

To: System of Care Providers
From: Steve Jones, LCSW, QM Program Manager

Date: 5/16/2013

Re: Use of Substance Abuse Specialist in Mental Health Programs
New Form: Authorization to Use or Disclose (MULTIPLE)

BACKGROUND

When it comes to obtaining authorization from a client to use or disclose treatment information with another party or parties, it can be confusing trying to sort through the different regulations and confidentiality laws such as HIPAA, Code of Federal Regulations, Civil Code, Welfare & Institutions Code, Health and Safety Code, etc. As BHS continues to integrate treatment of mental health and alcohol and drug services, it is important to understand confidentiality requirements to protect health information.

Some Mental Health programs are now utilizing drug and alcohol treatment specialist staff to provide services, which require confidentiality considerations when using or disclosing client information because 42 Code of Federal Regulations (CFR) Chapter 1, Subchapter A, Part 2, Subchapter B is restrictive regarding disclosure for alcohol and drug treatment.

After consultation with County Counsel, the County Privacy Officer and the County's Contracted Consultant, the BHS Quality Management (QM) unit has adopted the following guideline. However, each program should also consult with their own legal counsel regarding disclosure rules under 42CFR Part 2.

Mental Health Programs that employ staff who are functioning as a Drug and Alcohol Specialist, (given their specialty, training, certification, and education) and providing alcohol and drug treatment services and/or referrals to clients in a mental health setting, should obtain an Authorization to Use or Disclose Information from the client giving permission for the Alcohol and Drug Specialist and Mental Health Treatment Staff to communicate with each other within the program related to treatment and/or referral of the client's drug/alcohol problem.

For Alcohol & Drug programs that employ staff who are functioning as Mental Health Specialists, it could be interpreted that the mental health staff are part of the program under 42CFR Part 2 if their primary functions revolve around service to the ADS client and recovery, and an Authorization to Use or Disclose Information is not necessarily required. This determination should be made program by program, based on the role of the Mental Health staff person.

To assist programs moving forward, BHS has developed a new Authorization to Use or Disclose form for multiple parties which will allow for exchange of information within a program between the mental health staff and the alcohol and drug specialist staff with a single form. This will ensure better communication and coordination of care and protect client health information as required by law.

1. This form, "Authorization to Use or Disclose (MULTIPLE)" is for use when a program has specialized alcohol/drug treatment specialist staff or parties for which authorization to use or disclose client information is required for treatment purposes. The new form is attached. It is a form-fill word document and may be typed or hand written as long as it is legible.

QUALITY MANAGEMENT MEMO

In addition, below are some helpful links where you can obtain more detailed information on confidentiality and protecting health information.

1. SAMSHA FAQ's: www.samhsa.gov/healthprivacy/docs/EHR-FAQs.pdf
2. California Health Information Association: www.californiahia.org

As a reminder, it is always a best practice to consult with your individual legal entity and legal counsel to ensure your program's compliance with all Federal, State, and local laws regarding protecting health information.

Please contact the QM Unit at QIMatters.hhsa@sdcounty.ca.gov with any questions.