



# Behavioral Health

## Oath of Confidentiality

Pursuant to Code of Federal Regulations (CFR), Title 45, Parts 160 and 164; Welfare and Institutions Code Section 5328; 42 CFR Part 2; and agreements with the California Department of Health Care Services (DHCS), all Department of Behavioral Health (DBH) workforce members, or County, state and/or federal representatives, collecting, maintaining and/or utilizing client data, protected health information (PHI) or personally identifiable information (PII) in the course of their duties or research/audit/review with DBH, shall sign this Oath of Confidentiality (Oath).

All DBH workforce members and other representatives must sign the Oath upon hire and/or prior to accessing PHI or PII, and annually thereafter, as appropriate.

I, \_\_\_\_\_, will treat all PHI and PII provided to me - contained in the Department's client charts, computer files, other records or storage devices, with a level of integrity and confidentiality and as required by law. I will not seek to unnecessarily gain or disclose information about any client or group of clients that is not necessary for my immediate job or business-related functions, whether or not I intend to reveal/disclose the information; and I will restrict access to PHI or PII, including any computer-generated information about a client or group of clients according to Health Insurance Portability and Accountability Act (HIPAA) "minimum necessary" standards [45 CFR 164.502(b) and 164.514(d)].

### Civil Action and Sanctions

I recognize the unauthorized use or release/disclosure of confidential information may subject me to civil action and/or sanctions pursuant to applicable state and federal laws, including, but not limited to:

#### **California Welfare and Institutions Code, Section 5330**

(a) Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him or her for the greater of the following amounts:

- (1) Ten thousand dollars (\$10,000).
- (2) Three times the amount of actual damages, if any, sustained by the plaintiff.

(b) Any person may bring an action against an individual who has negligently released confidential information or records concerning him or her for both of the following:

- (1) One thousand dollars (\$1,000). In order to recover under this paragraph, it shall not be a prerequisite that the plaintiff suffer or be threatened with actual damages.
- (2) The amount of actual damages, if any, sustained by the plaintiff.

#### **United States (US) Code, Section 1320d-5**

Violation	Minimum Penalty	Maximum Penalty
Individual did not know (and by exercising reasonable diligence would not have known) that he/she violated HIPAA	\$100 per violation, with an annual maximum of \$25,000 for repeat violations	\$50,000 per violation, with an annual maximum of \$1.5 million for repeat violations
HIPAA violation due to reasonable cause and not due to willful neglect	\$1,000 per violation, with an annual maximum of \$100,000 for repeat violations	\$50,000 per violation, with an annual maximum of \$1.5 million for repeat violations
HIPAA violation due to willful neglect but violation is corrected within the required time period	\$10,000 per violation,	\$50,000 per violation, with an annual maximum of \$1.5 million for repeat violations



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	with an annual maximum of \$250,000 for repeat violations	
HIPAA violation is due to willful neglect and is not corrected	\$50,000 per violation, with an annual maximum of \$1.5 million for repeat violations	

### Criminal Penalties

I recognize that the U.S. Department of Justice has determined the following may be held criminally liable under the HIPAA:

- Covered entities and specified individuals, whom "knowingly" obtain or disclose individually identifiable health information in violation of the Administrative Simplification Regulations face a fine of up to \$50,000, as well as imprisonment up to one (1) year.
- Offenses committed under false pretenses allow penalties to be increased to a \$100,000 fine, and imprisonment for up to five (5) years.
- Offenses committed with the intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain or malicious harm permit fines of \$250,000, and imprisonment for up to ten (10) years.

Records containing client PHI or PII shall be retained and maintained according to standard practices in a confidential file. All files are to be stored in a secure and DBH-authorized location and/or database. Records containing client PHI or PII are to be disposed of in accordance with applicable destruction standards and HIPAA.

I hereby agree to adhere to County, state, federal client privacy standards and will not access or disclose any PHI or PII without proper authorization or otherwise permitted by law. I acknowledge safeguarding policies pertaining to client privacy, which may be referenced in the DBH [Standard Practice Manual](#) and [Code of Conduct](#) – the enforcement of safeguarding policies may include handling and maintaining PHI and applying corrective action where necessary.

This Oath of Confidentiality will be retained by DBH and will be subject to inspection for one (1) year until a new Oath of Confidentiality is signed/recorded by DBH personnel.

\_\_\_\_\_  
**Name (Please print)**

\_\_\_\_\_  
**Position/Title**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Employee ID**

cc: Employee 201 File  
Employee's Direct Supervisor/Manager