



**MONTANA STATE HOSPITAL
POLICY AND PROCEDURE**

GUIDELINES FOR RELEASE OF INFORMATION

Effective Date: December 3, 2014

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 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) – means Individually Identifiable Health Information that is transmitted electronically in any medium or maintained in any medium.
- IV. RESPONSIBILITIES:**
- A. Health Information 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.

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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 that 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 and visiting staff requesting this privilege must secure the written authorization of the 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 that have already taken place in good faith. The written statement will be filed in the patient medical record.
 9. Written authorization must be obtained for the release of medical/psychiatric PHI except in reference to section V, C, 1 through 9 of this policy.
- B. Authorization for release of information.
1. PHI will not be released about a patient 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 information 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, that identifies the information in a specific and meaningful fashion;

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- 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 that 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 that 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:

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- (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 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. REVIEW AND REISSUE DATE:** November 2017

**MONTANA STATE HOSPITAL
CONSENT FOR RELEASE OF CONFIDENTIAL INFORMATION**

I, _____ (D.O.B) _____ (PT. #) _____,
(Name of Patient or Participant)

authorize _____ to disclose Protected Health Information to:
(Name of the Program making disclosure)

_____ (name)

_____ (address)

_____ (address)

I authorize the disclosure of the following Protected Health Information within the date range of
_____ (start date) to _____ (end date):

- | | | |
|---|--|---|
| <input type="checkbox"/> Discharge Summary | <input type="checkbox"/> Psychiatric Evaluations | <input type="checkbox"/> Psychological |
| <input type="checkbox"/> Physical Examination | <input type="checkbox"/> Social History | <input type="checkbox"/> Rehab. Therapy |
| <input type="checkbox"/> Laboratory Studies | <input type="checkbox"/> Treatment Plan | <input type="checkbox"/> HIV/AIDS Testing/Treatment |
| <input type="checkbox"/> Medications/MAR/Orders | <input type="checkbox"/> Legal Documents/FRB | <input type="checkbox"/> Advance Directives/Living Will |
| <input type="checkbox"/> Medical Consultations | <input type="checkbox"/> Alcohol/Drug Abuse Treatment/Referral | |

Other _____

The purpose or need for this disclosure is: _____

This authorization expires six months from the date of signature unless another date, event, or condition is stated here: _____

Executed this _____ day of _____, 20_____

You may revoke this authorization at any time, except to the extent that action has been taken in reliance on it, by giving written notice of revocation to program making disclosure named above.

Mail to:
Health Information Dept
Montana State Hospital
PO Box 300
Warm Springs, MT 59756

Signature of Patient

Signature of Parent, Guardian or authorized representative (when required)

NOTICE:

Protected Health Information disclosed by this authorization may be subject to redisclosure by the recipient and may no longer be protected by federal privacy law.

Montana State Hospital may not condition treatment, payment, enrollment or eligibility for benefits on whether you sign this authorization.

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50-16-529. Disclosure without patient's authorization based on need to know. A health care provider may disclose health care information about a patient without the patient's authorization, to the extent a recipient needs to know the information, if the disclosure is:

- (1) to a person who is providing health care to the patient;
- (2) to any other person who requires health care information for health care education; to provide planning, quality assurance, peer review, or administrative, legal, financial, or actuarial services to the health care provider; for assisting the health care provider in the delivery of health care; or to a third-party health care payor who requires health care information and if the health care provider reasonably believes that the person will:
 - (a) not use or disclose the health care information for any other purpose; and
 - (b) take appropriate steps to protect the health care information;
- (3) to any other health care provider who has previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider not to make the disclosure;
- (4) to immediate family members of the patient or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with the laws of the state and good medical or other professional practice, unless the patient has instructed the health care provider not to make the disclosure;
- (5) to a health care provider who is the successor in interest to the health care provider maintaining the health care information;
- (6) for use in a research project that an institutional review board has determined:
 - (a) is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;
 - (b) is impracticable without the use or disclosure of the health care information in individually identifiable form;
 - (c) contains reasonable safeguards to protect the information from improper disclosure;
 - (d) contains reasonable safeguards to protect against directly or indirectly identifying any patient in any report of the research project; and
 - (e) contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;
- (7) to a person who obtains information for purposes of an audit, if that person agrees in writing to:
 - (a) remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and
 - (b) not disclose the information further, except to accomplish the audit or to report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient or other unlawful conduct by a health care provider;
- (8) to an official of a penal or other custodial institution in which the patient is detained; and
- (9) to any contact, as defined in [50-16-1003](#), if the health care provider reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the contact or any other individual.

History: En. Sec. 9, Ch. 632, L. 1987; amd. Sec. 3, Ch. 657, L. 1989; amd. Sec. 6, Ch. 544, L. 1991.

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50-16-530. Disclosure without patient's authorization. A health care provider may disclose health care information about a patient without the patient's authorization if the disclosure is:

- (1) directory information, unless the patient has instructed the health care provider not to make the disclosure;
- (2) to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information or when needed to protect the public health;
- (3) to federal, state, or local law enforcement authorities to the extent required by law;
- (4) to a law enforcement officer about the general physical condition of a patient being treated in a health care facility if the patient was injured on a public roadway or was injured by the possible criminal act of another;
- (5) in response to a request of the office of victims services for information under [53-9-104\(2\)\(b\)](#);
- (6) pursuant to compulsory process in accordance with [50-16-535](#) and [50-16-536](#);
- (7) pursuant to [50-16-712](#); or
- (8) to the state medical examiner or a county coroner for use in determining cause of death. The information is required to be held confidential as provided by law.

History: En. Sec. 10, Ch. 632, L. 1987; amd. Sec. 1, Ch. 68, L. 1989; amd. Sec. 2, Ch. 396, L. 1995; amd. Sec. 1, Ch. 101, L. 2001; amd. Sec. 2, Ch. 124, L. 2001.

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