

## CHAPTER 39

### Release of Health Information: Patient Access

---

#### I. POLICY

Health Record Services (HRS) shall ensure that the patients have access to their unit health records (UHR) for the purposes of inspection of information contained in their UHRs. HRS staff shall comply with state statutes granting patient access to his records. HRS staff shall grant access to the patient's records upon the written request of the patient, or the patient's legal representative. Access shall be granted, within custodial constraints, as soon as possible. Duplication of portions, or the total patient's record, shall be performed upon written request, with a payment of a fee within 15 days (fee to be ten cents per copy). HRS personnel shall provide the patient with direct access to his records unless prohibited by custodial constraints. Inmate access to their UHR shall be provided in a health care area designated by the Health Care Manager.

#### II. PROCEDURE

- A. HRS staff shall follow the general guidelines for release of information and ensure that a patient's request for direct access to his record complies with the following:
  1. All requests for inspection are in writing.
  2. Requests are dated and signed by the patient, or the patient's legal representative.
  3. The written request shall be:
    - a. An "Authorization for Release of Health Care Record" or
    - b. A letter dated and signed by the patient.
- B. In processing the written request, HRS staff shall:
  1. Date stamp and initial each request.
  2. Enter each request in the Patient Access Log.
- C. Each request shall contain the following information:
  1. Patient's full name (first, middle, last), CDC number, and date of birth.
  2. Purpose of review/access. This must be stated specifically, e.g., "review for the purposes of providing information to my attorney," or "copy of my x-ray of 3/31/95 to give to my private physician."
  3. Patient's signature.
  4. Date of request.
  5. Note: It is preferable to have the request witnessed, but there is no requirement for the request to be witnessed.
- D. HRS staff shall determine the purpose of review. If the request is only for a copy of the results of a diagnostic test, follow the guidelines listed below. If the request is for review of the total record, determine the nature of the information needed, e.g., "surgical operation of 3/93," "treatment of a fracture 4/94," or "mental health services provided between 1991 and 1994."
- E. HRS staff shall:

1. Retrieve the patient's UHR.
  2. Review the record content for the requested information.
  3. Seek clarification of information requested from the patient as needed.
  4. Review the record and remove any information given to the health care provider in confidence by another person.
  5. Remove any information relevant to another person.
- F. HRS personnel shall ensure that the UHR is in good order:
1. Information is filed appropriately.
  2. All information is available, including loose filing.
  3. Pages are secured within the record.
  4. Patient identifiers are on each page (e.g., patient's name and CDC number).
  5. Note: The printout of a computerized record shall be accepted as the original. These documents, which have been authenticated electronically, do not require additional signatures
- G. If the patient's written request is to review his mental health records, authorization of the Chief Psychiatrist or attending mental health practitioner shall be obtained.
- H. If the patient's request for access to the mental health records is denied, HRS staff shall proceed immediately to:
1. Obtain a written statement from the attending therapist in the patient's UHR explaining the reason for denial. The statement shall:
    - a. Explain why access to this information is harmful to the patient or to the patient-therapist relationship.
    - b. State how access is to be granted, e.g., to a licensed mental health practitioner or to a social worker selected by the patient.
  2. Notify the patient that access will be granted to a licensed mental health practitioner or to a social worker of his choice.
  3. Request the patient to notify HRS staff of the appropriate person to access his information.
- I. If the request is for records that are needed to support an appeal regarding eligibility for a public benefit program (the Medi-Cal program, social security disability insurance benefits, and Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits), the following applies:
1. The patient or his representative shall be entitled to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider a written request, and proof that the records are needed to support an appeal. These copies shall be transmitted within 30 days after receiving the written request.
  2. "Relevant portion of the patient's records" means those records regarding services rendered to the patient during the time period beginning with the date of the patient's initial application for public benefits up to and including the date that a final determination is made by the public benefits program with which the patient's application is pending.

3. Although a patient shall not be limited to a single request, the patient or patient's representative shall be entitled to no more than one copy of any relevant portion of his or her record free of charge.
  4. This process shall not apply to any patient who is represented by a private attorney who is paying for the costs related to the patient's appeal, pending the outcome of that appeal. "Private attorney" means any attorney not employed by a nonprofit legal services entity.
- J. If the request is for general information, HRS staff shall schedule an appointment time for the inspection of the record as soon as possible, and inspection must occur within five (5) business days unless prevented from doing so for custodial reasons.
1. Inspection will be provided as soon as custodial arrangements are made.
  2. A Ducat will be issued for the appointment.
  3. NOTE: All inmate inspections of the UHR shall occur in the HRS Department.
  4. During inspection of the record, the patient may identify portions of the record he wishes to have copied. Tags will be provided to flag these pages.
  5. Any patient's request to correct or amend his record shall be in compliance with applicable statutes and in compliance with the policy, "Request by Patient to Amend Unit Health Record".
- K. The patient shall:
1. Request in writing the copies of the record needed. The fee for copies is ten cents per page.
  2. Complete and sign a Trust Withdrawal form at the time copies are requested.
- L. HRS staff shall make arrangements for delivery of record copies within 15 business days.
1. The patient shall sign a receipt and a disclaimer of confidentiality of information released to the patient in the form of copies, prior to the delivery of copies.
  2. A patient shall not add to, remove from, or change any information in the UHR.
  3. All health information pertaining to the patient shall be made available for review.
  4. The patient shall do his own review. However, one "authorized" person may be permitted to be present at the time of the review. (Authorized means requested by the patient and authorized under custodial restraints.)
  5. Inspection shall be under the direct visual supervision of HRS personnel.
  6. The HRS present during the inspection of records shall not read, interpret, or answer any questions. Health care questions shall be referred to the attending practitioner.
  7. Questions about additions, corrections, amendments shall be referred to the HRS Supervisor. Refer to policy: "Request by Patient to Amend Unit Health Record".
- M. Documentation of Patient Access Activities:
1. HRS staff shall document all activities related to requests and responses to patient access to UHRs in the Patient Access Log.
    - a. Information shall include:
      1. Patient name and CDC number.
      2. Purpose of review/access.

3. Actions/arrangements made, details of compliance, e.g., date and type of access provided, dates of notification to patient, requests for clarification, patient inspection, and copies made.
  2. HRS staff shall review the patient access log to ensure compliance with the statutes.
- N. Copies of patient UHR:
1. HRS staff shall, at time of inspection:
    - a. Obtain written request for copies.
    - b. Obtain signed trust withdrawal form.
    - c. Photocopy requested pages.
    - d. Make arrangements for trust withdrawal:
      1. Calculate a cost of copies at \$0.10 a copy.
    - e. Copies shall be made available to an indigent patient.
  2. Complete an inventory and receipt for all copies made. Make two copies. The patient shall sign the inventory/receipt at time of delivery of the copies.
  3. HRS staff shall complete a cover letter to accompany the copies.
  4. Make arrangements for delivery of copies and to obtain a signed receipt.
  5. Give one copy of the inventory/receipt to the patient at the time the copies are received by him/her.
  6. Place one copy in the patient's UHR.