

HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Correction
Division Of Prisons

SECTION: Administrative – Medical Records

POLICY # AD VI-3

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SUBJECT: Release of Confidential Information

EFFECTIVE DATE: May 2009

SUPERCEDES DATE: October 2008

PURPOSE

To provide guidelines for releasing confidential health information.

POLICY

All confidential patient information shall be released in accordance with these procedures.

PROCEDURE

I. Authorization for Release of Confidential Information

A. Requirements of a Valid Authorization

1. Requests for medical information may be granted only upon receipt of a valid authorization for release of information.
2. A valid authorization shall be in writing and contain all of the following information:
 - a. Patient Name
 - b. Identifying data, i.e. Date of Birth, Inmate Number, and Social Security Number.
 - c. Name of facility releasing the information. Division of Prisons or Department of Correction is acceptable.
 - d. Name of person, organization, or facility and address authorized to receive the information.
 - e. Specific information to be disclosed, including dates of treatment.
 - f. Statement that on the authorization that unless otherwise specified, the authorization shall expire when the signature exceeds one (1) year.
 - g. Purpose of the release is stated.
 - h. Statement that the authorization is subject to revocation by the patient or legal representative except to the extent action has already been taken.
 - i. Signature of the patient or legally responsible person and the date of signature. If patient does not sign release the relationship of the party signing for the patient must be stated. The date of signature must be the same or later than the date(s) of information to be released.
 - j. Contain a promise or statement that medical records may be discussed with, but no given directly to, the inmate/client.
3. Any alterations made to an authorization form AFTER it has been signed MUST be initialed by the inmate/patient or their legally responsible person
4. There is no legal requirement that the patient's signature on the authorization be witnessed or notarized. However, if the validity of an authorization is questioned, the patient or legally responsible person should be contacted to verify the authorization. A comparison of the signature on the authorized request may be made with a signature of the patient on file from a previous time.
5. If an inmate/patient is illiterate or physically disabled and signs by an "X" mark, a witness shall enter his or her full name and date on the "Witness Signature" line. .

B. Invalid Authorization

When a request for information is accompanied by an invalid authorization, (i.e. authorization expired, missing required items), the request should be returned to the sender explaining why the authorization is not valid. A blank

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Department of Correction Authorization for Release of Information (DC-436) may be attached for the patient or patient's legally responsible person to complete and return.

C. Persons Who May Authorize Release of Information and Receive Information Upon Receipt of a Valid Authorization.

1. Adult

- a. A competent adult active or former inmate, capable of making a rational decision, may authorize release of information from his or her own medical record.

An active inmate, or family members, may not have copies of the inmate's medical record while incarcerated.

An active inmate may receive copies of the medical record after the inmate has been released from prison.

An active or former inmate will not be charged for copies of the medical record.

- b. An active inmate may receive their medical record from a private healthcare provider or community hospital, for services provided **prior** to incarceration for their own use and may keep those records while they are incarcerated. However, it will be the inmate's responsibility to personally request those records from the outside agency. DOP will not be responsible for any charges rendered for the records copied and will not be responsible for insuring the confidentiality of the information.
- c. A guardian or other person authorized under a state statute to act in the patient's behalf may consent to the release of information for a patient judged by a court to be incompetent.
- d. A person holding Healthcare Power of Attorney who has been given authority to make health care decisions may authorize the release of the patient's medical information.

2. Minor

- a. Minors who have not been emancipated by a court decree, may give consent for treatment when seeking services for venereal diseases, other disease reportable under N.C.G.S 130A-135, pregnancy, abuse of controlled substances or alcohol, or emotional disturbances under N.C.G.S. 90-21.5. The minor may not consent to sterilization or abortion. The may not have copies of health information.

The signature of a parent or legally appointed guardian **is required** for minors who do not meet the state's definition of an emancipated minor. A copy of the legal document giving the guardian the right to sign shall be attached to the authorization and filed in the patient's medical record.

- b. Any minor who is not emancipated by a court decree and is married or divorced may consent to healthcare services, The minor may have copies of health information.
- c. Any minor who is emancipated by a court decree may consent to healthcare services. The minor may have copies of health information.

3. Deceased Patient

Deceased inmate health information may be released if a valid authorization is signed by the:

- a. The executor administrator of the estate of a deceased patient if the estate is being settled; or
- b. The next of kin of a deceased patient if there is not an executor or administrator of the estate but information is needed to settle the estate or information is requested by an attorney.

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The “Next of Kin” is defined as the nearest blood relation of the deceased inmate. Degrees of kinship are specified in the NC General Statutes 104A-1. The order of next of kin is as follows:

- a. Spouse
- b. Any son, daughter, or stepson or stepdaughter
- c. Any parent or stepparent
- d. Any brother, sister, or half brother or half sister

A copy of the legal document giving the executor/administrator of the estate or Next of Kin the right to sign for a deceased inmate shall be attached to the authorization or filed in the patient’s medical record. If a legal document does not exist, proof of signing authority by the next of kin must be attached to the authorization or filed in the patient’s medical record.

