

# OREGON STATE HOSPITAL

## POLICIES AND PROCEDURES

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**SECTION 7:** Patient Rights

**POLICY: 7.014**

**SUBJECT:** Medical Records Patient Requests

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**POINT PERSON:** HEALTH INFORMATION DIRECTOR

**APPROVED:** DOLORES MATTEUCCI  
SUPERINTENDENT

**DATE: NOVEMBER 8, 2018**

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### I. POLICY

- 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. 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, health care personnel (HCP) 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).
- C. 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 will be charged a reasonable fee for copying records as directed by HI 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 and 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-100-03, "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. HCP may not comment on the statement or the original document (*i.e.*, HCP 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, "Individual Privacy: 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. HI will process a request for accounting of disclosure of the medical record and provide the first copy to the patient 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.
- D. In no circumstance may an extension or suspension related to a medical record request in this policy be granted longer than 30 days.

- E. 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. In accordance with security laws and policies, including Department of Administrative Services, OHA, and OSH policies, HCP may not allow a patient to view the electronic health record (EHR) under a HCP'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. HCP 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 account 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, Shared Services, and Oregon Health Authority policies; and relevant accreditation standards. Such regulations supersede the provisions of this policy unless this policy is more restrictive.
- I. A HCP who fails to comply with this policy or related procedures may be subject to disciplinary action, up to and including dismissal.

## **II. DEFINITIONS**

- A. "Access" in this policy means permission to view or have a medical record copy.
- B. "Health care personnel (HCP)" for the purposes of this policy means the population of health care workers working in the OSH healthcare setting. HCP might include, but is not limited to: physicians, nurses, nursing assistants, therapists, technicians, dental personnel, pharmacists, laboratory personnel, students and volunteers, trainees, contractual staff not employed by the facility, and persons not directly involved in patient care (e.g., clerical, dietary, housekeeping, maintenance).
- C. "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.

## **III. 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

**IV. REFERENCES**

42 CFR § 482.13(b)2.

42 CFR § 482.13(c)1.

42 CFR § 482.13(d).

45 CFR § 164.

Department of Human Services. *Client privacy rights*, DHS 100-002. Author.

Oregon Administrative Rule § 943-014.

Oregon Administrative Rule § 847-012-0000.

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

Oregon Health Authority. *Amending individual records*, OHA-100-06. Author.

Oregon Health Authority. *Accessing individual records*, OHA-100-03. Author.

Oregon Health Authority. *Recording and accounting for disclosures of individual information*, OHA-100-04. Author.

Oregon Revised Statute § 179.505.

Oregon Revised Statute § 192.

Oregon State Hospital Policy and Procedure Manual. *Clinical documentation*, 6.045. Author.

Oregon State Hospital Policy and Procedure Manual. *Complete medical record*, 2.018. Author.

Oregon State Hospital Policy and Procedure Manual. *Electronic health record access*, 2.013. Author.

Oregon State Hospital Policy and Procedure Manual. *Medical record maintenance and transportation*, 2.014. Author.

Oregon State Hospital Policy and Procedure Manual. *Patient grievances*, 7.006. Author.

Oregon State Hospital Policy and Procedure Manual. *Patient rights*, 7.005. Author.

Oregon State Hospital Policy and Procedure Manual. *Release of information and communication with patient family, guardians, and significant others*, 6.021. Author.

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].

