



Access and Amendment of Medical Records Procedure

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Purpose To provide guidelines for responding to requests to access and/or amend medical records, including requirements on disclosures of protected health information (PHI) regarding decedent's, minors and those under domestic violence and/or protective orders received by the Department of Behavioral Health (DBH).

Instructions when Receiving a Request to Access or obtain Medical Record summary DBH adult and minor clients 12 years of age or older who are authorized to consent to medical treatment have the right to access their medical records included in the designated record set for inspection and/or to obtain copies upon written request.

The following procedure is to be followed when a request to obtain and/or access medical record(s) is received:

If...	Then...
<p>A DBH client or personal representative requests access to medical records</p>	<ul style="list-style-type: none"> • A completed Access to Medical Records Request (COM021_E or COM021_S) must be submitted to the Medical Records Office for review. • Health care provider has ensured disclosure of sensitive PHI would be not detrimental to minor client. <p>Note: DBH staff are not permitted to release medical records to a parent or legal guardian if minor client consented to own treatment without parental involvement unless client has provided written authorization. See Access and Amendment for Medical Records Policy (COM0931) and Consent for the Treatment of Minors Policy (CHD0316) and Procedures (CHD0316-1 and CHD0316-2) for further guidance.</p>

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Access and Amendment of Medical Records Procedure, Continued

Instructions when Receiving a Request for Medical Records,
continued

<p>A third party requesting to inspect, copy, or obtain a summary of a client's medical record</p>	<ul style="list-style-type: none"> The client must provide DBH with written release of authorization (ROI) allowing DBH to disclose specific PHI. Identity of third party must be verified. <p>Note: See COM0912 and COM0912-1 Authorization to Release Protected Health Information Policy and Procedure for further details.</p>
<p>A representative request for a decedent's medical records</p>	<p>The following proof is required:</p> <ul style="list-style-type: none"> A decedent's will or, A document provided by the court (45 CFR Section 164.502(f)).
<p>A County Coroner's request for a decedent's medical records</p>	<ul style="list-style-type: none"> DBH medical records can be released to a County coroner upon receipt of ROI signed by a legally authorized personal representative of the decedent, or a court order signed by a judge (see HIPAA Privacy Rule [§164.512(g)(1)], CA Welfare and Institutions Code 5328 and/or 42 CFR §2.15).
<p>Requests for Decedents Medical Records by Subpoena</p>	<ul style="list-style-type: none"> A subpoena must be accompanied by a court order, or a release authorization signed by a verified personal representative. Court ordered medical records shall only be delivered to the court, not to an attorney.

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Access and Amendment of Medical Records Procedure, Continued

Instructions when Receiving a Request for Medical Records,
continued

<p>Request involving Domestic Violence/Order of Protection</p>	<ul style="list-style-type: none"> • If DBH receives a restraining order prohibiting access to medical records, DBH shall add an alert to the client medical record and are not to release information or records pertaining to the client as indicated in the restraining order. • If an alert is visible on a client's e-chart, DBH staff are prohibited from releasing any sensitive information to the restrained party notated on the client alert. <p>Note: Refer to Medical Records Requiring Special Handling policy and procedure (COM0908 and COM0908-1) for instructions on handling sensitive PHI.</p>
<p>Note: For additional guidance regarding the use, disclosure, and access to medical records, see Access and Amendment of Medical Records Policy (COM0931).</p>	

Access or Summary of Medical Records Process

The following process is to be followed prior to disclosure pursuant to a written request to access or obtain medical records:

Steps	Description
1	<p>In Person Pick-up The Medical Records staff verifies the identity of the Client or legal representative by examining and obtaining a copy of one of the following:</p> <ul style="list-style-type: none"> • Valid Photo ID • Driver's License • Passport • Proof of legal representation such as a court order must be provided (NOT A NOTARY).

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Access and Amendment of Medical Records Procedure, Continued

