



# PSYCHIATRIC HEALTH FACILITY POLICY AND PROCEDURES

COUNTY OF SANTA BARBARA  
ALCOHOL, DRUG AND MENTAL HEALTH SERVICES

## Section - MEDICAL RECORDS

Effective: 4/6/2011

### Policy- PHOTOGRAPHS/VIDEOS OF CONSUMERS #P01

Revised: 4/6/2011

PHF CEO's Approval

Date: 4/6/2011

Executive Medical Staff Chair's Approval

Date: 4/6/2011

Committee Chair's Approval

CPAPE Committee

Date: 4/6/2011

Form Ref.

### POLICY:

It is the policy of the Santa Barbara County Mental Health Plan (SBC MHP) to comply with all state and federal laws, regulations, and contractual requirements, as well as relevant professional standards and practices, related to medical records.

For the Psychiatric Health Facility (PHF), a photograph or video which permits a consumer to be identified through visual and/or auditory means constitutes Protected Health Information (PHI). Therefore, the creation, storage, transmittal, and use of photographs and videos must conform to state and federal laws and regulations governing Protected Health Information.

### PROCEDURE:

- A. No photograph or video which contains any identifiable image of one or more consumers, or which contains auditory information which permits the identification of one or more consumers, may be produced without a HIPAA-compliant authorization (consent) signed by the consumer or legal guardian.
  - 1. Such an authorization must either:
    - a. Permit the use of the photograph or video for a limited period (up to one year).
      - i. Such an authorization may be renewed, with the signature of the consumer or legal guardian, for subsequent periods of up to one year.
      - ii. If the legal guardian of a consumer changes, or if the consumer is no longer required to have a legal guardian, a new authorization must be created and signed, in the same manner that a new ROI would be required in the same circumstances.
    - b. Permit the publication of the photograph or video in printed or electronically recorded format.
      - i. For purposes of this P&P, "publication" means the release of the photograph or video in such a manner that at least one copy of the image is not under the direct control of the MHP or a CBO contracted by the MHP.

ii. Publication of a photograph or video requires that the authorization clearly state that the photograph or video will be available to the public and therefore will not be confidential.

2. Production and/or use of a photograph or video which contains visual and/or auditory PHI regarding more than one consumer requires a valid authorization signed by each such consumer or legal guardian.
3. Authorizations to produce photographs and/or videos must include the same information required for a consent to release information **and** a statement of the date by which the image will be destroyed, unless the image will be published.

B. If a photograph or video of any consumer is produced without proper authorization, every copy of the photograph or video will be destroyed as soon as possible, including printed photographs, photographic negatives, and electronic recordings.

1. When destruction of electronic recordings is required, adequate steps must be taken to ensure that it is not possible for any person, including a person with expertise in electronic media, to create or obtain a copy of all or part of the recording to be destroyed.
  - a. “Deleting” an image file from an electronic device is not sufficient to ensure destruction, nor is a “quick format” of an electronic device.
  - b. When it is necessary to destroy an electronic image, employees of the MHP are strongly encouraged to consult ADMHS MIS for advice and assistance. Other staff are strongly encouraged to consult the technical staff available through their agency for the same purpose.