sacramento County Juvenile Justice Institutions Mental Health Team (JJIMHT) members may not use or disclose protected health information (PHI) except as permitted or required by the federal Health Insurance Portability and Accountability Act (HIPAA). Some uses and disclosures require written authorization by the client; exceptions to this requirement apply under certain circumstances. All uses and disclosures that require the client’s authorization shall be documented. Those provisions of HIPAA concerning the privacy and confidentiality of a client’s health information do not supersede those California state law provisions, and other federal law provisions, that are more stringent than HIPAA. County staff should follow California law or other federal law if it provides greater protection than HIPAA.

**Purpose:**

The objective of this policy and procedure is to establish guidelines by which the JJIMHT members providing mental health services within the Youth Detention Facility (YDF) will properly release PHI upon receipt of a written authorization or in regard to permissible releases under current federal and state law.

**Details:**

1. General Guidelines
  - A. The JJIMHT Program Coordinator will review and authenticate all written authorizations for the use or disclosure of PHI.
  - B. The JJIMHT Program Coordinator will review the information requested and determine if releasing the requested information would pose a substantial risk of significant adverse or detrimental consequences to the youth, their legal representative or to the provider’s professional relationship with the youth or be detrimental to the physical safety and wellbeing of the youth. In such cases, the JJIMHT Program Coordinator will:
    - I. Enter a progress note in the youth’s electronic mental health record (EHR) with explanation for refusing to permit inspection of or provide copies of the

record, to include a description of the specific adverse or detrimental consequences to the youth anticipated should inspection or copying of the record were permitted.

- II. Inform the youth or legal representative of the right to require JJIMHT to permit inspection by, or provide copies to, a licensed physician, surgeon, psychologist or licensed mental health professional designated by written authorization of the youth and legal representative.
  - III. Offer to complete and provide a summary of services.
  - IV. Inform the youth and legal representative of the refusal to permit him/her to inspect or obtain copies of the requested records and document whether the youth and legal representative requested another health professional inspect or obtain the requested records.
- C. Suspected child abuse and elder/dependent adult abuse reports are confidential documents and should not be released to the youth or legal representative unless mandated by The Court.
- D. Unless otherwise indicated, all uses of and/or disclosure of PHI will be entered on an Accounting of Disclosure Log to be scanned into the youth's EHR.
2. Use of or Disclosure by United States Postal Service
- A. Approved records will be copied and placed in an envelope, sealed and clearly marked "confidential."
  - B. The record will be covered with a statement of privacy and method to contact JJIMHT in the event the information is received by an individual or entity other than intended.
  - C. The mailing address will be confirmed, the envelope legibly addressed and placed in the outgoing mail with a postage voucher.
  - D. The JJIMHT member will enter a progress note detailing the release of PHI in the youth's EHR and complete an Accounting of Disclosure Log, if applicable.
3. Use of or Disclosure by Faxing/E-faxing
- A. JJIMHT members may fax PHI to providers designated as covered entities by the County of Sacramento without a signed authorization form when a clinical need has been established, such as continuity of care.
  - B. If not as above or an emergency, then JJIMHT will only fax documents as requested in the signed authorization form. A faxed authorization form will be accepted as valid if the youth's and legal representative's signature is verified or witnessed by a covered entity, the youth's attorney or a valid identification is attached to the authorization form.
  - C. JJIMHT members will confirm the fax number and verify by telephone the availability of the authorized receiver to receive the information before sending the fax transmission.
  - D. A fax transmission cover sheet will accompany each record released. The fax transmission cover sheet will include:
    - I. Date of fax transmission
    - II. Sending facility's name, telephone number and fax number
    - III. Sender's name

- IV. Receiving facility's name, telephone number and fax number
- V. Authorized receiver's name
- VI. Number of documents sent
- VII. Statement regarding disclosure of confidential patient information
- E. The fax transmission cover sheet and transmission confirmation sheet will be scanned into the youth's EHR under the HIPAA tab along with the completed Accounting of Disclosures Log, if applicable.
- F. The JJIMHT member will enter a progress note detailing the release of PHI in the youth's EHR.
- G. In the case of a misdirected fax, JJIMHT members will:
  - I. Check the fax transmission confirmation sheet to obtain the recipient's fax number.
  - II. Fax a request using the incorrect number, explain the information was misdirected and ask that the documents be returned or destroyed. Document the conversation and the name of the person having received the misdirected transmission.
  - III. Complete an incident report and inform the JJIMHT Program Coordinator.
- 4. Use or Disclosure by E-mail
  - A. While not the preferred method of releasing PHI, JJIMHT members may send encrypted e-mail messages containing PHI to authorized individuals/entities designated as covered entities by the County of Sacramento without a signed authorization form when a clinical need has been established, such as continuity of care.
  - B. If not as above, JJIMHT members will only send encrypted e-mail messages as requested in the signed authorization form. The JJIMHT member will confirm the e-mail address of the authorized recipient prior to sending the PHI.
  - C. There shall be no PHI in the subject line of the e-mail message as the subject line is not secured, encrypted.
  - D. The e-mail message shall have a statement regarding the disclosure of confidential patient information.
  - E. The JJIMHT member will request the authorized recipient send a separate secure, encrypted e-mail confirmation of receipt of the requested PHI. The confirmation e-mail message will be scanned into the youth's EHR under the HIPAA tab along with the completed Accounting of Disclosures Log, if applicable.
  - F. In the case of a misdirected e-mail message, JJIMHT members will:
    - I. Re-call the e-mail message.
    - II. Inform the incorrect recipient the information was misdirected and ask that the message and any attachments be deleted and permanently removed or destroyed. Document the incident and the name of the person having received the misdirected e-mail message.
    - III. Complete an incident report and inform the JJIMHT Program Coordinator.
- 5. Use or Disclosure by On-site Delivery
  - A. Upon request, JJIMHT members will hold copies of the requested PHI for the authorized individual to collect at YDF.

- B. The PHI will be placed in an envelope, sealed and marked “confidential.” The envelope will be held in the JJIMHT secured chart room until retrieved by the authorized individual.
- C. The JJIMHT member releasing the envelope will confirm the identity of the authorized individual prior to providing the individual with the PHI.
- D. The JJIMHT member will enter a progress note detailing the release of PHI in the youth’s EHR.

**Reference(s)/Attachment(s):**

BHS-HIPAA-AS-100-03-Privacy Rule Policy and Procedures

JJIMHT-YDF US Postal Service Privacy Statement

JJIMHT-YDR Fax Cover Sheet

**Related Policies:**

BHS-CMH-YDF-02-03-Confidentiality

BHS-CMH-YDF-08-01-Administrative, Technical and Physical Safeguards

BHS-CMH-YDF-08-02-DBHS Compliance Program

BHS-CMH-YDF-08-06-HIPAA Complaints and PHI/EPHI Breach Protocol

BHS-CMH-YDF-08-07-Record Management

BHS-CMH-YDF-08-08-Penalties for Privacy Violations

BHS-CMH-YDF-08-11-Methods for Releasing Protected Health Information

BHS-CMH-YDF-08-12-Accounting of Disclosures

BHS-CMH-YDF-09-01-Countywide Personnel Policies and Procedures

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