

## Oath of Confidentiality

Pursuant to Code of Federal Regulations (CFR), Title 45, Parts 160 and 164 and agreements with the California Department of Health Care Services and San Bernardino County Department of Behavioral Health (DBH), all employees of \_\_\_\_\_, 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/auditing/review with \_\_\_\_\_, shall sign this Oath of Confidentiality. All employees and other representatives must sign the Oath of Confidentiality 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 agency's client charts, computer files and/or other records, with a level of integrity and confidentiality as required by law. I will not seek to learn or disclose information about any client or group of clients which 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 of confidential information may subject me to civil action pursuant to state and federal laws, including, but not limited to the following:

#### ***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.

### **42 United States Code (U.S. Code) § 1320d-5 - General penalty for failure to comply with requirements and standards**

Violation	Minimum Penalty	Maximum Penalty
<b>Tier 1:</b> Individual did not know (and by exercising reasonable diligence would not have known) that he/she violated HIPAA	\$120 per violation	\$60,226 per violation, with an annual maximum of \$1.8 million for repeat violations
<b>Tier 2:</b> HIPAA violation due to reasonable cause and not due to willful neglect	\$1,205 per violation	\$60,226 per violation, with an annual maximum of \$1.8 million for repeat violations
<b>Tier 3:</b> HIPAA violation due to willful neglect but violation is corrected within the required time period	\$12,045 per violation	\$60,226 per violation, with an annual maximum of \$1.8 million for repeat violations
<b>Tier 4:</b> HIPAA violation is due to willful neglect and is not corrected	\$60,226 per violation, with an annual maximum of \$1.8 million for repeat violations	

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## **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, with up to five (5) years in prison.
- 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 in a confidential folder as part of the program file. All files are to be stored in a secure and agency-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 concerning any client(s) without proper authorization in accordance with California Welfare and Institutions Code, Section 5328 and/or Title 42 of the Code of Federal Regulations, Part 2, Section 2.33. I acknowledge the enforcement of policies pertaining to client privacy, which may include corrective action.

This Oath of Confidentiality will be retained by \_\_\_\_\_ and will be subject to inspection by County DBH for at least six (6) years from the date of contract termination; or for one (1) year until a new Oath of Confidentiality is signed/recorded by DBH personnel.

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**Reviewer Name (Please print)**

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**Reviewer Department | Agency**

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**Reviewer Signature**

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**Date**

Refused to sign

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**Agency Representative Name (internal use only)**