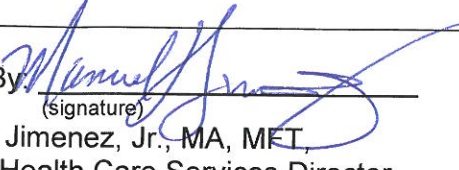
	Approved By  (signature) Manuel J. Jimenez, Jr., MA, MFT, Behavioral Health Care Services Director Date: <u>6/30/14</u>
POLICY: Confidentiality of Client Treatment Records AUTHOR: Kyree Klimist, Associate Administrator, Quality Assurance Division Reviewed by Executive Committee, Recommended for approval by BHCS Director: Date <u>6/30/14</u> initials <u>CK</u>	Date Revised: _____ Policy No.: _____

POLICY: Confidentiality of Alcohol and Drug Client Treatment Records

The intent of this policy is to reaffirm the basic right of all clients of Alameda County Behavioral Health Care Services (ACBHCS) to privacy and confidentiality of their protected health information, to define relevant terms and to describe allowable and mandatory disclosures of protected health information. In compliance with 45 CFR, 96.132(e), ACBHCS, by virtue of its receipt of federal funding, is required to have in effect a system to prevent inappropriate disclosure of any information pertaining to clients' involvement with ACBHCS programs and services, including their identity, their status as clients, content of their client records, whether verbal or written. Such systems shall be in compliance with all applicable State and Federal laws and regulations, including 42 Code of Federal Regulations (CFR) Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records, and the Health Information Portability and Accountability Act (HIPAA). This system shall include provisions for employee education on the confidentiality requirements and the fact that disciplinary action may occur upon inappropriate disclosures. This requirement cannot be waived.

The goal of this policy and procedure is to protect the information that is used or disclosed by ACBHCS employees, trainees, volunteers and contractors in the course of their work, while allowing appropriate access to the information as necessary to carry out job responsibilities. Protecting the privacy of client health information is the responsibility of every individual working within ACBHCS and/or one of its contract agencies. A breach of confidentiality may result in sanctions, criminal and/or civil penalties, and termination of employment or contract.

DEFINITIONS:

Authorization - When protected health information needs to be disclosed for reasons other than those permitted or required by law, a specific "authorization" by the client or guardian is required for each disclosure. This "authorization" is also known as a "release" or "consent to release".

Client Representative - The parent or legal guardian of a minor client, the guardian or legal conservator of an adult client, or the personal representative of a deceased client.


Minimum Necessary - Only the amount of information necessary to accomplish the intended purpose of the use, disclosure, or request.

PHI - Protected Health Information - Information relating to a person's health and the care received, including demographic information.


1. Responsibilities and Restrictions

- A. Protected Health Information (PHI) obtained either during assigned duties or incidentally shall not be released to any person or institution except in accordance with Alameda County Policies.
- B. Even when PHI is released in full compliance with all conditions described in this policy, it is critical that only the minimum necessary information to accomplish the purpose of the request be released. NOTE: minimum necessary does not refer to information released to another provider of medical care concerning treatment, or to releases for which there are client/client representative authorizations.