Access or Summary of Medical Records Process, continued

	<p>Mail/E-Mail</p> <ul style="list-style-type: none"> • Compare the signature of the request to mail with the client's signature on file in the Electronic Health Record (EHR) or chart. • The mailing address or email address must match that previously provided by the client and listed in the EHR or chart. • Sending records to someone other than the client must be requested in writing and signed by the client or authorized personal representative. <p>Over the Phone</p> <ul style="list-style-type: none"> • If the caller is claiming to be the client, request the full name and at least two other identifiers (<i>For example date of birth, address, emergency contact name, phone number, last 4 digits of their SSN.</i>) • Request a recent date of service and the name of the Clinic. • If caller identifies as an authorized personal representative or request is on behalf of a minor, verify evidence of the relationship, and that the requesting individual has authority as the minor's representative. (<i>For example, verify that the minor is on the parent's health insurance plan as a dependent or request a copy of the minor's birth certificate or any other legal documents.</i>) <ul style="list-style-type: none"> • If case of minor consenting to own treatment without parental participation or claiming to be authorized personal representative verify presence of a current valid authorization for release of information • If in doubt call back using the phone number listed in the medical record.
2	<p>After Medical Records staff has verified the identity of the client or legal representative, the request is logged in the Disclosure Management function in the electronic health record (EHR).</p> <p>The request is then forwarded for review to a Licensed Practitioner of the Healing Arts (LPHA) (<i>If the LPHA who provided services is no longer with DBH, the items are to be sent to a clinician from the list of identified reviewers maintained by the Medical Records unit.</i>)</p>

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Access and Amendment of Medical Records Procedure, Continued

Access or Summary of Medical Records Process, continued

Request process is as follows:

1. The client requesting access completes original DBH form Access to Medical Records Request (COM021_E or COM021S).
1. Medical Records completes their portion of the form.
2. A Response to Request Access Medical Records is sent to the requesting client.
3. The Client's medical record(s), either as an electronic health record (EHR) or a physical paper chart, is signed out for review.

Note: Medical Records is required to respond to requests for inspection of medical records **within five (5) working days** and copies must be made available **within 15 days** after receipt of the written request.

3

The LPHA will:

- Note timeline to return form
- Review medical record
- Determine whether to allow access to inspect or copy, or to provide a summary.
- Complete the Internal Tracking of Request to Access Medical Records form (COM025), and
- Return all paperwork to the Medical Records Office.

Note: *If the request is for a summary, and the request is approved, the LPHA will return the summary along with the other paperwork. Summaries must be provided to Medical Records **within ten (10) working days** from the request. If an extension is needed the requestor must be notified and delivery **must not exceed 30 days** from the original written request date.*

4	Medical Records Office ensures the Response to Request to Access Medical Records Form is complete and proceeds with the following actions:	
	If.	Then
	Request is approved...	<ul style="list-style-type: none"> • Medical Records contacts the client or other requestor to notify them of the approval and inquiries about their preference for picking up or having the records mailed to them.

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Access and Amendment of Medical Records Procedure, Continued

Access or Summary of Medical Records Process, continued

		<ul style="list-style-type: none"> ○ If the client requests to pick up records in person, the Medical Records Unit will request a Valid ID and a completed Client Access pick-up form. ● If the client request is to have records mailed, the Medical Records Unit will mail out a copy of the approved records by certified mail once the client's current address has been verified (per 45.C.F.R §164.526(c)(2)(3)(i)(ii)).
	<p>Request is denied, in whole or in part</p>	<p>LPHA will:</p> <ul style="list-style-type: none"> ● Make a written record in the client's file noting the date of the request and an explanation of the reason for the denial, including a description of the specific adverse or detrimental consequences that may result if access is permitted. ● Medical Records mails a copy of the denial by certified mail to the client within five (5) working days of denial determination from LPHA. <p>Note: For details regarding specific grounds for denial, see Access and Amendment of Medical Records Policy (COM0931).</p>
<p>Note: The client shall be informed of rights of appeal and designation of healthcare provider to obtain access or copies of medical records as indicated in Access Medical Records Form (COM0021_E or COM0021_S).</p>		

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Access and Amendment of Medical Records Procedure, Continued

**Right to Appeal
Denial of
Access**

A requestor who is denied access to medical records may appeal or seek review of the decision *if* the decision was based on reviewable grounds (see Access and Amendment of Medical Records Policy (COM0931) for additional guidance on denial grounds).

The requestor may appeal by submitting a written request for the review of the decision to Medical Records. A separate LPHA will re-review the request and decision and respond to the requestor within 30 days of the written request.

If...	Then...
The requestor is not satisfied with the second decision and believes privacy policies and/or federal regulations were not met...	<p>The requestor may file a complaint by contacting DBH's Office of Compliance, the County's Ethics and Compliance Office, or the U.S. Office for Civil Rights.</p> <p>Note: This information is made available in the <i>Response To Request To Amend Protected Health Information (phi) (COM024) form</i> mailed to the requestor.)</p>

**Amendment of
Medical
Records**

A requestor who believes the medical record is incomplete and/or inaccurate must submit a written statement disagreeing with all or part of the medical record and shall be given **COM023_E** or **COM023_S** *Request to Amend Protected Health Information (PHI)* to be completed and delivered to the Medical Records Office.

