



CONSENT FOR MEDICAL TREATMENT, CONFIDENTIALITY/RELEASE OF MEDICAL INFORMATION AND SHARING OF MEDICAL INFORMATION

POLICY.

It is the policy of the Deschutes County Sheriff's Office – Adult Jail (AJ) to protect the confidentiality of inmate medical records maintained under secured conditions in this facility in accordance with Oregon Public Records Law, ORS 192.410 to 192.505, 192.553 et seq., and the applicable provisions of the Health Insurance for Portability and Accountability Act of 1996 (HIPAA).

PURPOSE.

The purpose of this policy is to outline procedures involved with inmate's request for medical treatment, and the confidentiality, release and sharing of AJ medical information.

OREGON JAIL STANDARDS:

- G-104 Informed Consent
- G-106 Contents of Health Care Records
- G-107 Confidentiality of Health Care Records

REFERENCES:

- ORS 192.410-192.505, 192.553, 192.566 et seq. Protected Health Information
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA)

DEFINITIONS.

Authorization. A written document executed by the patient or, in the case of patient's death, the patient's personal representative, authorizing the release or disclosure of the patient's medical records.

Consent. A written document executed by the inmate/patient requesting and consenting to medical examination or treatment.

Criminal Records. Any and all written accounts of an inmate's arrests, court records, convictions, charges, past criminal history and identification information.

Medical Records. Any and all written accounts of medical information and treatment including, but not limited to, case histories, clinical records, x-rays, treatment charts and progress reports. Medical treatment includes psychiatric, psychological, physiological and dental treatment.

Patient. The inmate who is receiving or has received medical treatment.

Protected Health Information. Individually identifiable health information that is transmitted by electronic media, or maintained in any electronic medium, or transmitted or maintained in any other form. Essentially includes all health records identifiable by a person's name or other personal identifier. (See HIPAA, 45 CFR 160.103)

Provider. Any public or private individual, agency or institution that provides health care service or maintains written accounts of health care services provided to individuals.

SECTION A: CONSENT FOR MEDICAL EXAMINATION/TREATMENT

A-1. Except in the case of an emergency, an inmate must fill out a *Health Care Request Form No. 545* prior to receiving medical treatment or a medical examination. In the event of an emergency and when an inmate cannot provide consent due to incapacitation, the shift supervisor will consult with the Corrections Captain and with legal counsel for the inmate's benefit. The Corrections Captain or his designee will determine the need for implied consent on an inmate's behalf prior to seeking consent from a third party or relative. This will pertain to immediate life-sustaining measures for inmates only.

SECTION B: CONFIDENTIALITY OF HEALTH RECORDS AND INFORMATION

B-1. The principle of confidentiality protects the patient from disclosure of medical records. Records are to remain confidential and kept separate from other inmate records. The following are exceptions that may occur in the absence of a facility nurse:

- a. Information regarding health status or conditions may be shared with the shift supervisor or a health trained deputy when the staff will need to perform treatments or continued health monitors during the nurse's absence.
- b. When a health situation occurs that requires the services of the paramedics/EMTs and/or transport to the hospital, the shift supervisor or health-trained deputy may access health records to facilitate continuity of care or provide additional health information.

SECTION C: AUTHORIZATION DOCUMENTATION

C-1. No medical records shall be released or disclosed by the AJ unless the facility has on file the patient's current written authorization to such release or disclosure.

C-2. As part of the booking process, all inmates shall sign an *Intake Medical Screening Form No. 501* authorizing the appropriate health care information to be sent with the inmate

whenever the inmate is transferred to another institution or referred to another health care provider.

- C-3.** All authorizations for the release of medical records shall be in writing (*Authorization for Release of Information Form No. 512*) and be in compliance with *ORS 192.566* and *HIPAA* disclosure requirements.

SECTION D: RELEASE OF MEDICAL RECORDS

- D-1.** Medical records may be released to the following persons or agencies upon receipt of appropriate written authorization:
- a. To any health care provider engaged in the treatment of the patient, when the provider is acting within the official scope of their duties to evaluate treatment programs, diagnose, treat or assist with the foregoing, and when the disclosed information is necessary for those purposes.
 - b. To any medical insurance provider that insured the patient at the time health care services were provided.
 - c. To the patient or in the case of the patient's incompetence to the legal guardian or in the case of the patient's death to the patient's personal representative.
 - d. Disclosure of psychiatric or psychological information to the patient may be denied if, in the judgment of the Facility Nurse Practitioner, Facility Physician, psychiatrist or other physician, the release of information would constitute an immediate and serious detriment to the treatment of the patient.
 - e. Full disclosure of such information may be denied if, in the judgment of the Corrections Captain the release of information would constitute a danger to another individual; or the release of information would compromise the privacy of a confidential source. In such instances, all information identifying the confidential source or endangered individual shall be deleted from the copy of the record released.
 - f. A written statement of any such denial and the reasons for the denial shall be provided to the patient and placed in the patient's medical file.
- D-2.** Persons other than the patient to whom disclosure of medical records is made under this policy shall not disclose the contents of the records disclosed to another person except in accordance with the provisions of this policy.
- D-3. The patient's medical records may be disclosed without the patient's authorization under the following conditions:**
- a. To any person to the extent necessary to meet a medical emergency, including mental health personnel, when the Corrections Captain or the patient's treating physician,
 - b. Psychiatrist or psychologist deems the transfer of information necessary or beneficial to the treatment of the patient.
 - c. To governmental agencies when necessary to secure compensation for services rendered in the treatment of the patient.

- d. When records are subpoenaed by a valid subpoena or ordered to be disclosed by a court order. In such cases:
 - 1) The Corrections Captain or designated representative shall appear in court on the date and time specified in the subpoena or court order with the documents.
 - 2) As directed by the court, the records will either be disclosed to the requestor or maintained in confidence.
 - 3) If the documents are disclosed to the requestor, a copy of the subpoena or court order and a statement of the information disclosed will be entered into the patient's record.

When a patient's identity is disclosed under Section D-3, medical staff shall prepare and include in the permanent medical records of the patient a written statement indicating the reasons for disclosure, the records disclosed and to who the disclosure was made.

- D-4.** Persons requesting copies of records subject to disclosure under this policy shall be charged a copying charge of \$0.25 per page, and a \$10.00 look up fee, pursuant to Deschutes County Sheriff's Office Fee Schedule.

SECTION E: HEALTH RECORDS

- E-1.** The active inmate medical records are maintained separately from the confinement records under lock and key.
- E-2.** Access to active inmate medical records are restricted to the Facility Nurses, the Facility Provider, the Supervising Psychiatrist, Qualified Crisis Worker, DCAJ Mental Health Specialist, Medical Office Assistant and other physicians. Health Trained Officers may have access to health records to the extent that the information is needed to properly complete required duties.

SECTION F: ACCESS TO CRIMINAL RECORDS

- F-1.** Medical and Behavioral health staff may have access to information contained in an inmate's criminal record when such information may be relevant to the inmate's health and course of treatment.

FORMS USED:

- Authorization for Release of Information Form No. 512
- [Intake medical Screening Form No. 501](#)
- Medical Services Request Form No. 545
- Deschutes County Sheriff's Office Fee Schedule