

CHAPTER 36

Release of Health Information: General Guidelines

I. POLICY

Health Record Services (HRS) shall establish protections to preserve the confidentiality of patient identifiable information, including all communications and records pertaining to the patient's care, which is in the health record system. The decision to disclose patient identifiable health-related information shall be in compliance with state statutes, regulations, and California Department of Corrections (CDC) policies and procedures governing access to confidential information. The HRS shall implement the special protections designed for informational release concerning mental health, HIV, and substance abuse treatment and services provided to patients.

II. PROCEDURE

Health record personnel shall apply the general guidelines listed below when releasing patient health-related information. Health care staff shall refer all requests for release of patient health-related information to HRS staff.

A. General Guidelines:

1. All requests for release of patient health-related information, including verbal and direct access to the patients' unit health record (UHR), shall be referred to the HRS Supervisor.
2. Requests for release of the original UHR shall not be honored except in the circumstances of patient transfer to another CDC institution and upon court order. Authorized users shall be provided copies of pertinent information, and shall not receive the original UHR. Exceptions to this require the written approval of the Deputy Director, Health Care Services Division. The printout of a computerized record shall be accepted as the original. These documents, which have been authenticated electronically, do not require additional signatures.
3. The patient's written authorization shall be required for any release except in certain situations where the patient's welfare or the public good makes an exception necessary, or as permitted by law. An authorization is not required to release health information to another health care service department within CDC, or to consultants who have been requested by CDC to provide health services to the patient.
4. UHRs shall not be removed from the institution's premises unless the record is transferred with the patient to another CDC institution, or the record remains in the custody and control of an authorized CDC health care employee at all times.
5. Requests for access to patient information shall be in writing. Generally no specific form is required or specified; however, the request shall provide adequate information to identify the patient and the extent of the request. Information shall include:
 - a. To whom information is to be released.
 - b. Restriction, including specific time frames, or time limits.

1. Verbal requests for confidential patient information shall be referred to the HRS Supervisor on the day of receipt.
2. Information shall be furnished on a need-to-know basis to any health care provider within CDC who has responsibility for the patient's care. Employees within CDC shall be allowed access only to that information needed to carry out their duties.
3. UHRs shall be accessible to the CDC employees outlined below, either directly or through copies. A valid authorization is not required; however, these individuals shall be granted access to each information category as appropriate to their titles and job functions, e.g., information necessary to carry out their job functions. CDC employees shall provide the reason for review or access, e.g., litigation, peer review, program evaluation, or policy development and shall provide evidence of their right to access.
4. Release of patient health information is permitted to CDC employees in the following circumstances:
 - a. Attorney General. The Office of the Attorney General (OAG-CDC's attorney) shall be given full access to patient health information and records including copies of the record (without charge). A request from the OAG is self-explanatory; the OAG legally represents CDC, and access is necessary in order to provide the Department with an adequate defense.
 - b. Clinical staff, Health Care Services Division, Sacramento, including Assistant Deputy Directors or designee(s), Medical Consultants, Dental Consultants, Psychiatrists, Psychologists, Psychiatric Social Workers, Nurse Consultants (RNs), Pharmacy Consultants, MTAs, and Clinical Record Administrator.
 - c. Clinical staff, Health Care Operations, Sacramento, including Assistant Deputy Director (MD) or designee(s).
 - d. Clinical staff, Mental Health Services, Sacramento, including Chief Psychiatrist, Psychiatrists, Psychologists, MTAs.
 - e. Information shall be released to other CDC locations without the patient's written authorization, such as, to the Health Care Services Division auditors.
 - f. AIDS facility coordinator as appointed/designated by the Warden (H&S Code 121010).
 - g. Special Investigations. This shall include copies of information necessary to complete any investigation.
 - h. Custodial staff and counselors have access to specific information in the patient's UHR (including copies) on a need-to-know basis. All requests for patient health-related information generated by non-clinical personnel shall be referred to the HRS supervisor, or designee.
 - i. Culinary clearances, "layins" and "medically unassigned" verifications do not require a patient's signed authorization. Custodial staff and counselors have access to the Case Records (Central Files) and shall access these files

for "chrono" information. In the event that these items are unavailable in the Central File, copies of these documents may be provided from the UHR.

