County of San Bernardino
Department of Behavioral Health

HIPAA Violation Sanctions Policy

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Policy

It is the policy of the Department of Behavioral Health (DBH) to take appropriate disciplinary action against DBH employees, contract agency employees, or individuals granted access from other county departments, who violate the Department's privacy policies or state, or federal confidentiality law or regulation, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Purpose

To ensure that there are appropriate sanctions that will be applied to employees who violate the requirements of the HIPAA Privacy Rule and/or the Department of Behavioral Health's HIPAA Privacy policy.

Violations

Listed below are the types of violations that require sanctions to be applied. They are stated at levels 1, 2, and 3 depending on the seriousness of the violation.

Levels	Description of Violation
1	• Accessing information that you do not need to know to do your job • Sharing computer access codes (user name & password) • Leaving computer unattended while you are logged into PHI program • Disclosing confidential or patient information with unauthorized persons • Copying information without authorization • Changing information without authorization • Discussing confidential information in a public area or in an area where the public could overhear the conversation • Discussing confidential information with an unauthorized person • Failing/refusing to cooperate with the Chief Compliance Officer, DBH Privacy and Security Officer or authorized designee

Level 2	• Second occurrence of any Level 1 offense (does not have to be the same offense • Unauthorized use or disclosure or PHI • Using another person's computer access code (user name & password) • Failing/refusing to comply with a remediation resolution or recommendation
Level 3	• Third occurrence of any Level 1 offense (does not have to be the same offense) • Second offense of any level 2 offense (does not have to be the same offense) • Obtaining confidential information under false pretences • Using and/or disclosing confidential information for commercial advantage, personal gain or malicious harm

Sanctions

In the event that a member of DBH workforce, or contracted service, or individual granted access from other county departments violates DBH privacy and security policies and/or violates the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or related state laws governing the protection of confidential and patient identifiable information, the following sanctions will apply.

Violation Level	Sanction
1	• Verbal Reprimand • Written reprimand in employee's personnel file • Retraining on privacy/security awareness • Retraining on DBH privacy and security policies and civil and criminal prosecution • Retraining on the proper use of internal/required forms
2	• Written reprimand in employee's personnel file • Retraining on HIPAA awareness • Retraining on DBH's privacy and security policies and how it impacts the said employee and said employee's department • Retraining on the proper use of internal forms and HIPAA required forms • Suspension of employee (minimum of one (1) day/maximum of three (3) days)
3	• Termination of employment or contract • Expulsion from training program • Civil penalties as provided under HIPAA or other applicable Federal/State/Local law

Exceptions

In the event that a violation of any level is so severe that it warrants a sanction other than those listed for that level, then for each instance, the sanctions shall be determined on a case-by-case basis.