



**MONTANA STATE HOSPITAL  
POLICY AND PROCEDURE**

**MENTAL DISABILITIES BOARD OF VISITORS –  
ACCESS TO PATIENT RECORDS**

**Effective Date:** April 21, 2016

**Policy #:** HI-09

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**I. PURPOSE:** To provide procedures for complying with the requirements of §§ 53-21-104(6) and 53-21-166 (7), MCA, by providing records to the Mental Disabilities Board of Visitors

**II. POLICY:** Montana State Hospital (MSH) will comply with § 53-21-104, MCA, which states:

(6) The board shall employ and be responsible for full-time legal counsel at the state hospital, whose responsibility is to act on behalf of all patients at the institution. The board shall insure that there is sufficient legal staff and facilities to ensure availability to all patients and shall require that the appointed counsel periodically interview every patient and examine the patient's files and records. The board may employ additional legal counsel for representation of patients in a similar manner at any other mental health facility having; inpatient capability.

It is the policy of MSH to permit staff employed by the Mental Disabilities Board of Visitors to examine the medical records of any patient. This is to be done in a manner that ensures the security of the medical record and the availability of the record to hospital staff and does not disrupt patient treatment.

Under § 53-21-166 (7), MCA, the BOV does not need patient consent when accessing records is necessary for performing duties under § 53-21-104, MCA.

**III. DEFINITIONS:**

Board of Visitors (BOV): The board, established under § 2-15-211, MCA, is attached to the Governor's Office and is an independent board of inquiry and review to assure that the treatment of all persons either voluntarily or involuntarily admitted to a mental facility is humane and decent and meets the requirements set forth in statute.

**IV. RESPONSIBILITIES:**

A. Mental Disabilities Board of Visitors will notify nursing staff on patient unit of need to review chart or take record to BOV office to make copies. Chart will be returned to patient unit as soon as possible. BOV staff may request to review records at the Health Information Department and ask permission to take records to BOV office to make copies. Records will be returned to the Health Information Department as soon as possible.

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B. Director of Health Information, in collaboration with nursing staff must approve record removal from the patient unit or Health Information Department.

C. Nursing Staff will sign chart out to the BOV when chart leaves the patient unit.

**V. PROCEDURE:\***

A. Staff members of the BOV may request permission to review a patient's clinical record. The records of current patients are on the treatment programs, the records of discharged patients are in the Health Information Department.

B. The record is to be reviewed in the general vicinity where the chart is located. It may not be taken out of the treatment program or Health Information office except when permission to photocopy the record has been granted by the Director of Health Information. When permission has been granted, the chart may be taken to the BOV office for an agreed-upon period of time. Under no circumstances are charts to be taken from the office overnight.

\* This is MSH's preferred procedure to implement this policy.

**VI. REFERENCES:** Sections 53-21-104 (6) and 53-21-166 (7), M.C.A.

**VII. COLLABORATED WITH:** Director of Nursing, and Board of Visitors.

**VIII. RESCISSIONS:** #HI-09, *Mental Disabilities Board of Visitors – Access to Patient Records* dated November 16, 2012; #HI-09, *Mental Disabilities Board of Visitors – Access to Patient Records* dated October 26, 2009 #HI-09, *Mental Disabilities Board of Visitors – Access to Patient Records* dated October 30, 2006; HI-09, *Mental Disabilities Board of Visitors – Access to Patient Records* dated September 1, 2002; #HI-09, *Mental Disabilities Board of Visitors – Access to Patient Records* dated February 14, 2000; #HI-09-96R, *Mental Disabilities Board of Visitors – Access to Patient Records*, dated October 10, 1996.

**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:** None

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John W. Glueckert                      Date  
Hospital Administrator