

OREGON STATE HOSPITAL

POLICY

SECTION 7: Patient Rights **POLICY: 7.014**

SUBJECT: Medical Records Patient Requests

POINT PERSON: Health Information Manager

APPROVED: Sara Walker, MD  **DATE: JULY 31, 2024**
Interim Superintendent

SELECT ONE: ☐ New policy ☒ Minor/technical revision of existing policy
☐ Reaffirmation of existing policy ☐ Major revision of existing policy

I. PURPOSE AND APPLICABILITY

- A. Oregon State Hospital (OSH) will make every effort to accommodate patient requests regarding the medical record, including access to the medical record, patient statement, restriction of use and disclosure of the record, and accounting of disclosure of the record. Such accommodations will be made in accordance with applicable policies and regulation.
- B. This policy applies to all staff.

II. POLICY

- A. A patient has the right to make requests regarding access to and content in the patient's own medical record.
 - 1. A patient's legal guardian will be afforded the same right to medical record access as the patient.
 - 2. When a patient asks, staff must assist the patient with completing the applicable request form.
 - 3. A patient who has completed a request as indicated in this policy must receive a copy of the completed request.
 - 4. Requests from discharged patients pertaining to this policy or related procedures must be forwarded to Health Information Department (HI).
- B. Patient requests regarding the medical record are subject to all applicable laws and regulations.
 - 1. A patient may request a copy of their medical record to keep and may be charged a reasonable fee for production in accordance with law and

regulation. The patient may be requested to pay for the records in advance. The cost of copying the patient's medical record may not create a barrier to the patient receiving their medical record.

2. When the release of psychiatric or psychological information contained in the record constitutes an immediate or grave detriment to the treatment of the patient, the attending practitioner may deny disclosure of the medical record per Oregon Revised Statute 179.505. A patient may also be denied access to their medical record if provisions of 45 CFR 164.524 apply.
3. OSH may not make amendments in the following situations:
 - a. the information is found to be accurate and complete;
 - b. the information was not created by OSH or there is reasonable cause to believe that the originator of the information is no longer available to act on the requested amendment; or
 - c. information is not available for inspection or access by the patient as outlined in Oregon Health Authority (OHA) policy OHA 100-003, "HIPAA: Accessing Individual Records".
4. When a patient has a statement to make regarding information documented in the patient's medical record, the statement may be put in writing and included in the record. Staff may not comment on the statement or the original document (*i.e.*, staff may not comment about whether the patient statement is appropriate, needed, or misguided).
5. A patient may request a restriction to use of their medical record by completing the applicable request form. If, after review OSH agrees to a restriction, OSH may not use or disclose information that violates a restriction of the patient's medical record, unless otherwise directed in OHA policy OHA-100-005, "HIPAA: Restricting Access to Individual Information."
 - a. A patient may terminate the restriction either verbally or in writing.
 - b. OSH may terminate its agreement to a restriction of a patient's medical record by informing the patient in writing. Information created or received while the restriction was in effect will remain subject to the restriction.
6. A patient may request an accounting of disclosure of the medical record which will be processed by HI. The first copy to the patient is free of charge within a 12-month period.
 - a. A patient may be charged for additional requests within that period of time.
 - b. When charges for additional requests apply, the patient must be given the option to withdraw the request or modify the request.
7. OSH may temporarily suspend a patient's right to receive an accounting of disclosure made to a health oversight agency or official when:

- a. the agency or official provides a written statement to OSH that such an accounting would reasonably impede their activities or;
 - b. OSH accepts a verbal request for temporary suspension; however, such requests must be fully documented, and the suspension may not exceed 30 days.
- C. In no circumstance may an extension or suspension related to a medical record request in this policy be granted longer than 30 days.
- D. A patient may view a paper copy of their medical record free of charge. For information security reasons, a patient may not view the medical record electronically.
- E. In accordance with security laws and policies, including Department of Administrative Services, OHA, and OSH policies, staff may not allow a patient to view the electronic health record (EHR) under a staff's identification or account.
- F. If a patient requests a paper copy of their medical record, the patient is responsible for the privacy and security of that copy. OSH is not responsible for any unintended disclosure or loss of the patient's copy of their medical record.
- G. Staff must follow procedures related to this policy to address a patient's request to access or amend the patient's medical record, to make a patient statement, to restrict use or disclosure, or for accounting of disclosure of the patient's medical record.
- H. OSH follows all applicable regulations, including federal and state statutes and rules; Oregon Department of Administrative Services (DAS), Shared Services, and Oregon Health Authority (OHA) policies; and relevant accreditation standards. Such regulations supersede the provisions of this policy unless this policy is more restrictive.
- I. Staff who fail to comply with this policy or related policy attachments or protocols may be subject to disciplinary action, up to and including dismissal.

III. DEFINITIONS

- A. "Access" in this policy means permission to view or have a medical record copy.
- B. "Patient statement" means a statement submitted by a patient for inclusion in the medical record to clarify or provide alternative information regarding contents of the medical record. The statement should be documented on the approved form Patient Statement #75015.
- C. "Staff" includes employees, volunteers, trainees, interns, contractors, vendors, and other state employees assigned to work at Oregon State Hospital (OSH).

IV. PROCEDURES

Procedures A	Request to Access Medical Record
Procedures B	Request to Amend Medical Record
Procedures C	Request for Patient Statement
Procedures D	Request for Restriction of Use and Disclosure
Procedures E	Request for Accounting of Disclosure

V. RELATED OSH POLICIES AND PROTOCOLS

6.045 Clinical documentation

2.018 Complete medical record

2.013 Electronic health record access

2.014 Medical record maintenance and transportation

7.006 Patient grievances

7.005 Patient rights

Request for access to records, MSC 2093 [Medical record form].

Request for accounting of disclosure, MSC 2096 [Medical record form].

Request for restriction of use and disclosure, MSC 2095 [Medical record form].

Request to amend medical record, MSC 2094 [Medical record form].

VI. REFERENCES

42 CFR § 482.13(b)2.

42 CFR § 482.13(c)1.

42 CFR § 482.13(d).

45 CFR § 164.

Oregon Administrative Rule § 943-014.

Oregon Administrative Rule § 847-012-0000.

Department of Human Services. *HIPAA: Notice of Privacy Practices Policy*, ODHS OHA 100-002. Author.

Oregon Health Authority. *HIPAA: Restricting access to individual information*, ODHS OHA-100-005. Author.

Oregon Health Authority. *HIPAA: Amending individual records*, ODHS OHA -100-006. Author.

Oregon Health Authority. *HIPAA: Accessing individual records*, ODHS OHA -100-003. Author.

Oregon Health Authority. *HIPAA: Recording and accounting for disclosures of individual information*, ODHS OHA -100-004. Author.

Oregon Revised Statute § 179.505.

Oregon Revised Statute § 192.