The following process occurs after the request has been submitted:

Step	Description
1	<p>Medical Records Office sends a packet to the LPHA containing:</p> <ul style="list-style-type: none"> • Completed original Request to Amend Protected Health Information (PHI) form • Response to Request or Amend PHI English form, and; • Client's medical record.
2	<p>The LPHA will then:</p> <ul style="list-style-type: none"> • Review the medical record and make a decision. • Complete Response to Request to Amend PHI form and, • Return all paperwork to the Medical Records Office.

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Access and Amendment of Medical Records Procedure, Continued

Amendment of Medical Records,
continued

3	Medical Records notifies the client of acceptance or denial within 30 days of the request and completes the following:	
	If...	Then...
	Request is approved...	<ul style="list-style-type: none"> • Medical Records sends the client a copy of the completed Response to Request to Amend PHI form. • Medical Records places the amendment in the medical record and the record is made available with the amended information. • Medical Records must make reasonable efforts to send amended information to Licensed Practitioner (LPHA) Clinic supervisor.
	Request is denied...	<ul style="list-style-type: none"> • The client shall be informed of their right to appeal denial of amendment (instructions noted in the following section).

Right to Appeal Denial of Amendment

A requestor, who is denied amendment capabilities, has the right to submit a written statement of disagreement, not to exceed one (1) page. The statement of disagreement will be included in any future disclosures of the medical record, along with any rebuttals answering to the disagreement, written by DBH. The client must receive a copy of the rebuttal if one is created.

If...	Then...
The requestor believes privacy policies and/or federal regulations were not met	The requestor may file a complaint by contacting DBH's Office of Compliance, the County's Ethics and Compliance Office, or the U.S. Office for Civil Rights. (See <i>Response To Request To Amend Protected Health Information (phi) (COM024) form mailed to requestor</i>).

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Access and Amendment of Medical Records Procedure, Continued

**Related Policy,
Procedure, or
Forms**

DBH Standard Practice Manual:

- Consent for the Treatment of Minors Policy (CHD0316)
- Consent for the Treatment of Minors for Parents Legal Guardians (CHD0316-1)
- Consent for the Treatment of Minors Procedure (CHD0316-2)
- Medical Records Requiring Special Handling Policy (COM0908)
- Medical Records Requiring Special Handling Procedure (COM0908-1)
- Authorization to Release Protected Health Information Policy (COM0912)
- Authorization to Release Protected Health Information Procedure (COM0912-1)
- Access and Amendment of Medical Records Policy (COM0931)
- Requests for Medical Records of Deceased Client Policy (COM0950)

DBH Departmental Forms:

- Access to Medical Records Request (COM021_E) (COM021_S)
- Request to Amend Protected Health Information (PHI) (COM023_E) (COM023_S)
- Response To Request To Amend Protected Health Information (PHI) (COM024_E) (COM024_S)
- Internal Tracking of Request to Access Medical Records (COM025)
- Release of Information: Client's Right to Access Medical Record (COM026_E) (COM026_S)
- Tracking of PHI Records Delivered Log (COM034)

Reference(s)

- [California Civil Code - Disclosure of Medical Information – sections 56.10 – 56.16](#)
- [California Evidence Code, Chapter 2, Article 4, Section 1560-1567](#)
- [California Code, Family Code - FAM section 6322 - 6323.5.](#)
- [California Government Code - Sections 27491.8 and 27498](#)
- [California Health and Safety Code – Personal Health Care Section 123110 and 123111](#)
- [California Health and Safety Code – Alcohol and Drug Programs section 11845.5](#)
- [California Probate Code - Section 24 and 7660](#)
- [California Welfare and Institutions Code - Sections 4514\(f\), 4515 and 5328\(f\)](#)

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Access and Amendment of Medical Records Procedure, Continued

Reference(s),
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- [Code of Federal Regulations, Title 42, Part 2, Confidentiality of Substance Use Disorder Patient Records](#)
 - [Code of Federal Regulations, Title 45, Section 2.1, Title 45, Section 164.506, Section 164.508, Section 164.524, Section 164.526 \(HIPAA Privacy Rule\)](#)
 - [Code of Federal Regulations, Title 45, Section 171.103 - Information blocking.](#)
 - [National Coordinator for Health Information Technology, ONC. \(2024\) Information Blocking Exceptions FAQ.](#)
 - [The Privacy Act, 5 U.S.C., Section 552a](#)
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