



DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

SUBJECT CLIENT RIGHTS TO AMEND MENTAL HEALTH INFORMATION	POLICY NO. 501.06	EFFECTIVE DATE 04/14/2003	PAGE 1 of 5
APPROVED BY:  Director	SUPERSEDES 500.22 04/14/2003	ORIGINAL ISSUE DATE	DISTRIBUTION LEVEL(S) 1

PURPOSE

- 1.1 To establish a uniform policy pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule to ensure clients have the right to request that the Department of Mental Health (DMH) amend their Protected Health Information (PHI) maintained in a Designated Record Set. The requirements of this policy apply only to PHI for as long as the PHI is maintained in the Designated Record Set.

POLICY

- 2.1 In accordance with the applicable state and federal laws, it is the policy of DMH to provide clients with the right to amend their PHI that is maintained by DMH in a Designated Record Set.

DEFINITIONS

- 3.1 **“Protected Health Information”** means individually identifiable information relating to 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.
- 3.2 **“Designated Record Set”** means a group of records that contain PHI maintained, collected, used or disclosed by or for the County of Los Angeles Department of Mental Health that includes medical, billing enrollment, payment, claims adjudication and other records used to make decisions about an individual.
- 3.3 **“Business Associate”** means a person or facility who, on behalf of the County of Los Angeles Department of Mental Health, but not in the capacity of a workforce member, performs or assists in the performance of a function or activity involving the use or disclosure of PHI, or provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation or financial services involving disclosure of PHI.



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PROCEDURE

4.1 Request for Amendment/Correction

- 4.1.1 If a client requests an amendment, the client should be instructed to contact a member of the treatment team.
- 4.1.2 All requests for amendment of health information must be in writing and must provide a reason to support the amendment. Clients are notified in advance of the written requirement within the Notice of Privacy Practices.
- 4.1.3 A treatment provider may assist the client in completing the Request to Amend/Correct Health Information form (Attachment I).
- 4.1.4 DMH must act on the client's request for amendment no later than sixty (60) days after receipt of the request. DMH may have a one-time extension of up to thirty (30) days to provide an answer to the amendment request as long as DMH gives the client a written statement of the reason for the delay and the date by which the amendment will be processed.
- 4.1.5 Upon receipt of the request, the treatment provider or Program Head shall be responsible for establishing the identity of the requestor by following the procedures outlined in the Verification of Identity and Authority policy. Difficulty in establishing identity shall not intentionally be used to delay or hinder authorized access.
- 4.1.6 Upon completion and submission of the Request to Amend/Correct Health Information form, the treatment provider will give one copy of the form to the client and the original form will accompany the chart and be sent to the responsible practitioner of the client for review and consideration.
- 4.1.7 The responsible practitioner will review the request and make a determination if the request for amendment should be accepted or denied, either in whole or in part. The responsible practitioner will complete the Letter Responding to Request to Amend/Correct Health Information (Attachment II) and sign the letter upon completion. A copy



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of the completed form will be provided to the client. The original signed letter will become a permanent part of the medical record.

4.2 Acceptance of the Request for Amendment

- 4.2.1 If the request is granted, in whole or in part, the responsible practitioner must make the appropriate amendment to the affected PHI or record in accordance with the Department's medical records correction process (refer to Medical Records Amendment policy) by inserting the amendment in the chart. (**For example**, place a red stamp on the front of the medical record identifying that the record has been amended or use an amendment tap placed anywhere an amendment was made within the medical record). When an amendment form is used, the responsible practitioner will make an entry at the site of the health information that is being corrected or amended indication "see amendment" and will date and sign that entry. The amendment form will be attached to the incorrect or amended entry. Health information should remain in its original form and the integrity of the medical record should be maintained at all times.
- 4.2.2 DMH must inform the client in a timely manner in writing (using the Letter Responding to Request to Amend/Correct Health Information form) that the requested amendment was accepted.
- 4.2.3 Within thirty (30) days, DMH must make reasonable effort to provide the amendment to persons identified by the client, as stated in the client's Request to Amend/Correct Health Information form, as well as persons, including business associates, that DMH knows have the health information that is the subject of the amendment and that may have relied on or could foreseeably rely on the health information to the detriment of the client. The treatment team must complete and submit the Notification Letter for Amendment of PHI (Attachment III) to the identified persons, organizations or business associates.

4.3 Denial of Amendment Requests

- 4.3.1 DMH may deny the request if the PHI that is the subject of the request:



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4.3.1.1 Was not created by DMH, unless the individual provides a reasonable basis to support the belief that the originator of the PHI is no longer available to act on the request;

4.3.1.2 Is not part of the Designated Record Set;

4.3.1.3 Is not accessible to the client for reasons stated in the Client's Right to Access, Inspect and Copy Health Information policy and in accordance with applicable state and federal laws; or

4.3.1.4 Is not accurate or complete.

4.4 Denial Disputes/Disagreements

4.4.1 DMH must permit the client to submit a Statement of Disagreement (Attachment IV) of reasonable length disagreeing with the Department's denial of all or part of a requested amendment and explaining the basis for the disagreement.

4.4.2 DMH may prepare a written rebuttal to the client's Statement of Disagreement. Whenever such a rebuttal is prepared, DMH must provide a copy to the client who submitted the Statement of Disagreement.

4.4.3 DMH must, as appropriate, identify the PHI in the Designated Record Set that is the subject of the disputed amendment and append:

4.4.3.1 The Department's denial of the request;

4.4.3.2 The client's Statement of Disagreement, if any; and

4.4.3.3 The Department's rebuttal, if any.

4.5 Future Disclosures

4.5.1 If a Statement of Disagreement has been submitted by the client, future disclosures of the client's PHI shall include the material described above.



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- 4.5.2 If the client does not want to file a Statement of Disagreement, he/she may request that DMH include their amendment request and the denial with future disclosures of their PHI that is the subject of the request using the Request to Include Amendment Request and Denial with Future Disclosures of the Statement of Disagreement. If the client has not submitted a Statement of Disagreement, only the client's request for amendment and the Department's denial shall be included with future disclosures, but only upon the client's request to that effect.
- 4.5.3 Instead of the materials described above, DMH may attach an accurate summary of such material.
- 4.5.4 When a subsequent disclosure is made using a standard transaction that does not permit additional material to be included, DMH may separately transmit the material required.
- 4.6 When DMH is notified by another entity of an amendment to a client's health information, the facility must follow the procedures defined in Section 4.2 of this policy.

DOCUMENT RETENTION

- 5.1 This policy and associated forms will be retained for a period of at least seven (7) years from the date of its creation or the date when it was last in effect, whichever is later.

AUTHORITY

HIPAA, 45 CFR, Section 164.526

ATTACHMENTS

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| Attachment I | Request to Amend/Correct Health Information |
| Attachment II | Letter Responding to Request to Amend/Correct Health Information |
| Attachment III | Notification Letter for Amendment of PHI |
| Attachment IV | Statement of Disagreement |