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Authorization to Release Protected Health Information (PHI) Procedure

Effective Date 04/2003
Revised Date 01/12/2022

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Purpose

The purpose of this procedure is to provide operational guidance to the Department of Behavioral Health (DBH) workforce to adequately obtain and complete a valid Authorization to Release Protected Health Information (PHI) (Authorization) form and release of medical records for mental health and substance use disorder services (SUD) according to applicable requirements, laws and regulations, as referenced in the Policy.

Procedure to Release Mental Health PHI

When a client, client representative or third-party requestor requires access to medical records, a written Authorization is required prior to release.

The following table describes the appropriate steps for disclosing mental health medical records:

Step	Action
1	The client, client's legal representative, or a third-party requests DBH medical records.
2	DBH clinic or Medical Records staff assists with responding to request. This will include determining if the request is from the client, client's legal representative or third-party requestor. Prior to the release of PHI staff must **thoroughly review** the Authorization to Release and ensure it has not expired or been revoked, and to determine what information is authorized for release by the client, to whom it may be released, as well as any identified restrictions. If the requestor is at a DBH clinic and the medical record is closed, the clinic is responsible for assisting the client in completing the Authorization form and forwarding to Medical Records for processing (DBH-medicalrecords@dbh.sbcounty.gov).

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Procedure to Release Mental Health PHI, continued

Step	Action
3	For mental health records the Authorization shall be completed by entering the following information: • Client's Name, date of birth, address, last four (4) digits of social security number, and phone number; • **I. Authorization to Release PHI** o **(A) I hereby authorize** – Enter name or other specific identification of the person(s), or class of persons, authorized to make the requested disclosure (e.g., Department of Behavioral Health Medical Records); o **(B) To release to** – Enter the name of the individual **OR** entity to whom the covered entity may make the requested use or disclosure; o **Two-Way Authorization**- Select the checkbox to authorize a two-way exchange of PHI between the parties listed in Section (A) and (B); • **II. Mailing Address for Records (Mental Health and SUD) if applicable** o **(A)** Name of Recipient; Address, City, State, Zip Code, phone and fax number. • **III. Purpose of Mental Health and/or SUD Disclosure** o Checkmark the purpose of requested use or disclosure, Client request or Other and List limitations of disclosure, if any. • **IV. Mental Health Specific** o (A) Client or legal representative enters initials to authorize release of Mental Health treatment Information; o (B) Check box (i) to release all health information pertaining to medical history and/or mental health condition **OR** Check box (ii) to release only specific records (select from options below). In either case, dates from and dates to must be entered. • **V. Expiration (Mental Health)** o Enter exact date when authorization expires (required), must not be longer than reasonably necessary to serve the purpose of the authorization. • **VI. Revocation (Mental Health)** o Enter the address of the DBH Clinic authorized to use or disclose the client's health information. o ***Note***: Mental Health revocations must be in writing to be valid. • **VII. My Rights (Mental Health)** o Ensure the client reads the information provided in this section • **XIII. Signature** o If no SUD information is being authorized for release, obtain signature of client, date and time of signature as indicated below.

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Procedure to Release Mental Health PHI, continued

<table>
<tr><th>Step</th><th>Action</th></tr>
<tr><td>3 (Cont.)</td><td>
<table>
<tr><th>If...</th><th>Then...</th></tr>
<tr><td>Client is under age 12, or age 12 and up without legal and mental capacity</td><td>Obtain signature of parent/guardian and ensure printed name and legal relationship are stated</td></tr>
<tr><td>Client is age 12 and up with legal and mental capacity</td><td>Obtain signature of client</td></tr>
<tr><td>Client is an adult</td><td>Obtain signature of client</td></tr>
<tr><td>Client is adult without legal and/or mental capacity</td><td>Obtain signature of legal representative and ensure printed name and legal relationship are stated

Note: Proof of legal representation must be provided, such as court order.</td></tr>
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</td></tr>
<tr><td>4</td><td>All PHI that is released without a signed authorization form shall be documented on the List of Disclosures of Protected Health Information (PHI) (COM012) form and shall include the following:
The date of the disclosure;
The name of the entity or person who received the PHI and, if known, the address of such entity or person;
A brief description of the PHI disclosed; and
A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure or, in lieu of such statement, a copy of a written request for a disclosure.
Note: Manual entry on the List of Disclosures of Protected Health Information (PHI) shall be completed until electronic health record conversion.</td></tr>
</table>

Procedure to Release Substance Use Disorder (SUD) PHI

When a client, client representative or third-party requestor requires access to medical records, a written Authorization is required prior to release.

The following table describes the appropriate steps for disclosing SUD medical records:

Step	Action
1	The client, client's legal representative, or a third-party requests DBH medical records.

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Procedure to Release Substance Use Disorder (SUD) PHI, continued

Step	Action
2	DBH clinic or Medical Records staff assists with responding to request. This will include determining if the request is from the client, client's legal representative or third-party requestor. Prior to the release of PHI staff must **thoroughly review** the Authorization to Release and ensure it has not expired or been revoked, and to determine what information is authorized for release by the client, to whom it may be released, as well as any identified restrictions. If the requestor is at a DBH clinic and the medical record is closed, the clinic is responsible for assisting the client in completing the Authorization form and forwarding to Medical Records for processing (DBH-medicalrecords@dbh.sbcounty.gov).

