

HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Correction
Division Of Prisons

SECTION: Administrative – Patient's Rights

POLICY # AD IV-3

PAGE 1 of 4

SUBJECT: Confidentiality

EFFECTIVE DATE: April 2010

SUPERCEDES DATE: April 2008

PURPOSE

To provide guidelines to insure confidentiality of the inmate's medical record and information therein.

POLICY

All information contained in an inmate's medical record shall be considered privileged and confidential, with the exception of information considered matters of public record. A statement of assurance of confidentiality shall be signed by health services staff upon employment. The term medical record includes both medical and mental health records.

PROCEDURE

An inmate's name, age, sex, race, offense for which convicted, court where sentenced, length of sentence, date of sentencing, date of arrival, date of transfer from prison, program placement and progress, conduct, grade, custody classification, disciplinary offenses and disposition, escapes and captures, dates regarding release, and the presence or absence of detainees shall be considered matters of public record.

- A. Each Health Services employee shall ensure confidentiality of inmates' medical records. Only the Officer in Charge (OIC) at the Center/Institution, or health services staff having specific record responsibilities shall have access to the inmate's medical records. To insure that information in records is interpreted correctly, no other personnel shall have access to medical records. Individuals granted access to the medical records will sign a statement of confidentiality form agreeing to keep information from the record confidential.
- B. Upon written consent, the contents of an inmate's medical record may be released to the attending psychologist, psychiatrist or governmental agencies directly involved in providing mental health treatment and rehabilitation services to the inmate. Even with written consent, clinical information shall not be released to non-mental health professionals, employers, and members of the news media.
- C. Facts regarding admission to and discharge from a mental health treatment facility, transfer to another facility, decision to terminate treatment against medical advice, and referrals and appointment information for treatment after discharge or release may be provided to the inmate's next of kin or other designated person who has a legitimate role in the therapeutic services for the inmate if the responsible professional determines that the disclosure is in the best interest of the inmate. This information may be released without consent of the inmate after notification that this information has been requested.

With either an oral consent made in the presence of a witness selected by the inmate, or a written consent executed by the inmate, information regarding the inmate's diagnosis, prognosis, medications prescribed, dosage of the medication prescribed, side effects of the medications prescribed, if any, and the progress of the inmate may be released upon written request from the inmate's next of kin or other designated person determined to have legitimate role in the therapeutic services being provided. Both the inmate's consent and the release of this information shall be

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documented in the medical record. This consent for release shall be valid for a specified length of time (1 year) and is subject to revocation by the inmate at anytime.

The responsible professional will:

1. With written consent of the inmate, provide the information based upon the responsible professional's determination that providing this information will be to the inmate's therapeutic benefit, or
2. Refuse to provide the information based upon the responsible professional's determination that providing the information will be detrimental to the therapeutic relationship between the inmate and the professional, or
3. In response to written requests for clinical information not covered above, next of kin or other family members who have legitimate roles in therapeutic services for the inmate, may authorize release of information (but may not obtain said information).

(G.S. 122C-53(b), (h) and 122C-55(j), (k), (r))

- D. Individuals involved in approved teaching, staff development, program evaluation and research projects may have access to inmate health records, as long as the proper precautions are taken to disguise the identities of the inmates. Confidentiality statements should be signed.
- E. Confidential information within an inmate's medical record may be released without written consent to other individuals employed in the Department of Correction only when and to the extent that the performance of their duties requires that they have access to such information.
- F. Confidential information will be released to the staff or attorneys of the Attorney General's/Corrections Section when requested with no authorization required.
- G. If an individual is being considered for parole, the contents of his/her record will be made available to a mental health professional assigned to the Parole Commission.
- H. Even though the information obtained from the inmate by the psychologist during treatment should remain confidential, the therapist may be asked to provide information to help make management decisions. The mental health professional must inform the inmate of the limits of confidentiality. Information given to management should be limited, as much as practicable, to summaries of clinical data and recommendations regarding operational, security, and classification concerns.
- I. Confidential information shall be disclosed without the inmate's written authorization to the extent that the clinician reasonably determines that such disclosure is necessary to protect against clear and substantial risk of imminent serious injury, disease, or death being inflicted by the inmate on himself/herself, or others, or a threat to the security of the unit. Material contained in the inmate files may be released to approved federal and state law enforcement agencies when their representatives present proper credentials. Such agencies must agree to maintain the confidential nature of the material or information. Materials will be provided to the courts upon request.

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- J. All standards applying to confidentiality shall also apply to those individuals and agencies providing contractual services to the North Carolina Division of Prisons.
- K. The North Carolina Division of Prisons recognizes the more restrictive nature of the federal regulations and shall comply with, and educate its employees in regard to, these regulations.
- L. The attached statement of assurance of confidentiality form shall be signed by all health services staff upon employment as part of the hiring process. The form shall be maintained by the hiring manager in the employee's personnel file.



4/30/10

Paula Y. Smith, MD, Director of Health Services

Date

SOR: Director of Medical Records



**North Carolina Department of Correction
Division of Prisons**

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Alvin W. Keller
Secretary

Robert Lewis
Director of Prisons

ASSURANCE OF CONFIDENTIALITY

I have read and understand the Department of Correction, Division of Prisons policies regarding confidentiality. I further understand the liability and potential penalties that could result from violations of these policies and hereby agree to protect and preserve the confidential nature of all inmates' medical and mental health information to which I have access.

I understand that the Department of Correction, Division of Prisons policy includes that unauthorized release of confidential information by departmental employee shall be cause for immediate dismissal or other appropriate disciplinary actions, up to and including dismissal.

POLICY

Division of Prisons, Chapter D-Public Communications, .0600 Access to Information/Inmate Records

Division of Prisons, Health Services, VI. Medical Records, AD-3, Release of Confidential Information

Division of Prisons, Health Services, IV. Patient's Rights, AD-IV-3, Confidentiality

Name-full name printed legibly

Signature

Title

Date

Distribution: Personnel Record (original form)
Chief of Mental Health Services
Deputy Medical Director
Dental Director
Psychological Program Manager
Nurse Supervisors
Social Work Director
Medical Records Manager
Pharmacy Director