RESPONSIBLE PERSON/GROUP	PROCEDURES
Health care personnel (HCP) – unit	<ol style="list-style-type: none"> <li>1. When a patient requests access to their medical record, provide a “Request for Access to Records” form MSC 2093 to the patient.</li> <li>2. When the patient asks, assist the patient with completing the form.</li> <li>3. If the request is denied, offer the patient opportunity to make a patient statement or grievance.</li> <li>4. Contact Health Information (HI) when the patient has requested access to the entire record.</li> <li>5. Give a copy of the completed request to the patient.</li> <li>6. Be present with the patient during their medical record review.</li> <li>7. Following the patient’s viewing of the record, return the paper copy to HI. <i>NOTE: This does not apply to a copy of the medical record that the patient has paid to keep.</i></li> </ol>
Attending psychiatrist or psychiatric mental health nurse practitioner (PMHNP)	<ol style="list-style-type: none"> <li>1. Decide whether to approve or deny the request.</li> <li>2. Bring the form or request to the interdisciplinary treatment team (IDT).</li> <li>3. When the release of psychiatric or psychological information contained in the record constitutes an immediate or grave detriment to the treatment of the patient, consider denying disclosure of the medical record if provisions of Oregon Revised Statute 179.505 or 45 CFR 164.524 apply.</li> <li>4. When approving a request for a copy of the record, promptly forward the form request to HI.</li> <li>5. If approving a request to access a document created by a single designated author such as a Violence Risk Assessment, competency evaluation, or progress note, make every effort to notify the document’s author of the patient’s request.</li> <li>6. When approving a request for repeated viewing, note the approval under the “DHS and OHA Staff Only” section, and write an order regarding parameters on the patient’s viewing of the record.</li> <li>7. When a patient is denied access to the medical record, document the reason for the denial under “DHS and OHA Staff Only,” and authenticate the form.</li> <li>8. Document the clinical reason for denying access in the patient’s medical record.</li> <li>9. Verbally notify the patient of the reason for the denial.</li> <li>10. Document in the patient’s medical record when the patient was notified of the denial.</li> </ol>

<p>IDT</p>	<ol style="list-style-type: none"> <li>1. If the request is approved, decide when the patient will view the paper copy of the record. <i>NOTE: This does not apply to a copy of the medical record the patient has paid to own.</i></li> <li>2. Review the patient's available funds.</li> <li>3. Document on the form when the patient does not have funds available to pay for a copy of the medical record before sending the form to HI.</li> </ol>
<p>Health Information</p>	<ol style="list-style-type: none"> <li>1. Process the request within five business days from the date of receiving the request.</li> <li>2. When approval is given to view the record, provide a paper copy of the requested record to the patient's IDT.</li> <li>3. When the patient requests access to the entire record, review the need to remove any third-party information (e.g., correspondence) before the patient's review.</li> </ol>
<p>Chief Medical Officer</p>	<ol style="list-style-type: none"> <li>1. When the patient chooses to appeal the denial to access, review the request and respond in writing to the patient's appeal within 30 days of the date of the appeal.</li> <li>2. Communicate the decision of the appeal to the attending psychiatrist/PMHNP and HI.</li> </ol>

RESPONSIBLE PERSON/GROUP	PROCEDURES
HCP	<ol style="list-style-type: none"> <li>1. When a patient requests a medical record amendment, provide a "Request for Amendment of Health Record" form MSC 2094 to the patient.</li> <li>2. Send the completed form to Health Information (HI).</li> <li>3. When the written response to the patient's request is received, file the letter in the patient's medical record.</li> <li>4. When the patient submits a written statement disagreeing with a denial to amend the record, file the statement in the medical record with any written response provided by HCP.</li> </ol> <p><i>NOTE: Any future disclosure of the relevant information should include a copy of the patient's amendment request and all documentation relating to the denied request.</i></p> <ol style="list-style-type: none"> <li>5. When needed, assist the patient with completing the form.</li> <li>6. Give a copy of the completed request to the patient.</li> </ol>
Author of the documentation to be amended (or their supervisor)	<ol style="list-style-type: none"> <li>1. Review and advise nurse manager if request should be approved or denied.</li> <li>2. If approved, append to the appropriate document and notify HI.</li> </ol>
Nurse manager	<ol style="list-style-type: none"> <li>1. When the request is approved, complete the lower portion of the form and give the reason for granting the request.</li> <li>2. When the request for amendment is delayed, complete the form and note under "Comments" the reason for the delay and the date of anticipated response.</li> <li>3. When a request to amend the medical record is denied, complete the form and document the basis for the denial on the form.</li> </ol>
HI	<ol style="list-style-type: none"> <li>1. Consult with the document author or their supervisor to determine whether the request can be granted.</li> <li>2. Provide a written response to the patient within 60 days of receiving the request.</li> <li>3. If OSH amends a document which has been provided to another person or organization, resend the corrected documentation to the recipient.</li> </ol>