POLICY: Confidentiality of Client Treatment Records	DATE APPROVED: <u>6/30/14</u>	PAGE NUMBER: <u>1</u> of <u>4</u>
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- C. No employee, trainee, volunteer or independent contractor shall seek access to or read confidential files of any client for whom they do not have direct treatment responsibility, or for any other reason not allowed by policy.
 - D. When a treatment team treats a client, the members of that team shall have access to the PHI only on a need to know basis.
 - E. Discussion or consultation concerning a client's PHI shall be conducted in a location and manner such that the risk of being overheard by uninvolved staff or other clients is minimal.
 - F. Individuals not directly involved in the client's care shall not be present in a consultation or case review except with the client's permission or as allowed by policy and/or law.
 - G. PHI will not be removed from any ACBHCS treatment site, unless that information is kept in a secure container, such as locked file boxes or laptop computers that are password-protected.
 - H. Staff shall attend mandatory training related to privacy and confidentiality when first hired and as needed, provided or arranged for by ACBHCS.
2. Disclosures of Mental Health records may only be released with properly executed client authorization, unless otherwise permitted or required. The following disclosures are permitted without authorization:
- A. In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. Examples of such disclosures include referrals for treatment, during shared treatment by a psychiatrist and another therapist, and to medical providers who are providing treatment to the same client.
 - B. Information may be sent to an insurer or health plan to facilitate preauthorization or payment for services.
 - C. Information may be disclosed between qualified professionals in the course of conservatorship proceedings.
 - D. Information may be disclosed to a county social worker, a probation officer, or other person legally authorized to have custody or care of a minor for the purpose of coordinating health care services and medical treatment, mental health services, or services for developmental disabilities, for the minor.
 - E. Information may be disclosed for research, provided that regulation rules are followed.
 - F. Information may be disclosed to the Secretary of the United States Department of Health and Human Services for purposes of investigating or determining the covered entities compliance with the Federal Privacy and Security Rules.
 - G. Information may be disclosed for Health Care Operations. Examples may include, quality improvement, peer review, other training purposes, staff supervision, internal assessment of services, to state and/or federal auditors, inspectors, staff of licensing agencies, and staff/members of certain state legislative committees (upon presentation of appropriate credentials) for health oversight activities. using de-identified PHI for statistical or evaluation purposes, etc. in accordance with federal and California law.
 - H. Information may be disclosed when a client, in the opinion of his or her treatment staff, presents a serious danger of violence to a reasonably foreseeable victim or victims. The information may be disclosed to the potential victims and to law enforcement agencies as the therapist determines necessary to protect the potential victim(s).

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- I. Information may be disclosed for child abuse and other mandated reporting, as long as only the information necessary is disclosed. It does not authorize agencies to whom such reports must be made to have direct access to the client's record, nor does it authorize disclosure of more information than is necessary to meet the reporting obligation under the law.
- J. To the courts, as necessary to the administration of justice, as long as accompanied by a court order.
- K. Information must be released to law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.
- L. Information must be disclosed to law enforcement agencies if the professional in charge of the client and/or agency or his or her designee, has probably cause to believe that the client has committed or has been the victim of a crime on the premises of the agency.


3. Disclosures of Alcohol Drug records may only be released with properly executed client authorization, unless otherwise permitted or required. The following disclosures are permitted without authorization:

- A. Communication of information between or among program personnel who need such information to diagnose, treat, or refer for treatment of alcohol or drug abuse is permitted as long as the communications are within the program. Disclosures are only permitted between or among personnel having a need for the information in connection with their duties that arise out of the provision of diagnosis, treatment, or referral for treatment.
- B. Communications between Qualified Service Organizations and program of information needed by the organization to provide services to the program. For example, data processing, laboratory analysis. Written agreements must be in place that specify the Qualified Service Organization acknowledges that it is bound by the regulations.
- C. Communications from program personnel to law enforcement officers are permitted without patient authorizations if they are directly related to a patient's commission of a crime on the program premises or against program personnel, or to a threat to commit such a crime, and are limited to the incidents, including the patient status of the individual committing or threatening to commit the crime, that individual's name and address, and that individual's last known whereabouts.
- D. Reports of suspected child abuse and neglect under state law may be made to the appropriate authorities, as long as only the information necessary is disclosed. It does not authorize agencies to whom such reports must be made to have direct access to the client's record, nor does it authorize disclosure of more information than is necessary to meet the reporting obligation under the law.
- E. Information may be disclosed to medical personnel who need the information to treat a condition which poses an immediate threat to the health of any individual and which requires immediate medical intervention.

4. There must be an accounting of all disclosures, made for all of the following reasons, as well as notification to the ACBHCS Privacy Officer

- A. Disclosures to the federal or state government for purposes of investigating compliance
- B. Disclosures to law enforcement
- C. Disclosures to potential victims for serious threats

POLICY: Confidentiality of Client Treatment Records	DATE APPROVED: <u>6/30/14</u>	PAGE NUMBER: <u>3</u> of <u>4</u>
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- D. Disclosures for child abuse and other mandated reporting.
 - E. Disclosures in response to court orders
 - F. Disclosure for medical emergencies
 - G. Disclosures not permitted or authorized. For example, accidental disclosure or a breach of PHI. (please see the Breach Reporting Policy...)
5. For all of the above situations, the disclosure must be documented in the patient's medical record, noting all of the following:
- A. The name of the person or agency to whom disclosure was made; and
 - B. The date of disclosure; and
 - C. The name of the individual making the disclosure; and
 - D. The description of the information