3	For SUD records the Authorization shall be completed by entering the following information:
	• Client's Name, date of birth, address, last four (4) digits of social security number, and phone number;
	• **I. Authorization to Release PHI**
	  ○ **(A) I hereby authorize** – Enter name or other specific identification of the person(s), or class of persons, authorized to make the requested disclosure (e.g., Department of Behavioral Health Medical Records);
	  ○ **(B) To release to** – Enter the name of the individual **OR** entity to whom the covered entity may make the requested use or disclosure;
	  ○ **Two-Way Authorization-** Select the checkbox to authorize a two-way exchange of PHI between the parties listed in Section (A) and (B);
	• **II. Mailing Address for Records (Mental Health and SUD)) if applicable**
	  ○ **(A)** Name of Recipient; Address, City, State, Zip Code, phone and fax number.
	• **III. Purpose of Mental Health and/or SUD Disclosure**
	  ○ Checkmark the purpose of requested use or disclosure, Client request or Other and List limitations of disclosure, if any.
	• **VIII. Substance Use Disorder (SUD Specific)**
	  ○ **(A)** Select the checkbox authorizing the release of SUD treatment information and obtain the client or legal representative's initials in the space provided. Enter the date range of the records that may be used or disclosed, and select the checkbox(es) that identify the information to be used or disclosed, **OR** select the "Other" checkbox and write in the type of information to be used or disclosed. In either case, dates from and dates to must be entered.
	  ○ **(B)** If the entity(ies) named in Section I. (Authorization to Release PHI) facilitate(s) the exchange of health information (HIE) or is a research institution, indicate by checking (i) for an individual participant, or (ii) a general designation and provide a brief description.

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Procedure to Release Substance Use Disorder (SUD) PHI, continued

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<tr><th>Step</th><th>Action</th></tr>
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(Cont.)</td><td>
• IX. Expiration (SUD)
  ○ Enter date, event or condition upon when authorization expires (required) must not be longer than reasonably necessary to serve the purpose of the authorization.
• X. Revocation (SUD)
  ○ Insert the address of the DBH Clinic authorized to use or disclose the client's health information.
  ○ Note: SUD revocations are valid whether communicated verbally or in writing but must be documented.
• XI. My Rights (SUD)
  ○ Ensure the client reads the information provided in this section
• XIII. Signature
  ○ Obtain signature of client, date and time of signature as indicated below.
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<tr><th>If…</th><th>Then…</th></tr>
<tr><td>Client is under age 12, or age 12 and up without legal and mental capacity</td><td>Obtain signature of parent/guardian and ensure printed name and legal relationship are stated</td></tr>
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<tr><td>Client is adult</td><td>Obtain signature of client</td></tr>
<tr><td>Client is adult without legal and mental capacity</td><td>Obtain signature of legal representative and ensure printed name and legal relationship are stated (Important Note: Proof of legal representation must be provided, such as court order)</td></tr>
</table>
</td></tr>
<tr><td>4</td><td>
All PHI that is released without a signed authorization form (including the allowable exceptions under 42 CFR Part 2) as well as all disclosures made by an HIE shall be documented on the List of Disclosures of Protected Health Information (PHI) (COM012) and shall include the following:
• The date of the disclosure;
• The name of the entity or person who received the PHI and, if known, the address of such entity or person;
• A brief description of the PHI disclosed; and
• A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure or, in lieu of such statement, a copy of a written request for a disclosure.

Note: Manual entry on the List of Disclosures of Protected Health Information (PHI) shall be completed until electronic health record conversion.
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SUD General Designation Option	If the general designation consent option (e.g. "all my treating providers") is selected on the Authorization to Release Protected Health Information (PHI) the following conditions must be met: • Entity must have a mechanism in place to determine with whom the client has treating provider relationships; • Consent forms that use the general designation must include a statement confirming the client's understanding that they must be provided, upon their request, with a list of entities to which disclosures have been made pursuant to the general designation (the list of disclosures documented on the List of Disclosures of Protected Health Information (PHI) (COM012).)
SUD Prohibition on Re-disclosure	A written statement will accompany each disclosure made with the client's written consent indicating the prohibition of re-disclosure of client's records by the recipient (individual or entity) of the records. Client records transmitted by Part 2 programs to non-Part 2 providers (holder of the records) must be maintained by the "holder" in accordance with the same non-re-disclosure laws that bind the Part 2 provider (CFR Part 2 § 2.11). Both record transmission and verbal disclosure must have prior client authorization.
Related Policy or Procedure	DBH Standard Practice Manual • Authorization to Release Confidential Protected Health Information (PHI) Policy (COM0912) • Information Notice (IN) 18-02 Updated Authorization to Release Protected Health Information (PHI) Policy, Procedure and Form
Reference(s)	• California Welfare and Institutions Code, Section 5328 • Code of Federal Regulations, Title 45, Section 160 and 164, U.S. Department of Health and Human Services, Office of Civil Rights, Federal Register, Final Rule • Code of Federal Regulations, Title 42, Part 2, U.S. Department of Health and Human Services, Federal Register, Final Rule
Questions	Questions regarding the release of PHI under circumstances not addressed in this SPM should be addressed to DBH Office of Compliance at Compliance_Questions@dbh.sbcounty.gov, (909) 388-0879.