

 <p style="text-align: center;">County of Sacramento Department of Health Services Division of Behavioral Health Services Policy and Procedure</p>	Policy Issuer (Unit/Program)	BHS-CMH-YDF
	Policy Number	08-06
	Effective Date	10/2009
	Revision Date	07/2017
Title: HIPAA Complaints and PHI/EPHI Breach Protocol	Functional Area: Health Information Management	
Approved By:		
Matthew Quinley, LCSW Health Program Manager	Christopher Eldridge, LMFT Mental Health Program Coordinator	

Background/Context:

The Health Insurance Portability and Accountability Act (HIPAA) signed into federal law in 1996 mandated the establishment of Federal Standards for the privacy of individually identifiable health information. Title XIII of the American Recovery and Reinvestment Act (ARRA) of 2009, in effect since February 17, 2010, known as the Health Information Technology Act (HITECH), requires notification following the discovery of a breach of protected health information.

Sacramento County Division of Behavioral Health Services (DBHS) requires reporting and tracking of all suspected or actual breaches of protected health information (PHI) or electronic protected health information (EPHI) in any form. The Office of Compliance Deputy Compliance Officers will assist the Juvenile Justice Institutions Mental Health Team (JJIMHT) in the determination of whether an incident requires reporting to the Secretary of the Federal Department of Health and Human Services (DHHS) and/or the State of California Department of Health Care Services (DHCS).

Purpose:

The objective of this policy and procedure is to establish the process by which Juvenile Justice Institutions Mental Health Team (JJIMHT) members will respond to and report suspected or actual breaches of PHI and/or EPHI in any form.

Details:

Client privacy shall be protected such that mental health record access is on a need-to-know basis. Mental health records shall not be accessed post discharge, even for investigatory review purposes, unless authorized by the JJIMHT Program Coordinator.

1. HIPAA Privacy Complaint
 - A. Anyone, the youth, family members, legal representatives, members of the workforce, among others can file a formal complaint regarding violations of HIPAA.

- B. DBHS Form 3009, HIPAA Privacy Complaint Form, will be provided to the individual(s) making the complaint and may be used by members of the workforce to report violations by others in the workforce.
 - C. JJIMHT members shall forward verbal and/or written complaints to the JJIMHT Program Coordinator; the complaint will be documented and retained for the required retention period mandated by current laws, regulations and DBHS policy.
 - D. JJIMHT members may report the incident directly to the Office of Compliance at (916)874-2999 or HIPAAOffice@saccounty.net or to the Department of Technology Services (DTech) at (916)874-5555 or <http://createincident.saccounty.net> if the JJIMHT Program Coordinator, Program Manager are unavailable or members are uncomfortable making the report directly to the supervisory staff.
 - E. The JJIMHT Program Coordinator, or designee, shall notify the relevant Program Manager and facility manager (if applicable) of the incident and complete the Office of Compliance First Report of HIPAA Incident Form, if necessary.
 - I. Incidents that shall be reported are listed at <http://inside.compliance.saccounty.net> under incident reporting.
 - F. The JJIMHT Program Coordinator, or designee, will cooperate with the documentation and investigation, mitigate as directed by the Office of Compliance and government agencies as applicable.
 - G. The JJIMHT Program Coordinator, or designee, will notify clients or their legal representatives, DBHS Executive Management, applicable government agencies and major media of valid complaints/breaches when applicable.
 - H. JJIMHT members will not intimidate, threaten, coerce, discriminate against or take any other form of retaliatory action against any individual(s) filing a complaint or inquiring about how to file a complaint.
 - I. JJIMHT members will not require clients to waive their right to file a complaint as a condition of providing treatment, payment, enrollment in a health plan or eligibility benefits.
2. Reporting and Tracking Suspected or Actual Breaches of PHI/EPHI
- A. JJIMHT members will report to the JJIMHT Program Coordinator or Program Manager all security incidents, threats to, or violations of, the confidentiality, integrity or availability of PHI or EPHI such as, but not limited to:
 - I. Misdirected fax, e-mail, print job or hard copy mail
 - II. Unencrypted e-mail containing PHI that is sent outside the County network, or sent to the wrong recipient(s)
 - III. Lost, stolen or missing laptop, smartphone, tablet, notebook, CD, USB or other portable device containing EPHI
 - IV. Unauthorized alteration, deletion or corruption of PHI
 - V. Loss of electronic media that contains EPHI
 - VI. Loss of the integrity of EPHI
 - VII. Virus, worm or other malicious code attacks
 - VIII. Persistent network or system intrusion attempts from a particular entity
 - IX. Facility incidents, including but not limited to:

- Unauthorized individual(s) found in a HIPAA covered components facility
 - Facility break-in
 - Lost, stolen, missing or misplaced key(s), C*Care badge or cardkey
- B. JJIMHT members shall inform the JJIMHT Program Coordinator, in person or by telephone, and complete an Adverse Incident Report.
- C. The JJIMHT Program Coordinator will make the appropriate notifications, complete documentation and reports as required by the Office of Compliance and detailed in Section 1, E, F, G, H and I.
- D. All HIPAA security related incidents received by the Service Desk will be logged by the DTech Service Desk and documented by the assigned DTech support staff.
- E. The Office of Compliance shall log and document incidents and outcomes that are reviewed and investigated by the Office. The incident documentation is retained for a minimum of 7 years.

Reference(s)/Attachments:

BHS-HIPAA-AS-100-02-Client Privacy Rights

DBHS-HIPAA Form 3009

DBHS-HIPAA First Report of HIPAA Incident

Related Policies:

BHS-CMH-YDF-02-03-Confidentiality

BHS-CMH-YDF-03-06-Adverse Incident Reports

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

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

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

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

BHS-CMH-YDF-08-09-Release of Protected Health Information

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

Contact Information:

Christopher Eldridge, LMFT, Mental Health Program Coordinator, (916)876-9339, eldridgec@saccounty.net