RESPONSIBLE PERSON/GROUP	PROCEDURES
Health care personnel (HCP)	<ol style="list-style-type: none"> <li>1. When a patient requests to make a statement regarding documented information in their medical record, provide a "Patient Statement" form OSH-STK-75007-MR to the patient.</li> <li>2. The HCP who receives the completed form from the patient must review it for:               <ol style="list-style-type: none"> <li>a. identification of the documented information (e.g., "progress note"), or name and date of the document to which the patient statement refers;</li> <li>b. the date on which the referenced document (when any) was filed; and</li> <li>c. the patient's signature on the form.</li> </ol> </li> <li>3. Give the completed form to the nurse manager for review.</li> <li>4. Document a progress note indicating the patient statement was received, and what steps have been taken with respect to receipt of the statement.</li> <li>5. When needed, assist the patient with completing the form.</li> <li>6. Give a copy of the completed request to the patient.</li> </ol>
Interdisciplinary treatment team (IDT)	<ol style="list-style-type: none"> <li>1. Review the patient statement at the next IDT meeting.</li> <li>2. Respond as necessary.</li> <li>3. Document the review and response in the patient's medical record.</li> </ol>



RESPONSIBLE PERSON/GROUP	PROCEDURES
Health care personnel (HCP)	<ol style="list-style-type: none"> <li>1. When a patient requests restrictions to the patient’s medical records, provide the “Restriction of Use and Disclosure Request” MSC 2095 form to the patient.</li> <li>2. Before any disclosure, check the record to determine whether any restrictions exist.</li> <li>3. When needed, assist the patient with completing the form.</li> <li>4. Give a copy of the completed request to the patient.</li> <li>5. Document in a progress note when a restriction is verbally terminated.</li> <li>6. File any written termination in the medical record Legal section.</li> </ol>
Nurse manager	<ol style="list-style-type: none"> <li>1. Review the request with the attending psychiatrist/psychiatric mental health nurse practitioner (PMHNP) and the Health Information manager before a decision is made to grant or deny the request.</li> <li>2. When the request is approved, complete the form and document the reason for the approval.</li> <li>3. Flag the medical record to reflect a restriction is in place.</li> <li>4. When the request is denied, complete the form and document the reason for the denial.</li> <li>5. Give a copy of the form with the decision to the patient.</li> <li>6. When the request is delayed, complete the form, document the reason for the delay, and indicate the date (<i>i.e.</i>, a date within the next 30 days) when the patient can expect a response under “Comments.”</li> </ol>

<b>RESPONSIBLE PERSON/GROUP</b>	<b>PROCEDURES</b>
Health care personnel (HCP)	<ol style="list-style-type: none"> <li>1. When a patient requests to know when disclosures of medical records have been made, provide the "Accounting of Disclosure Request" form MSC 2096 to the patient.</li> <li>2. When needed, assist the patient with completing the form.</li> <li>3. Give a copy of the completed request to the patient.</li> <li>4. Forward the original completed form to Health Information Department (HI) for processing.</li> </ol>
Nurse manager	<ol style="list-style-type: none"> <li>1. Notify the interdisciplinary treatment team (IDT) of the request.</li> <li>2. When the request is approved, complete the lower portion of the form.</li> <li>3. When the request is delayed, complete the form, note under "Comments" the reason for the delay, and indicate the date when the patient can anticipate a response (no longer than 30 days).</li> </ol>
IDT	<ol style="list-style-type: none"> <li>1. Review and approve the request or identify if it will be delayed within provisions identified on the form.</li> <li>2. Provide a response within 60 days.</li> </ol>
HI	<ol style="list-style-type: none"> <li>1. Process the approved request within 60 days of receiving it.</li> <li>2. Provide the first copy to the patient free of charge within a 12-month period.</li> <li>3. When necessary, document any request from a health oversight agency or official for temporary suspension to the disclosure.</li> </ol>