



**MONTANA STATE HOSPITAL
POLICY AND PROCEDURE**

GUIDELINES FOR RELEASE OF INFORMATION

Effective Date: May 1, 2020

Policy: HI-06

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- I. PURPOSE:** To establish safeguards to preserve the privacy and confidentiality of patient information.
- II. POLICY:** Montana State Hospital (MSH) will follow the combined requirements of the Health Information Portability and Accountability Act (HIPAA) and State and Federal standards in order to release information from medical/psychiatric records.
- III. DEFINITIONS:**
- A. **Protected Health Information (PHI):** Individually Identifiable Health Information which is transmitted electronically or maintained in any medium.
- IV. RESPONSIBILITIES:**
- A. **Health Information Department and clinical staff** will release protected health information (PHI) under the guidance of HIPAA, State and Federal statutes, and licensure and certification regulations.
- V. PROCEDURE:**
- A. Guidelines for the release of information.
1. Any information of a medical/psychiatric nature in possession of the hospital must not be revealed by an employee of the hospital except as permitted in accordance with State and Federal guidelines.
 2. The hospital will not voluntarily use the PHI record in any manner which will jeopardize any of the interests of the patient, with the exception that the hospital itself will use the records, if necessary, to defend itself or its agents.
 3. Members of the attending clinical staff or consulting staff may freely consult in the Health Information Department such as it pertains to their work.
 4. Direct care staff may not give authorization to insurance companies or attorneys to secure records or PHI.
 5. Original medical/psychiatric PHI records shall not be taken outside of the hospital except upon receipt of a subpoena duces tecum, court order, or statute.

6. When a medical/psychiatric PHI record has been subpoenaed, every effort will be made to have the court accept a certified copy of the record. Where the Judge orders the original medical/psychiatric record be held, a receipt must be procured from the Clerk of the Court and filed in the folder until return of the record.
7. The administration, at its discretion, will permit use of the medical/psychiatric PHI records for research purposes. Persons other than members of the hospital staff and visiting staff requesting this privilege must secure the written authorization of administration and of the attending physicians on those cases.
8. Patients have a right to request the restriction of the use and disclosure of information. Such restrictions must be submitted in writing and do not affect disclosures which have already taken place in good faith. The written statement will be filed in the patient's medical record. MSH is not required to agree to such a restriction for treatment, payment, or health care operations, but if agreed upon, must abide by such restriction except in emergency circumstances when the information is required for the treatment of the individual.

Montana State Hospital must comply with a requested restriction if (1) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and (2) the protected health information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

9. Written authorization must be obtained for the release of medical/psychiatric PHI except in reference to section V, C, 1 through 7 of this policy.
- B. Authorization for release of information.
1. PHI will not be released without the patient's written authorization unless specifically provided by law.
 2. Prior to any disclosures permitted, MSH must verify the identity of the person requesting a patient's PHI and the authority of that person to have access to the information.
 3. Uses and disclosures must be consistent with what the patient has authorized on the signed authorization form. Under any such authorization, MSH will disclose only the minimum amount of information necessary to fulfill the purpose for which the information is requested.
 4. An authorization must be voluntary. MSH may not require the client to sign an authorization as a condition of providing treatment, payment, services, enrollment in a health plan, or eligibility for health plan benefits.

