

County of San Bernardino
Department of Behavioral Health



INFORMATION NOTICE 11-11

Date: July 20, 2011

To: Department of Behavioral Health FFS Hospital Providers

From: Allan Rawland, Director 

Subject: Sharing of Protected Health Information relating to Mental Health

Introduction Federal and state laws allow for the sharing of protected health information (PHI) relating to mental health for the purpose of treatment without the signed authorization of the client.

The purpose of this Information Notice is to recommend Fee-For-Service (FFS) Hospitals and DBH treatment providers share PHI related to mental health as allowed by law when a DBH client is admitted to a FFS Hospital.

Federal Law The Health Insurance Portability and Accountability Act (HIPAA) of 1996, specifically Section 164.506, allows covered entities to share protected health information for the purpose of treatment, payment and/or health care operations without the authorization of the client.

Important Note: While federal law permits the sharing of treatment information, there is no requirement per this section in HIPAA to compel the covered entity or employee of a covered entity to share PHI.

State Law California laws regarding the privacy or confidentiality of mental health records are more stringent than federal law; however, California law also provides the sharing of PHI for treatment. Welfare and Institutions Code, Section 5328, permits the communication between qualified professional persons without the authorization of the client in the provision of services or appropriate referrals regardless if the provided service was voluntary or involuntary. Communication is not limited to those working in the same facility; rather it is extended to those working in a different facility.

The exception is if the professional person employed at a different facility does not have the medical or psychological responsibility of the client's care. If this is the case, an Authorization for Release of Protected Health Information is required.

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State Law
(continued)

Important Note: While state law permits the sharing of treatment information, there is no requirement per this section of the Welfare and Institutions Code to compel the covered entity or employee of a covered entity to share.

**Requesting
Protected
Health
Information**

If the treating physician at the FFS Hospital determines he/she needs the Specialty Mental Health treatment information from the DBH outpatient clinic in order to treat the client, the FFS Hospital treating physician may contact the DBH clinic where the client is receiving services to request treatment information such as medication. The DBH physician or psychiatrist may provide the requested treatment information to the requesting physician but may only provide the information pertinent to treatment such as but not limited to diagnosis, medication, dosage, medication changes and medication compliance.

On the other hand, if a DBH physician or psychiatrist learns that a client has been hospitalized at a DBH FFS Hospital, the DBH physician or psychiatrist may initiate contact to the FFS Hospital and/or provider to inquire about treatment information. The FFS Hospital and/or hospital provider may provide the treatment information.

Questions

Questions regarding this information notice may be directed to the DBH Office of Compliance at (909) 382-3127 or (909) 382-3083 or via email Compliance_Questions@dbh.sbcounty.gov.

References

Title 45, Code of Federal Regulations, Section 164.506
Welfare and Institutions Code, Section 5328
