

KEY QUESTIONS TO POSE BEFORE YOU DISCLOSE

MENTAL / BEHAVIORAL HEALTH TREATMENT RECORDS



DRAFT

When is a patient authorization NOT required?

The following uses and disclosures are permitted:

- Board, commission, or administrative agency for adjudication
- Required by Law
- Health Oversight Agencies
- Limited uses for internal training programs
- Probate Court Investigator
- Provider Competency Review
- Third party for encoding, encrypting, anonymizing data
- Coroner Investigation
- Court Order
- Elder & Child Abuse
- Emergency Medical Personnel
- Inmates: TX, health, safety, good order facility
- Funeral Directors
- Payment
- Payor Billing
- Treatment
- Disability Rights California
- Nat'l Defense – Protect President
- Organ Procurement Agency
- Patient Representative
- Public Health Reporting
- Quality Assurance
- Search Warrant
- Secretary of US DHHS
- State or Federal Disaster Relief Agency

Note: If you are an acute psychiatric hospital, inpatient psychiatric unit, government-operated hospital or clinic, or a health care provider serving involuntarily detained mental health patients, refer to **the Lanterman-Petris Short Act Patient Authorization Tool**.

Who Must Comply?

Providers
of
Health Care

Mental
Health
Services:

Private acute care hospitals with no psychiatric unit (voluntary patients)

Private Psychotherapists

In All Cases:

- ✓ Validate the identity and authority of the individual requesting the information
- ✓ Develop internal written procedures and train employees on the requirements
- ✓ Limit the disclosure to what is described in the authorization
- ✓ Account for the disclosure within the patients record as required by the HIPAA Privacy Rule
- ✓ Designate individual(s) to process disclosure requests



KEY QUESTIONS TO POSE BEFORE YOU DISCLOSE

MENTAL / BEHAVIORAL HEALTH TREATMENT RECORDS

The Information Practices Act (Civil Code §1798-1798,78) applies to state agencies.
Staff should check with their legal office regarding permissive uses and disclosures under the IPA.

DRAFT

What are important terms to know?

Authorization



Release of Information (ROI) or authorization means permission granted in accordance with Confidentiality of Medical Information Act (CMIA), California Civil Code § 56.11 or 56.21 and HIPAA at 45 CFR 164.508 (c) for the disclosure of medical information.

Provider of Health Care



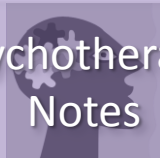
"Provider of Health Care" means any person licensed or certified pursuant to Division 2 (commencing with § 500) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; any person certified pursuant to Division 2.5 (commencing with § 1797) of the Health and Safety Code; any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.
"Provider of Health Care" does not include insurance institutions as defined in subdivision (k) of § 791.02 of the Insurance Code. CMIA, California Civil Code § 56-56.16

Mental Health Records



California's definition: patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental or personality disorder or disease not related to substance abuse treatment records.
Note: Substance abuse treatment records have additional protections.
Refer to the **Substance Abuse Patient Authorization Tool**.

Psychotherapy Notes



Personal counseling notes kept separate from the medical record.
If they are requested, contact your legal counsel.