5. Release of patient health information is permitted to non-CDC employees in the following circumstances:
 - a. Patient health-related information shall be disclosed outside of the institution or CDC only to the extent necessary for the purpose(s) for which the release is authorized. Exception: Information necessary to continue the care of the patient shall accompany the patient at the time of transfer or referral to the community for outside services.
 - b. Health information shall be released on civil investigative demand, search warrant, or other documents served to the institution from the Office of the Inspector General (OIG) or similar state regulatory authorities. These requests, however, shall be honored only through the advice of legal counsel who will negotiate the terms and conditions of any health records release, including direct access or copies of records. Health record staff shall integrate release of health information to the OIG with the Office of Legal Affairs.
 - c. Release of health information shall be granted to employees of the Department of Mental Health (DMH) and mental health professionals under contract with DMH doing evaluations for the Sexually Violent Predator program, or Mentally Disorder Offender (MDO) reviews.
 - d. The District Attorney (DA) is permitted to obtain copies of medical reports/records of the victim(s) and assailant(s) related to any in-custody incident(s)/assault(s) committed by the patient and subject to possible DA prosecution. Health record staff shall integrate release of health information to the DA with the Office of Legal Affairs.
 - e. The Coroner has access to a specific patient's UHR and generally requires a certified copy of the UHR.
6. CDC shall honor all properly executed subpoenas for patient information. Any responses to subpoenas shall be as directed in the policy, "Release of Health Information: Subpoena".
7. A patient, or the patient's legal representative, has access only to the patient's health information.
8. The personal representative of a deceased person, either the executor or administrator of the patient's estate, or a beneficiary, usually named under the will or appointed by the court, shall have access to the patient's UHR with signed authorization. Health record staff shall verify the status by reviewing the appointment papers or will.
9. The patient, or patient's representative, may ask for copies of the UHR. Patients have the right to obtain copies of their UHRs. Refer to policy, "Release of Health Information: Patient Access" for specific procedures to grant direct access to records and for copies of the records to patients.

10. Exclusions from patient access and release:
- a. Any information in a patient's record that pertains to another person, such as notes that pertain to group therapy.
 - b. Information given to the health care provider "in confidence" by a family member or close associate of the patient.
 - c. Note: These types of information shall be removed prior to providing access, since permitting access may violate that patient's right to confidentiality. The requester shall be notified that certain sensitive information has been removed from the record.
 - d. Note: If the requested information specifically relates to the patient's participation in outpatient treatment with a psychotherapist, and the release is otherwise authorized by law, a written request signed by the requestor must be submitted, with a copy given to the inmate-patient within 30 days of receipt of the information, unless the inmate-patient submits a written waiver in the form of a letter signed by the inmate-patient. The written request must include the following:
 - (1) The specific information relating to a patient's participation in outpatient treatment with a psychotherapist being requested and its specific intended use or uses.
 - (2) The length of time during which the information will be kept before being destroyed or disposed of. A person or entity may extend that timeframe, provided that the person or entity notifies the provider, plan, or contractor of the extension. Any notification of an extension shall include the specific reason for the extension, the intended use or uses of the information during the extended time, and the expected date of the destruction of the information.
 - (3) A statement that the information will not be used for any purpose other than its intended use.
 - (4) A statement that the person or entity requesting the information will destroy the information and all copies in the person's or entity's possession or control, will cause it to be destroyed, or will return the information and all copies of it before or immediately after the length of time specified in paragraph (2) has expired.

Note: This section does not apply to the disclosure or use of medical information by a law enforcement agency or a regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes, unless the disclosure is otherwise prohibited by law.

11. Other review agencies shall have access, which shall be authorized and directed by the HRS supervisor, or designee, in compliance with statutes, regulations, and CDC policies. These disclosures include informational release as well as access to patient UHRs. These agencies include:
 - a. Licensing and accrediting agencies.
 - b. Institutional System Audits that include reviews that are an integral part of court compliance monitoring/reviews, program reviews/evaluations, inmate appeal investigations and other similar activities.
 - c. Researchers authorized by the Department.
12. Any release of information issues not covered above shall be referred to the HRS Supervisor, Health Care Manager, or designee.