D. Persons Who May Receive Confidential Information Without Patient Authorization

1. Department of Correction Legal Department - Confidential information shall be disclosed to the Department of Correction Legal Department as necessary for representation due to litigation.
2. Attorney General’s Office-confidential information shall be disclosed with representation for the attorney General’s Office as necessary of representation due to litigation.
3. Division of Prisons Health Services Office Staff - Confidential information shall be disclosed to Health Services Office Staff as necessary to evaluate, coordinate or otherwise care for the patient.
4. Department of Correction Adjudication Unit - Confidential medical information shall be disclosed to members of the Adjudication team as necessary to evaluate treatment rendered inmates by outside vendors, in an effort to establish justification of charges submitted to the Department of Correction for inmate health care.
5. Health Care Facility Staff - Access to confidential information will be allowed whenever the health care provider is involved in the care of the patient.
6. Non-Doc Providers- Health care providers outside of the Department of Correction should be provided confidential information when delivering emergency medical services specialty/outpatient care and inpatient (hospital) care. The information disclosed should be limited to that which is necessary to meet healthcare needs of the inmate.
7. Other D.O.C. Treatment Facilities - Confidential information shall be released to another DOP hospital or DOP treatment facility when an inmate is transferred. The outpatient Medical Record shall accompany the inmate at the time of transfer.
8. Health Department - Information related to reportable communicable diseases (i.e. TB, HIV, AIDS, STD’s, Hepatitis) may be released to a public Health Department for the purpose of preventing or controlling the spread of communicable disease. **NOTE: According to North Carolina General Statutes, information not related to communicable disease requires an authorization of release of information.**
9. Research - Confidential information may be disclosed for the purpose of Department of Correction approved research, as long as adequate safeguards are established to protect such information from redisclosure and/or the identity of the inmate patient is not revealed.

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10. Legal System - Subpoenas and court orders received may be forwarded to the Department of Correction Legal Section for approval and direction. (Photographs, audio, and video recordings which are not part of the medical record, should be included only when specified as part of the subpoena or court order.)
 11. D.O.C. Correctional Personnel - While correctional personnel should have limited access to inmates' medical records, they should be informed of inmates with medical conditions/treatments that may significantly impact the operation of the facility or as needed to safeguard the inmate's health, (i.e. chronic conditions, mental instabilities, physical limitations, and those on medication which may limit the inmate's activity.)
 12. Worker's Compensation - Access to confidential medical information shall be allowed if a claim is pending before the Industrial Commission. The written request must contain a claim or file number.
 13. Inmate Grievance Examiners - May inspect and/or photocopy confidential medical records.
 14. Child Fatality Prevention Team - May inspect and/or photocopy confidential medical records.
 15. Medical Examiner - Confidential information shall be shared with the Medical Examiner if the death of the patient is being investigated.
 16. Central Cancer Registry - Confidential information shall be shared with the Central Cancer Registry.

II. Release and Disclosure of Patient Information

A. Procedure for Processing Requests from Attorneys

1. All correspondence received from attorneys requesting active or inactive inmate medical information is forwarded to the Medical Records Department of Health Services for processing.
 - a. If the inmate is active, the request will be forwarded to the appropriate correctional facility. Only facilities with credentialed Medical Record Managers may process Release of Information requests. If the facility does not employ a credentialed Medical Record Manager, information requested will be photocopied and sent to the Medical Record Department of Health Services for processing.
 - b. If the inmate has been released/paroled or has expired, the request and authorization shall be forwarded to:

Division of Prisons - Health Services
Medical Records Department
2405 Alwin Court, 4268 MSC
Raleigh, N.C. 27699-4268
Courier # 53-71-00

- c. The request and authorization shall be filed in Section II of the outpatient Medical Record.

B. Procedure for Releasing Confidential Information to Authorized Requestors

1. All requests for information contained in the Medical Record shall be directed to the Medical Record Manager at the appropriate correctional facility or to the Medical Records Department at Health Services.
2. The authorization is reviewed to ensure validity.
3. Only the requested information on the authorization shall be released.

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4. Following authorized release of the patient's information, the signed authorization will be placed in Section II of the Outpatient Health Record with notation of what specific information was released, the date of release, and the signature of the individual who released the information.
5. The facility releasing medical information shall maintain a log of those releases in the health treatment area. The log shall denote the date the request was received, the inmate name and number, the name of the party requesting the information, the date of the response to the request, and the action taken.
6. Requests for medical information received via telephone require proper identification and verification to assure that the requesting party is entitled to the information. Verification can be accomplished by returning the telephone call to the number given by the requestor. When in doubt, refer the request to the Nurse Supervisor or the Medical Record Department of Health Services.
7. Any questions regarding release of confidential medical information should be referred to the Division of Prisons Medical Record Manager.

C. Procedure for Release of Health Care Information to an Inmate upon Release from Prison

Upon release of an inmate, a physician, physician extender, or nurse, with a valid authorization, may give to the inmate medical information-which is needed to facilitate timely access for continuity of care in the community. This information shall be part of the aftercare release plan.

Refer to the appropriate procedures for Discharge Planning.



5/1/09

Paula Y. Smith, MD, Director of Health Services

Date

SOR: Medical Record Manager