



**Health Care Agency
Behavioral Health Services
Policies and Procedures**

Section Name: Client's Rights
Sub Section: Consents
Section Number: 02.04.03
Policy Status: New Revised

Chief of Operations
Behavioral Health Services

SIGNATURE

DATE APPROVED

SUBJECT:

Consent to Record Consumers for Clinical Supervision and Training

PURPOSE:

To provide a uniform procedure for obtaining a consent to record, for the purpose of clinical supervision or teaching, therapy sessions of consumers receiving treatment in Behavioral Health Services (BHS).

POLICY:

Recording of consumer therapy sessions will be done in a manner which safeguards the protected health information of the consumer, consistent with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all other relevant laws and regulations <http://ocintranet.ocgov.com/hipaa/>.

Provision of services shall not be contingent upon the consumer's agreement to recording.

Recordings shall be used only for the purposes of clinical supervision and teaching.

SCOPE:

This policy pertains to all Health Care Agency (HCA) County and contracted clinicians, student interns and volunteers within Behavioral Health Services.

REFERENCES:

Code of Federal Regulations Title 45 Public Welfare, Subtitle A, Subchapter C- Administrative Data Standards and Related Requirements, Part 160 and 164

California Welfare and Institutions Code, Title 9, Ch 11, sec 5328, Confidentiality of Patient Information

California Business and Professions Code - Sections 2725, 2834-2836, 2863.1

Title 16: Division 14, Board of Registered Nursing, Article 7, Sections 1470-1474 and 1481-1485

Adult Mental Health Services (AMHS) Policy and Procedure #300-09 Transport of Clinical Records Between Mental Health Plan Clinics and Programs

Children and Youth Services Central Programs Policies and Procedures: Transportation of Clinical Records Between Mental Health Facilities, No. 6-04

Children and Youth Services Regional Programs Policies and Procedures: Transport of Clinical Records Between Mental Health Facilities, Part B, Section 1, A-6

FORMS:

HCA/BHS Consent to Record form (F346-474, 4-19-07)

DEFINITIONS:

Protected Health Information (PHI):

- individually identifiable health information usually transmitted by electronic media, maintained in any medium as defined in the regulations or for an entity such as a health plan, transmitted or maintained in any other medium. It is created or received by a covered entity, and relates to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual.

Recording:

- any method used for direct recording of consumer therapy sessions, including but not limited to audio tape, video tape and digital sound and/or video.

PROCEDURE:

- I. Prior to recording therapy sessions, staff shall obtain a signed 'Consent to Record' form from each and every consumer being recorded. This includes any family or significant others who will be in the session(s) as well.
- II. At least two signatures are required on each form. Signatures required include:
 - A. Consumer(s)
 - B. Staff witness
 - C. If Staff witness is not the Service Chief, then the Service Chief's signature is also required. The Service Chief does not need to witness the consumer's signature.

The Service Chief's signature is required to insure that the Service Chief is aware that the recording is taking place.

- III. The original is to be placed in the consumer's clinical chart. One copy is to be given to each non-staff person being recorded and one copy is to be kept in the Service Chief's Administrative file.
- IV. All recordings shall be protected in the same manner as other PHI. If the recording must be taken out of the clinical setting, for example to review at a school with the staff person's school teacher or supervisor, then precautions shall be followed as when any PHI has to be taken off of clinic grounds for routine operations. This includes, but is not limited to:
 - A. Have the PHI (in this case the recording) in a "Confidential Patient Information" envelope. This envelope has the Health Care Agency's address on it so it might be returned if lost.
 - B. Place the "Confidential Patient Information" envelope in a PONY envelope. This envelope has the County Inter-Departmental Mail address on it so it might be returned if lost. Write the building number of the site from which the recording originated on the envelope.
 - C. Note that the recording itself shall not be labeled with the consumer's identifying information.
 - D. Conduct the transportation in as direct a manner as possible, minimizing the time that the recording is between sites.
 - E. Whenever possible during transportation, keep the recording physically in your possession.
 - F. Do not leave the recording in an unlocked vehicle. If necessary to leave it in a vehicle for a short time, lock it in the trunk.
- V. Recordings taken out of the clinical setting for purposes listed in IV, above, shall be returned to the clinic setting within two weeks following completion of the use for which it was taken off site.
- VI. Recordings shall not be reproduced in any format.
- VII. Recordings shall be destroyed following the completion of the clinical supervision or teaching requirement. In no case shall this:
 - A. exceed 12 months after the date of recording or
 - B. be later than the termination of employment or volunteer status of the person using the recording for clinical supervision or teaching.

- VIII. Because of the wide array of available recording formats and the rapidity with which technology is changing, methodology for destruction is not provided in this policy and procedure. The Health Care Agency (HCA) Information Technology (IT) Help Desk can provide information on destruction of digital recordings, video or audio. It is the responsibility of the staff person recording the sessions to insure that destruction of the recording is done in a manner which safeguards the PHI of the consumer. If uncertain regarding a specific situation, consult with your Service Chief.