

Pima County Health Department

OPERATING POLICIES AND PROCEDURES

Subject:	Requests for Health Information	OPP NO. AD-45
Approved by Director:		Approval Date: <i>04.28.14</i>

A. STATEMENT OF PURPOSE

This Operating Policy and Procedure (OPP) establishes how the Pima County Health Department (PCHD) will handle requests regarding health information and records to protect the County, PCHD, and our clients.

B. DEFINITIONS

1. **Client:** Any person requesting or receiving services from PCHD;
2. **Custodian, Health Records:** The records manager authorized by the PCHD Director to monitor and control PCHD's health information. The Custodian assures orderly use, disclosure, storage, and destruction of health information, and establishes procedures;
3. **Individually Identifiable Health Information:** Health information that identifies an individual or with respect to which there is reasonable basis to believe that the information can be used to identify the individual.
4. **Health information** – Any information, whether oral or recorded in any form or medium that is:
 - a. Created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
 - b. Relates to the past, present or future physical or mental health or condition of an individual, for the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual.
5. **Personnel** – Any person (employee, contractor, volunteer or other) associated with the Health Department that performs any function for or on behalf of PCHD at any location, event or gathering;
6. **Protected Health Information (PHI)** – individually identifiable health information:
 - a. Except as provided in paragraph (b) of this definition, that is:

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- i. Transmitted by electronic media;
- ii. Maintained in electronic media; or
- iii. Transmitted or maintained in any other form or medium.

C. POLICY

All PCHD personnel must maintain client confidentiality and safeguard against violation of privacy. Protection of records from unauthorized disclosure is required by the Federal Privacy Act, and individual health information is protected under the Health Insurance Portability and Accountability Act (HIPAA) and other applicable legal authority including Arizona Revised Statute (A.R.S.) 36-160, "Confidentiality of Records".

No PHI or other confidential information obtained by staff about clients receiving PCHD clinical services may be disclosed without the written consent or release of the client or client's legal representative, except as required or as permitted e by law, or as necessary to provide emergency services. This OPP will govern all releases of PHI or other medical information.

There is no charge for health information provided directly to a client, a client's representative, a physician or a governmental agency.

Request(s) for records made by an insurance company on behalf of a client require a payment of \$10.

D. PROCEDURE**1. Protection of Client Health Information or Records**

- a. Clients have the right to control access to PHI and all records that reference clinical services including evaluation and treatment or billing related to the same. Any request for release of health information must comply with the requirements set forth by this policy, and applicable federal and state laws and regulations;
- b. All requests for release of health information or records must, at a minimum, meet all HIPAA requirements prior to PCHD release of information;
 - i. Requests must be signed by the requestor, include reason for request and relationship to the client whose records is the subject of the request;
 - ii. Requests require proof of identity, and relationship to the client if presented by a legal representative, by use of valid government issued photo identification;
 - iii. Requests not made by the client or an authorized entity must include a release signed by the client or client's legal representative. The release must include:

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- (1) What health information is to be disclosed;
 - (2) Who is being authorized to disclose the information;
 - (3) Who is to receive the information;
 - (4) The purpose(s) for the disclosure;
 - (5) A statement informing the client of their right to revoke the release, how to revoke the release, and any exceptions to the right to revoke;
 - (6) A statement that the release will expire on a specific date, after a specific amount of time or upon the occurrence of a event related to the client;
 - (7) The signature of the client and the date, or the signature of the client's personal representative, date and a description of that person's authority to act for the client.
- c. Health information may be shared within PCHD when medically or operationally necessary, unless prohibited by law, without additional documentation. PCHD will only share the minimum amount of information necessary to perform the required duty and only to those individuals with a need to know the information;
- d. Specific health information may be released in order to provide emergency medical care to the individual or suspected contact of the individual, as mandated by law for the administration of a program of the state or local health department, to:
- i. any physician, nurse or other paramedical personnel providing treatment to the client;
 - ii. any authorized officer or employee of any federal, state, or local government;
- e. All requests for health information by subpoena or similar official request (e.g. court order, etc.) will be immediately forwarded to the Custodian of Health Records;
- i. Custodian will review the request for completeness, consulting with the Pima County's Attorney's Office as needed. If the request is appropriate the custodian will gather the health records necessary to respond to the request;
 - ii. When a subpoena or request is from someone other than the client named in the record or their legal representative, the Custodian of Health Records will notify the client by certified letter to the last known address, unless directed otherwise by the Pima County Attorney's Office;
 - (1) Requests for health information relating to a deceased person may be furnished to his surviving spouse, relative or the legal representative of his estate with a written request, proof of relationship, and proof of death;

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- iii. Health information concerning someone other than the subject of the request or outside the parameters of the request must be excised before the record is disclosed. The Custodian of Health Records will meet with the appropriate Program Manager to jointly redact the record before release;
 - iv. Following redaction, the subpoena, supporting documents (e.g. release forms) and all materials to be released will be sent to the Pima County Attorney's Office for review and release;
- f. Vital Records (birth and death certifications) and health information including mention or reference to communicable disease (general), tuberculosis, human immunodeficiency virus (HIV) or sexually transmitted disease (STD) are subject to additional legal regulation and will be discussed with the Pima County Attorney's Office prior to release.
2. Request for Release of Information or Records by Client or Legal Representative
- a. Clients currently receiving medical/clinical care or service may request a copy of records related to the current visit at any time before departure from that visit without submission of a release form;
 - b. Any request for release of health information made by the client to whom that information pertains, or the legal representative of that client, is to be granted following receipt of signed request form and verification of identity via acceptable government-issued identification;
 - c. When possible at the site where the request is received, the records related to a request made in person are to be provided at the time of the request;
 - d. If the requested records are archived or otherwise not available at the site where the request is received, records will be provided within ten (10) business days.
 - i. Client will be notified by telephone, post or email to pick up the requested records.
3. Request for Release of Information or Records by Third Party
- a. Any request for release of health information or records from a third party not authorized by law to receive the information must be accompanied by a signed release from the client or client's representative, the signature of the requestor, the date and a photocopy of both the front and back of an acceptable, government-issued identification of the requestor;
 - i. Client release must meet the specifications described in 1.b.iii;

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- b. All requests from third parties must be routed through the Custodian of Health Records for processing and verification as defined in D.1.e. Upon verification, the Custodian will request the specific and appropriate medical information or records and provide it to the Pima County Attorney's Office for review and release;
- c. If a fee is required (see Section 5 – Fees below), the fee is to be collected prior to release of the requested records;

4. Authority for Refusal to Disclose

- a. Any request for disclosure of information or records which is not allowed by law must be declined upon the authority of this policy and Chapter 6 of the Arizona Attorney General Agency Handbook, and applicable local, state or federal laws, rules and regulations;
- b. If any employee is requested by subpoena *duces tecum*, or otherwise, to disclose protected information or records, they must respectfully inform the requestor that disclosure is not permitted based on the applicable provisions of law, rules, and regulations, and that final determination of disclosure will be made after consultation with the PCHD legal advisor.

5. Fees

- a. Clients requesting copies of their own health information or records will not be charged for those copies;
- b. The fee for the reproduction and clerical costs of providing health and other information will be \$0.35 each page side of standard reproduction of documents;
- c. Documents which require special processing will be charged at actual cost plus \$15.00 per hour or fraction thereof per person involved in locating and making the documents available. See PCHD OPP AD-32 for additional guidance;
- d. The fee will be collected simultaneously with the delivery of the document, or in advance if requested records are being sent by courier or mail.