5. Required elements of a valid authorization are:
 - a. A description of the PHI to be used or disclosed, which identifies the information in a specific and meaningful fashion;
 - b. The name or other specific information about the person(s), classification of person(s), or entity (such as MSH specified program) authorized to make the specific use or disclosure;
 - c. The name or other specific information about the person(s), classification of person(s), or entity to whom MSH may make the requested use or disclosure;
 - d. A description of each purpose of the requested use or disclosure authorization. If the client does not wish to define a purpose, the description may read “as requested by the patient”;
 - e. An expiration date or an expiration event which relates to the patient or to the purpose of the use or disclosure. If a date is not included, the authorization expires in six months. No expiration event or date can be listed which is greater than thirty months.
 - f. Signature of the patient, or of the patient’s personal representative, and the date signed; and
 - g. If the patient’s personal representative signs the authorization instead of the patient, a description or explanation of the representative’s authority to act for the patient, including a copy of the legal court document (if any) appointing the personal representative, must also be provided.
 6. Blanket release from an insurance company for utilization review and receipt of benefits will be honored.
- C. Release of information to an authorized person without consent of the patient or patient guardian. M.C.A. § 53-21-166 Records to be Confidential – Exceptions; DPHHS HIPAA Policy 002, Uses and Disclosures of Protected Health Information.
1. Per HIPAA Privacy Rule guidelines for treatment, payment, and healthcare operations:
 - a. **Treatment:** Provision, coordination or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a client; or the referral of a client for health care from one health care provider to another.
 - b. **Payment:** The activities undertaken to determine or fulfill responsibilities for coverage and provision of benefits including: determination of eligibility or coverage; risk adjusting amounts due to health status or demographics; billing or collecting; obtaining payment for reinsurance purposes and all related data processing; review of health care services with respect to medical necessity,

coverage, justification or appropriateness of care; and/or utilization review activities including precertification and preauthorization.

- c. **Health Care Operations:** Those business and management activities necessary to accomplish health care functions, including, but not limited to:
 - (i) Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines;
 - (ii) Reviewing the competence or qualifications of health care professionals, accreditation, certification, licensing or credentialing activities;
 - (iii) Underwriting or premium rating;
 - (iv) Conducting or arranging for medical review, legal services, and auditing functions, fraud and abuse detection and compliance programs;
 - (v) Business planning and development such as cost management, formulary development and payment or coverage policies; and/or
 - (vi) Customer service provisions.

- 2. For research.
- 3. To the courts as necessary to the administration of justice.
- 4. To persons authorized by an order of court, after notice and opportunity for hearing to the person to whom the record or information pertains and the custodian of the information pursuant to the rules of civil procedure.
- 5. To members of the Mental Disabilities Board of Visitors or their agents when necessary to perform their functions as set out in M.C.A § 53-21-104 Powers and Duties of the Mental Disabilities Board of Visitors.
- 6. Based on need to know as listed in M.C.A. § 50-16-529 Disclosure Without Patient's Authorization Based on Need to Know (Attachment B).
- 7. Other bases M.C.A. § 50-16-530 Disclosure Without Patient's Authorization (Attachment C).

VI. REFERENCES: M.C.A. § 50-16 Part 5 "Uniform Health Care Information," M.C.A. § 53-21-104 "Powers and Duties of the Mental Disabilities Board of Visitors," and 53-21-166 "Records to be Confidential – Exceptions;" Medicare, Medicaid Conditions of Participation; DPHHS HIPAA Policies; DPHHS Policy 010, Criteria for Compliant Authorization to Release Protected Health Information.

VII. COLLABORATED WITH: Medical Director, Hospital Administrator.

VIII. RESCISSIONS: HI-06, Guidelines for Release of Information dated December 3, 2014; HI-06, *Guidelines for Release of Information* dated December 1, 2009; HI-06, *Guidelines for Release of Information* dated October 30, 2006; HI-06, *Guidelines for Release of Information* dated September 1, 2002; HI-06, *Guidelines for Release of Information* dated

February 14, 2000; HOPP 12-03R.1.051480 *Guidelines for Release of Information* dated November 21, 1979.

- IX. DISTRIBUTION:** All hospital policy manuals.
- X. ANNUAL REVIEW AND AUTHORIZATION:** This policy is subject to annual review and authorization for use by either the Administrator or the Medical Director with written documentation of the review per ARM § 37-106-330.
- XI. FOLLOW-UP RESPONSIBILITY:** Director of Health Information.
- XII. ATTACHMENTS:** For internal Use.
- A. [Consent for Release of Confidential Information](#)
 - B. [M.C.A. § 50-16-529 “Disclosure Without Patient’s Authorization Based on Need to Know”](#)
 - C. [M.C.A. § 50-16-530 “Disclosure Without Patient’s Authorization”](#)

Signatures:

Kyle Fouts
Hospital Administrator

Melinda Bridgewater
Director of Health Information