



COUNTY OF MONTEREY HEALTH DEPARTMENT

Elsa Jimenez, Director of Health

Administration
Behavioral Health

Clinic Services
Emergency Medical Services
Environmental Health/Animal Services

Public Health
Public Administrator/Public Guardian

Policy Number	304
Policy Title	Direct Patient Access To Treatment Records
References	Welfare And Institutions Code Section 5328, 5350 ET SEQ.; Health And Safety Code Sections 1795-1795.26; Civil Code Section 25.9 And 2436; Probate Code Sections 2354; 2355.
Form	Client Request For Access To Records
Effective	March 1, 1991 Revised: August 1, 2008 Revised: April, 20, 2011

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Policy

Every person who has ultimate responsibility for their own health care has the right to complete information about their care and conditions. This Division will provide a prompt response and cooperative assistance to those persons seeking such information.

The policy shall apply to persons who seek direct access to their own records or the records of those for whom they have legal responsibility. This policy shall not apply to requests which are made pursuant to legal actions or from third party payors.

Questions as to applicability shall be referred to the Behavioral Health Director or his/her designee.

When appropriate, the applicable sections of the law (attached), shall be consulted.

Definitions

Definitions given in Section 1795.10 shall be used. In additions, the following terms are defined:

Client: A person who is receiving, or has received treatment under the Mental Health Plan or his/her authorized representative.

Clinician: Member of the Behavioral Health Division staff who is designated by the Behavioral Health Director to respond to a request. If the client is currently being treated, it shall be the treating clinician. If the client is no longer in treatment it shall be the Behavioral Health Service Manager or designee of the Behavioral Health Director.

Representative: A person, such as a parent or conservator who has legal authority to consent to the specific treatment which is described in the subject records or who is otherwise specifically authorized by law to have access on behalf of another. A representative may have direct access to client records.

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Procedure

1. When a client or legal representative makes a request for direct access to client records, the client/representative shall be directed to the Medical Records Technician at 1611 Bunker Hill Way, Suite 120, Salinas, CA where they will be required to make the request in writing.
2. Specific forms may be provided for the convenience of both the client/representative and the Division, however the request shall be deemed to be made when a written request is received by the Division.
3. The clinician shall verify the identity of the client and/or the authority of anyone making a request on behalf of another. The Technician shall consult the Keeper of Records where questions of identification or authority arise.
4. The Technician shall assemble all individual records or reasonable facsimiles requested pertaining to the client/representative's request within five working days.
5. The Technician may contact the client/representative for clarification of the request for verification of identity and to inform the client/representative of the response to the request. The Technician will determine if any limits of disclosures apply. (If any limits apply, see #12).
6. If contact is to be made, it shall be made with maximum discretion, and the Technician shall act promptly to comply with time limits.
7. The records shall be made available for inspection by the client within 5 working days of the receipt of the request.
 - a) If, after examining the requested records, the Technician believes that the client's request would be better served by a summary of the record, the clinician shall consult with the Keeper of the Records and provide a comprehensive and accurate summary of the record in accordance with Section 1795.20 (See #12).
 - b) If for any reason the records can not or will not be provided within the prescribed time limits, the client/representative shall be notified of the delay within the time limits that would have been applicable.
8. When inspection is requested, inspection shall mean:
 - a) The patient's records [as defined in Health and Safety Code Section 1795.10 (d)] shall be provided to the client during business hours].
 - b) A mutually convenient time shall be arranged for the inspection of the records.
 - c) When the appointment is arranged, the client shall be notified of the Health and Safety Code procedures, potential costs and the right of access to the Patients' Rights Advocate.

