



# ADMINISTRATIVE/FISCAL/CLINICAL/PHF POLICY AND PROCEDURES

COUNTY OF SANTA BARBARA  
ALCOHOL, DRUG AND MENTAL HEALTH SERVICES

<b>Section -</b> QUALITY ASSURANCE	<b>Effective:</b> 7/1/08
<b>Policy -</b> #36 RESTRICTED ACCESS TO CONSUMER INFORMATION	<b>Revised:</b>
<b>Director's Approval</b> _____	<b>Date</b> _____
<b>Assistant Director's Approval</b> _____	<b>Date</b> _____
<b>Form Ref.</b> -	<b>Reviewed:</b>
<b>Author(s) -</b>	

## POLICY:

It is the policy of ADMHS to restrict access to Protected Health Information (PHI) regarding specific consumers under special circumstances.

## PROCEDURE:

### A. CRITERIA

1. The Director of ADMHS, or the Director's designee, may restrict access to PHI regarding an individual consumer if it is determined that such restrictions would be in the best interests of the consumer and/or ADMHS. Examples of situations in which restricted access may be appropriate include but are not limited to the following:
  - a. The consumer is a well-known member of the community.
  - b. The consumer is closely associated with an alleged crime or civil action which is or has been the subject of significant media attention. For example, the consumer could be involved, either currently or in the past, as the subject of a criminal investigation, a witness, an alleged victim, or a plaintiff or defendant.
  - c. The consumer is or has been an official candidate for elective office.
  - d. The consumer is an employee of ADMHS or a contracted provider, or a member of the immediate family of an employee of ADMHS or a contracted provider.
  - e. The consumer is or has been involved in civil or criminal proceedings which directly or indirectly involve ADMHS or a contracted provider, including alleged acts or failures to act by a current or former employee. This also applies if there is a significant possibility that such legal actions may be pending, or that ongoing criminal investigations could result in such legal actions.

- f. The consumer has filed a complaint with a California government agency which, if found true, could reasonably be expected to result in the suspension or revocation of the license of an employee of ADMHS or a contracted provider.
2. The Superior Court may order that mental health records be sealed.

## **B. REQUESTS TO RESTRICT ACCESS**

1. Requests for restricted access to PHI regarding a specific consumer may be initiated by any ADMHS staff member or the manager of any contracted CBO program. Requests must be made in writing and submitted to ADMHS Quality Assurance and must identify the name and client ID number of the consumer, name of the person making the request, and the reason(s) restricted access is requested.
2. Requests are logged by QA. QA reviews the request and determines that:
  - a. Further information is required in order to determine whether or not the criteria for restricted access are met. In that case, QA returns the request to the submitter, specifying the information which is required.
  - b. The submitted information clearly does not meet the criteria for restricted access. QA then notifies the submitter of the decision. The submitter may appeal such a decision to QA, in which case a licensed staff member not involved in the initial decision will review the appeal and make a determination.
  - c. The submitted information indicates that the situation may meet the criteria for restricted access. QA then forwards the request to the ADMHS Director or designee.
3. The Director or designee determines whether access will be restricted and, if so, for what period of time.
4. The Director or designee notifies QA of the decision. QA logs the decision and notifies the submitter.
5. If the Director or designee determines that access will be restricted, QA notifies MIS as well as any program of ADMHS or contracted providers in which the consumer is or has been a client.
  - a. MIS restricts electronic access to all PHI regarding the consumer, except as specified below:
    - i. The following ADMHS staff shall retain access to the name, ID number, and date of birth of the consumer:
      - (1) QA Staff
      - (2) ADMHS Executives
      - (3) ADMHS Program Managers

- (4) Staff at point-of-access programs such as Access, CARES, and PHF.
- b. Managers and supervisors of ADMHS and CBO programs which provide services to the consumer shall retain access to all PHI regarding the consumer during any period of time services have been provided within the previous 60 days. Managers and supervisors may submit requests to ADMHS QA to permit access to specific individual staff members when necessary to provide and coordinate services. If QA approves, MIS will be notified and will allow the identified staff members access to the consumer's PHI.
- c. The Program Manager responsible for any clinic or other program which has provided services to the consumer will ensure that all paper records regarding the consumer are kept separate from general consumer records and can only be accessed by the Manager or designee.

### **C. COURT-SEALED RECORDS**

1. A judge of the Superior Court may issue an order sealing the mental health records of an individual. Such orders are effective until revoked by a judge.
2. Whenever any ADMHS staff receives a court order regarding the records of any consumer, staff will notify Medical Records and Quality Assurance immediately. Copies of the order will be provided to Medical Records and QA and will be logged.
3. The Medical Records Administrator determines the following:
  - a. Whether the order is signed by a judge or otherwise validated by the Court.
    - i. An order which is not signed or which does not include an official stamp showing that it has been issued by a Court may not be valid. If there is any question as to the validity of an order, the Medical Records Administrator will contact the Clerk of the Court within one business day for verification.
  - b. Whether the individual whose records are sealed has received services through ADMHS or a contracted provider, as well as what mental health records exist and the location of such records.
  - c. Details in the order regarding specific limitations on access to the records.
4. Medical Records collects all copies of physical records specified in the order and ensures that those records are clearly identified and stored separately from other records.
5. Medical Records notifies QA of the results of C.3. above.
  - a. QA notifies MIS that access to electronic records is restricted and any specific information regarding which ADMHS staff will retain access to the records.
  - b. MIS restricts access to all PHI regarding the consumer.

- c. Unless otherwise specified in the order of the court, the following ADMHS staff shall retain access to the consumer's name, ID number, and date of birth:
  - i. QA staff
  - ii. ADMHS Executives
  - iii. ADMHS Program Managers
  - iv. Staff at point-of-access programs such as Access, CARES, and PHF.
6. Unless an official court order is received by ADMHS permitting release of sealed records, such records cannot be released to any individual or agency outside ADMHS, nor to any ADMHS staff not identified under C.5.c. above (or a more restricted list as determined by the Medical Records Administrator per C.3.c. above).
  - a. The consumer or personal representative(s) cannot inspect the records nor authorize release of the records or information contained in the records, unless the original court order or a subsequent order allows such actions.
7. Unless otherwise specified in a court order, sealed records are maintained for 12 years after being sealed.

#### **D. REQUESTS FOR ACCESS**

1. Any ADMHS staff member, or the manager of any contracted agency or program, may request access to restricted PHI.
  - a. Requests for access to records sealed by court order are exempt from this procedure. Sealed records can only be accessed subject to order of the court.
2. Requests must be submitted to QA in writing and must specify the consumer name and/or client ID as well as the reason(s) for the request.
3. QA logs the request and forwards the request to the Director or designee, who determines whether or not to release restricted PHI.
  - a. If the Director or designee determines that PHI should be released, the decision may be that:
    - i. All restrictions will be terminated.
    - ii. All restrictions will be terminated for specific individuals or programs.
    - iii. Specific PHI will be released to specific individuals or programs.
  - b. The Director or designee notifies QA of the decision. QA logs the decision and notifies the individuals or programs necessary to implement the Director's decision.

#### **Assistance:**

Medical Records Administrator  
Quality Assurance Manager

**Reference:**

**Replaces:**