

	DEPARTMENT OF PUBLIC SAFETY CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES	EFFECTIVE DATE: SEP 19 2009	POLICY NO.: COR.10.1H.06
		SUPERSEDES (Policy No. & Date): COR.10E.07 (12/06/94)	
	SUBJECT: INMATE ACCESS TO PROTECTED HEALTH INFORMATION		Page 1 of 7

1.0 PURPOSE

To establish procedures for patient access to their medical record information.

2.0 REFERENCES AND DEFINITIONS

.1 References

- a. Hawaii Revised Statues, Chapter 26-14.6, Department of Public Safety; Chapter 353C-2, Director of Public Safety, Powers and Duties; Chapters 92F, Uniform Information Practice Act; and Chapter 622-56 & 57.
- b. Health Information Portability and Accountability Act (HIPAA), 45 C.F.R. Subtitle A, Subchapter C, Section 164.508.
- c. Hawaii Revised Statues, Chapter 92F, Freedom of Information Act, 2004 Cumulative Supplement.

.2 Definitions

- a. Medical Record: An indexed data set containing a patient's medical and psychiatric history, diagnoses and treatments generated by all levels of health professionals from the moment of incarceration until the patient is released from custody.
- b. Protected Health Information: Any health information that can be identified as belonging to a particular individual.
- b. Custodian of Medical Records: The facility Health Record Librarian where available, or the facility Clinical Section Administrator.
- d. Medical Record Data Set: Is a grouping of health record documents defined by the Health Care Division Administrator or designee, as the component parts of the medical record.
- e. Verifiable legal action: A legal action in which a case number has been assigned by the court.

	SUBJECT: INMATE ACCESS TO PROTECTED HEALTH INFORMATION	POLICY NO.: COR.10.1H.06
		EFFECTIVE DATE: SEP 19 2009
		Page 2 of 7

3.0 POLICY

- .1 Medical records are the property of the State of Hawaii, Department of Public Safety, Health Care Division.
- .2 Patients shall have access to his or her health information. The patient may inspect or obtain copies of their health information unless, in the opinion of the facility's medical authority or a psychiatrist, disclosure of the information would be detrimental to the health of the patient.
- .3 The cost to copy a medical record is fifty (50) cents per single sided page (one dollar for a two-sided page.) The inmate must have sufficient funds available in his or her spendable account to cover the entire copying cost before the information is duplicated and released. Records requiring mailing shall have the cost of postage calculated and included the record cost.
- .4 Indigent inmates shall be required to sign a Prosthetic Purchase Agreement form, DOC 0477 authorizing the copying cost to be withheld from the inmate's account prior to record duplication.
- .5 Inmates are restricted to one full medical record data set per year.
- .6 A patient review of the medical record shall be granted when sufficient facility staff is available to oversee the review. A record review shall be limited to no more than 30 minutes per session and is restricted to one review per every six (6) months.
- .7 Except as provided for by proper authorization, an inmate shall not have access to any medical information relating to another individual.
- .8 Facility health care personnel shall not provide an interpretation of any medical information released to the inmate.
- .9 A facility physician may choose to complete a summary of the inmate's medical history in lieu of copies of the medical record data set. The copy cost of the summary is fifty (50) cents per page.
- .10 The Medical Record Data Set consists of the following:
 - a. Medical History and Physical Examination
 - b. Post Mental Health Evaluation
 - c. Multidisciplinary Progress Notes
 - d. Medication Administration Record

	SUBJECT: INMATE ACCESS TO PROTECTED HEALTH INFORMATION	POLICY NO.: COR.10.1H.06
		EFFECTIVE DATE: SEP 19 2009
		Page 3 of 7

- e. Emergency Room, Hospital and Consultation Reports
- f. Diagnostic and Laboratory Reports
- g. Dietary Documents
- h. Injury Reports

.11 Upon release of medical record information requested by the inmate, it shall be the inmate's responsibility to protect the confidentiality of the information. The State of Hawaii, the Department of Public Safety, the facility, the Health Care Section and all correctional employees, contractors, business partners or associates shall not be held responsible for the further dissemination of the information once it is released to the inmate.

4.0 PROCEDURE

- .1 All requests for record inspection or copying shall be subject to the following:
 - a. Upon receipt of a valid written request from an inmate to copy or inspect the inmate's medical information, the CMR shall review the medical record for information that is not part of the medical record data set or may be protected from disclosure to the inmate under Hawaii Revised Statutes or this policy. Such information shall be removed from the record prior to duplication or review.
 - b. Medical information that is commingled with non-medical information that is exempt from disclosure, or information that may reasonably be expected to cause danger to the life or safety of an individual or the safety of the institution, the non-medical information shall be redacted or segregated prior to duplication or review. Working tools, informative or tracking tools, screenings and Quality Improvement instruments that are temporarily maintained in the medical record for auditors prior to an audit, shall be removed from the record prior to duplication or review.
 - c. Should the treating provider determine that the requested medical information should not be released to the patient because it could be detrimental to the patient's health, the patient shall be notified using DOC 0487, In Receipt of Request For Information. The CMR shall advise the patient that he or she has the right to appeal this decision through the grievance process.
 - d. The patient is not required to disclose the purpose of the request, however sufficient information must be provided to properly identify the record or the information requested.