- 76 d) The client/representative shall be given separate table space and a place to sit to read the
77 records.
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- 79 e) The Technician shall sit with the client/representative during the inspection.
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- 81 f) A reasonable time shall be allowed for inspection.
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- 83 g) The client/representative may make notes; the client/representative may not remove any
84 materials from the chart. Copies shall be requested from the technician.
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- 86 h) The client/representative may be accompanied by a person exclusively of their choosing.
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- 88 9. The client/representative is entitled to copies of part or all of the patient's records that are
89 subject to inspection.
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- 91 10. When copies are requested without inspection, procedures 1-6 shall be followed, then the
92 technician shall provide copies of patient records within 15 working days of the receipt of the
93 request.
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- 95 a) Within 3 working days of the request, the Technician shall determine the number of pages to be
96 released and copied, compute the costs, and inform the client/representative of the required
97 charges and request payment.
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- 99 b) Costs shall be limited to 25 cents per copied page and \$15 for additional
100 clerical costs. Clerical costs are computed by multiplying the hourly wage of the worker by the
101 number of hours normally required to locate and copy the records. Overhead and administrative
102 costs shall not be charged. Total charges may not exceed total copying and clerical costs.
103 Records shall be made available at the lowest possible cost.
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- 105 c) If the Technician determines that the therapeutic interests of the consumer/representative are
106 best served by providing the patient's own record, the records will be provided at no charge, with
107 the permission of the Keeper of the Records.
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- 109 d) The Technician shall be responsible for ensuring that the charges are collected prior to
110 releasing copies.
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- 112 e) When payment is received, the Technician will be responsible for releasing the copies.
113 1) If payment is not received within 10 days of the request for payment, the Technician
114 shall notify the client.
115 2) If no payment is received within 30 days from the notification of non- receipt, a new
116 written request will be required to re-open the process, unless other arrangements have
117 been made between the client and the Division.
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- 119 11. When copies are requested at the time of the inspection, the Technician shall indicate the
120 pages to be copied. The Technician shall follow the steps in 10 (a-e) and provide copies as soon
121 as practicable, but in no event later than 15 days from the date of the request.
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- 123 12. The Technician shall determine whether any of the following limits on disclosure apply.

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- a) If the provisions of Section 1795.14 (a) relating to minors applies:
 - 1) A minor shall be entitled to see their own records relating to treatment to which they may legally consent (see Civil Code 25.9). Parents may not see those records without the minor's consent.
 - 2) The provider may prevent disclosure to the minor's representative if the provider determines that such disclosure would have a detrimental effect on the relationship between the provider and the minor.
 - 3) If disclosure is denied under Section 1795.14 (a), the Behavioral Health Director, or their designated representative shall be notified. The technician shall notify the representative of the refusal within 5 days of the request and provide the applicable sections of the law (i.e.) Section 1795.14 (a) providing for denial and 1795.16 providing for appeal (attached).

- b) If there is a substantial risk of adverse or detrimental consequences to the patient if records are released (as determined by the clinician), the Technician shall:
 - 1) Inform the patient of the refusal of the Division to permit him/her to inspect or obtain copies of the requested records, and inform the patient of the right to require the Division to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, or licensed clinical social worker designated by written authorization of the patient.

 - 2) Indicate in the mental health records of the patient that such a request was made and denied.

 - 3) Make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies thereof, including a description of the specific adverse or detrimental consequences to the patient which the provider anticipates would occur if inspection or copying were permitted.

 - 4) Permit inspection by, or provide copies or, the mental health records to a licensed physician and surgeon or licensed psychologist designated by request of the patient/representative.

 - 5) Provide copies of Sections 1795.14 (b) and 1795.16 to the clients, if needed.

- c) If the records contain information which is not subject to disclosure under Section 1795.10 (d) [i.e. confidential information from other(s) the non-disclosable materials shall be removed by the Technician, kept in the Technician's custody until after the release process is concluded. The Technician is responsible for returning the materials to the chart].

171 13. The Technician shall be responsible for ensuring that a record of all procedures regarding the
172 request are noted in the patient record, that each release is documented in the record and all
173 requests and relevant correspondence are filed in the records.

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175 14. In the event that a record or part of a record is missing, the Keeper of the Records shall be
176 notified and all reasonable steps will be taken to locate the record. The client shall be notified
177 within the applicable time limits.

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179 15. When the person requesting the medical record had been discharged or request originates
180 from a legal office, the written request signed by the discharged client will be forwarded to the
181 Medical Record Technician.