

	<b>Montana Mental Health Nursing Care Center Policy Manual</b>	<b>Policy Number</b>	<b>1407</b>
		<b>Original Date</b>	<b>05/16/1983</b>
	<b>Department: Medical Records</b>	<b>Revised Date</b>	<b>10/08/2015</b>
	<b>Confidentiality of Resident Information</b>		

**POLICY:**

The resident's right to privacy of his/her medical record will be protected.

**PROCEDURE:**

**I. Confidentiality of Information**

- A. The Health Record is the property of the health facility and shall be maintained to serve the resident, the health care providers and the institution in accordance with legal, accrediting and regulatory agency requirements.
- B. The information contained in the health record belongs to the resident (the resident is entitled to the protected rights of information). All resident care information shall be regarded as confidential and available to authorized users only.

**2. Data Collection**

- A. The types and amount of information gathered and recorded about a resident shall be limited to that information needed for resident care. Supplementary data which is not required for resident care, but desirable for research, education, etc., may be recorded with the permission of the resident or the resident's authorized representative, following explanation of the purpose for which the information is collected.
- B. All individuals engaged in the collection, handling, or dissemination of resident health information shall be specifically informed of their responsibility to protect resident data. (DPHHS HIPAA Privacy Policy #2)

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- C. The collection of any data relative to a resident whether by interview, observation, or review of documents, shall be conducted in a setting which provides for reasonable privacy. Reasonable precautions are to be taken to minimize chance of incidental disclosure to others who may be nearby. (DPHHS HIPAA Privacy Policy #14)

**3. Storage**

- A. All primary health records shall be housed in physically secure areas. (DPHHS HIPAA Privacy Policy #14)
- B. Primary and secondary health records shall be retained according to legal, accrediting or regulatory agency requirements.
- C. When in use within the institution, health records should be kept in secure areas at all times. Health records should not be left unattended in areas accessible to unauthorized individuals.

**4. Access**

- A. All requests for health records shall be directed to the Medical Record Department.
- B. Health records shall be available for use within the facility for direct resident care by all authorized personnel.
- C. All information contained in the health record is confidential and the release of information will be closely controlled. (DPHHS HIPAA Privacy Policy #2)
- D. A properly completed and signed authorization to release resident information (Attachment #1) shall include the following data:
  - a) Name of institution that is to release the information.
  - b) Name of individual or institution that is to receive the information.
  - c) Resident's full name, address, and date of birth.
  - d) Purpose of need for information.
  - e) Extent or nature of information to be released, including inclusive dates of treatment.

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- f) Date that consent is signed by the resident or their legal representative.
  - g) Signature and date of requester.
  - h) A notice that the consent is valid only for a specified period of time. (DPHHS HIPAA Privacy Policy #10)
  - i) A statement that the consent can be revoked but not retroactive to the release of information made in good faith.
- E. Information released to authorized individuals/agencies shall be strictly limited to that information required to fulfill the purpose stated on the authorization. (DPHHS HIPAA Privacy Policy #2)
- F. The signed authorization will be retained in the health record, with a notation showing the date of release and the signature of the individual who released the information. The signed authorization form must be kept for a minimum of six years and three months.
- G. Requests for health record information received via telephone will require proper identification and verification to assure that the requesting party is entitled to receive such information.
- H. Health records shall be made available for research to individuals who have obtained approval for their research projects from the Superintendent. Data compiled as part of research studies may not include resident identity or other information which could identify the resident unless prior authorization from the resident or his/her legal representative has been obtained. Research projects which involve use of health records shall be conducted in accordance with institutional policies on use of health records for research.
- I. All requests for information from health records shall be directed to the medical record department for processing.
- J. Any request by a resident or their legal guardian to see his/her health record shall be referred to Medical Records/Social Services. Authorized staff must be present while resident/guardian review the record. A physician may refuse a resident's request to review their medical record if it is psychologically harmful to the resident. (DPHHS HIPAA Privacy Policy #2)
- K. information in medical records may be turned over to the Department of Public Health and Human Services legal representatives to protect the interests of the Center in cases involving liability or compensation.

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- L. Medical/Psychiatric records shall not be taken from any of the various files to other parts of the facility except as is necessary in the transaction of the business of the hospital.
- M. Every effort should be made to have a court accept a certified photocopy of the health record when it has been subpoenaed. Where the judge orders that the original record be held, a receipt must be procured from the Clerk of the Court and filed in the folder until return of the record. The Center may charge a fee for copies requested.
- N. Consent for access to medical chart is not needed for the following:
  - a) Communication between qualified professional persons in the provisions of services or appropriate referrals. (DPHHS HIPAA Privacy Policy # 2 & #13)
  - b) Claims on behalf of a recipient of aid, insurance, or medical assistance to which he/she may be entitled. (DPHHS HIPAA Privacy Policy #2)
  - c) To the courts as necessary to the administration of justice.
  - d) To members of the Mental Disabilities Board of Visitors or their agents when necessary to perform their functions.
  - e) It shall be the general policy that the facility will not voluntarily use the record in any manner which will jeopardize any of the interests of the resident, with the exception that the Center itself will use the record, if necessary, to defend itself or its agents.
- O. The original medical record must not be removed from the facility unless one of the following are met:
  - a) Court subpoena requesting the record.
  - b) The original medical record may accompany the resident when he/she is transferred to Central Montana Medical Center and the medical record will return after admission.
  - c) The original medical record of a current resident may be removed from the facility and transported to the attending physicians' office. The record is to be returned to the Center at the end of the appointment.