	SUBJECT: INMATE ACCESS TO PROTECTED HEALTH INFORMATION	POLICY NO.: COR.10.1H.06
		EFFECTIVE DATE: SEP 19 2009
		Page 4 of 7

Record Review

- .1 Inmates shall submit a medical request to the Health Information Section or CMR requesting to be scheduled for an appointment to review their health record information.
- .2 Medical record reviews shall be conducted when staff resources are available, with the frequency limited to every 6 month. Each review session is limited to 30-minutes.
- .3 An appropriate location shall be designated for the review of the medical record. The location of the review shall be such that a Correctional Officer is in sufficient proximity to the inmate to observe that nothing is removed or damaged from the original record but not so close as to be able to read the record content.
- .4 Correctional employees are not required to transport original medical records to the requester for review, except for locations within a facility.
- .5 All information reviewed in the medical record shall be recorded on DOC 0490, Information Reviewed or Released From this Medical Record and filed in the record under the Miscellaneous Index, Sub-Section: Consent.
- .6 The CMR shall seal the medical record prior to the scheduled record inspection and deliver the record to the review site and witness the inmate breaking the seal. The CMR shall retrieve the record from the inmate upon completion of the review session.

Record Copying

- .1 Inmates shall submit a medical request to the Health Information Section or CMR to request a copy of their health information.
- .2 The CMR shall release the requested documents to the inmate by the tenth (10) working day from the date of receipt of the request for information.
- .3 The cost to copy a medical record information is fifty (50) cents per single sided page (one dollar for a two-sided page.) The inmate must have sufficient funds available in his or her spendable account to cover the entire copying cost before the information is duplicated and released.

	SUBJECT: INMATE ACCESS TO PROTECTED HEALTH INFORMATION	POLICY NO.: COR.10.1H.06
		EFFECTIVE DATE: SEP 19 2009
		Page 5 of 7

- .4 The CMR shall inform the inmate of any non-processable requests within 10 working days of the request submission using the In Receipt of Request of Information form, DOC 0487. The reason the request cannot be processed shall be documented on the form.
- .5 Form DOC 0487, In Receipt of Request For Information, shall also be utilized to notify a patient when unusual circumstances will delay the record release beyond the stipulated 10 working days. The deadline for the release of records maybe extended up to an additional 10 working days to a total of twenty (20) working days from the date of the request.
- .6 Indigent inmates shall be required to sign a Prosthetic Purchase Agreement form, DOC 0477 authorizing the copying cost to be withheld from the inmate's account prior to record duplication. Inmates refusing to sign the agreement shall not be provided with the requested health documentation.
- .7 The number of pages copied and cost per page shall be forwarded to the facility fiscal office, inmate accounting, on Form DOC 0485, Cost To Inmate For Copies of Medical Records
- .8 Inmates are limited to one complete data set per year unless the inmate is involved in a verifiable legal action where additional health information occurring after the release date of the complete data set and before the next annual data release date is required. Under these circumstance inmates must:
 - a. submit a medical request for copies of the additional health information,
 - b. have sufficient funds available in his or her account, or if indigent, sign a Prosthetic Purchase Agreement form to cover the entire copying cost prior to the duplication of the requested information.
- .9 The CMR shall secure the requested information in an envelope marked "Confidential" and shall be given to an assigned nurse to personally deliver the envelope to the inmate.
- .10 The inmate shall sign for the released documents on the data release record.
- .11 The inmate shall be responsible for the further copying, release or distribution of medical information released to him or her.
- .12 The inmate shall be responsible for the safe keeping of released health documents. Inmates shall be responsible for the replacement copying costs should released records become lost or damaged. Replacement documents shall be copied as time allows, and shall not be subject to a 10 working day turn

	SUBJECT: INMATE ACCESS TO PROTECTED HEALTH INFORMATION	POLICY NO.: COR.10.1H.06
		EFFECTIVE DATE: SEP 19 2009
		Page 6 of 7

- .13 All information released from the medical record shall be recorded on form DOC 0490, Information Reviewed or Released From This Medical Record including the documents or date range of documents released, date of the release, the signature of the releasing person and the inmate. The forms shall be filed in the medical record in the Miscellaneous Index, Sub-Section: Consent.
- .14 Patients' with concerns regarding a possible error in their medical record may submit a written statement to the CMR documenting the concern.
- .15 Upon receipt of a valid request to correct an alleged erroneous entry in the medical record, the CMR shall consult with the Clinical Section Administrator and/or staff member involved to review and assess whether or not the information is:
 - a. Accurate - The CMR shall inform the patient in writing that the request to amend the record is denied and the reason for the denial. In addition, the patient shall notified of their right to write a concise statement regarding the alleged error setting forth his or her disagreement with the refusal to amend or correct the medical record. Patients do not have the right to request removal of medical record documentation from their record.

Upon receipt of a patient disagreement statement the staff member originating the entry shall initial the disagreement statement from the inmate and the CMR shall add the statement to the medical record. The statement of disagreement shall be filed with the document in question, if possible, or in the Miscellaneous Index, Subset: Correspondence of the medical record.

- b. Erroneous – The erroneous entry shall be amended, corrected or removed from the data set. If the entry to be corrected is a self-contained sheet(s) or report(s) such as a laboratory or consultation report that is not commingled with any other information, the determination may be made by the CMR to remove it from the record.

Erroneous data that is commingled with other necessary and accurate information shall have the entry lined or "X" out. The erroneous entry shall be marked "error" and shall be dated and initialed by the person who made the erroneous entry. If available, corrected information shall be added to the data set as an addendum or late entry and shall reference the inmate's request. The CMR shall inform the inmate that the requested changes were made.

	SUBJECT: INMATE ACCESS TO PROTECTED HEALTH INFORMATION	POLICY NO.: COR.10.1H.06
		EFFECTIVE DATE: SEP 19 2009
		Page 7 of 7

5.0 SCOPE

This policy and procedure applies to all branch facilities and their assigned personnel.

APPROVAL RECOMMENDED:

	<u>7/30/09</u>
Medical Director	Date
	<u>7/29/09</u>
Health Care Division Administrator	Date
	<u>9/16/09</u>
Deputy Director of Corrections	Date

APPROVED:


Director
<u>9/19/09</u>
Date