

# DEPARTMENT OF MENTAL HEALTH

## POLICY / PROCEDURE



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| <b>SUBJECT:</b><br><b>HUMAN IMMUNODEFICIENTY VIRUS (HIV) AND ACQUIRED IMMUNE DEFICIENCE SYNDROME (AIDS) CLINICAL DOCUMENTATION AND CONFIDENTIALITY</b> | <b>POLICY NO.</b><br><b>202.20</b>     | <b>EFFECTIVE DATE</b><br><b>08/01/00</b>      | <b>PAGE</b><br><b>1 of 5</b>                 |
| <b>APPROVED BY:</b><br><b>Original Signed by:</b><br><b>MARVIN J. SOUTHARD</b><br><br>Director   | <b>SUPERSEDES</b><br><br><b>102.20</b> | <b>ORIGINAL ISSUE DATE</b><br><b>08/01/00</b> | <b>DISTRIBUTION LEVEL(S)</b><br><br><b>2</b> |

**PURPOSE:**

- 1.1 To specify policy and procedures for Department of Mental Health (DMH) directly operated programs regarding the documentation of HIV and AIDS information and the legal responsibility and handling of HIV and AIDS information contained in the clinical record.
- 1.2 To establish a model that DMH contract agencies can use as a guide in developing their own policies.

**POLICY:**

- 2.1 Contract agencies shall adopt this policy or develop one of their own that addresses all of the issues contained in this policy.
- 2.2 Confidentiality of HIV test results or other HIV or AIDS information shall be ensured at the point of release of information and should not influence the completion of documentation. There shall be no restrictions on the documentation of HIV test results or other HIV or AIDS information in the clinical record. All information that is considered by a clinician to be relevant to quality care and treatment of a client must be documented in the clinical record (see Section 3.2.1). Mental health laws relevant to the release of HIV or AIDS information shall be rigorously followed (see Section 3.3).
- 2.3 The client must be informed prior to service delivery that HIV test records and/or other HIV and AIDS information pertinent to his/her care or treatment will be recorded in the clinical record, but protected from release in accord with current law.
- 2.4 Tests considered to be HIV tests for the purposes of this policy include any clinical test, laboratory or otherwise, used to identify HIV, a component of HIV or antibodies or antigens to HIV.
- 2.5 Pre and post-test counseling, as prescribed by Federal regulation, will be provided by the testing agency to any client for whom testing is ordered or performed. Such pre and post-test counseling is provided by a State certified HIV Test Counselor or physician who has been similarly trained.
- 2.6 When appropriate as part of the Department's responsibility to protect the

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health and safety of others, DMH staff will refer the names of clients with reported positive HIV test results to the Los Angeles County Department of Health Services (DHS) for follow-up. When referral to DHS for notification of contacts is not possible, the appropriate clinical manager and the DMH Medical Director will be responsible for overseeing a process for notifying contacts.

- 2.7 Consistent with other DMH policy regarding the release of information, records for which there is a subpoena or a request for information must be reviewed by appropriate agency personnel prior to the release to ensure compliance with Section 3.3 of the Policy.

### PROCEDURE:

- 3.1 The procedures in this Policy incorporate current laws/regulations into DMH policy. When these procedures are followed, staff will be in compliance with current testing, documentation and release of information activities for HIV test results and/or other AIDS or HIV information.

#### 3.2 Documentation

##### 3.2.1 Staff Explanation of Documentation Policy

3.2.1.1 DMH considers the explanation to clients of its policy on documentation ultimately to be the responsibility of service delivery staff. While DMH wishes to afford as much protection as possible to its clients against the possibility of discrimination or stigma, it also must ensure that the quality of care offered or delivered to clients does not suffer due to the omission of relevant client information, including the client's HIV status and related HIV and AIDS information.

3.2.1.2 Staff must ensure that before services are delivered, the client understands that any shared information about him/her that is relevant to his/her care or treatment will be recorded in the clinical record. Service delivery staff should not make promises to keep shared information secret. Code words and other imprecise terminology regarding HIV status are not acceptable because they do not adequately communicate to other service staff important information about these serious conditions.

3.2.1.3 Both the DMH *Consent for Service* and the brochure "What People with HIV Infection Should Know" are tools that staff

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can use to facilitate client understanding of this issue.

### 3.2.2 Treatment Progress Notes

3.2.2.1 As with all other information shared by the client, service delivery staff must evaluate the information and decide which information is relevant to the care and treatment of a client. This information must be documented in the *Progress Notes* in the usual manner in the clinical record. When service delivery staff have any question about whether particular information is relevant to care or treatment, they should confer with their supervisors.

### 3.2.3 HIV-related Medication/Prescription Notes and Laboratory Results

3.2.3.1 Physician notes relative to HIV-related medications/prescriptions should be documented in the same manner and place as other medical information. Laboratory results should be filed with all other laboratory results.

### 3.3 Release of Information

3.3.1 The release of AIDS and/or non-test HIV information is subject to existing mental health release of information laws. The release of HIV test information is specifically regulated and requires specific consent when transmitted outside of the DMH System of Care. It is essential that client records be carefully reviewed prior to **ANY** release of information to determine whether or not the record contains sensitive information that requires specific consent for release.

3.3.1.1 Managing chart content when a Consent for Release of Information exists:

3.3.1.1.1 When the record contains HIV-related information not covered by the consent and the client is available, the request should be discussed with him/her. The client can approve the release of HIV test information by signing the *Consent for Release of DMH Information*, DMH Form MH 215. (Attachment I)

.3.1.1.2 If the client does not consent to the release or is

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not available, the information must be blocked out before the record is released and the release must be accompanied by a cover letter that explains that sensitive information, which requires special consent, has been blocked from the record.

3.3.1.1.3 As an alternative to blocking information, it may also be possible to respond with summary information. However, a cover letter must still accompany the release that states that sensitive information for which a specific request is required was not included in the summary.

### 3.3.2 Release without Consent

3.3.2.1 Situations in which AIDS or HIV information or HIV test results may be released are very limited:

3.3.2.1.1 to the client's provider of health care for the purpose of emergency diagnosis, treatment or care of the client; and

3.3.2.1.2 to emergency personnel who, in the course of their work, may be exposed to AIDS or HIV.

3.3.2.2 When information is released to treatment personnel outside the provider without the client's consent, the release must be documented on DMH Form MH 216, *Record of Release of Information without Client Authorization* (Attachment II) and filed in the clinical record. Prior to release, licensed staff must first confirm the identity of the caller/requester in accordance with usual DMH practice. The release must be documented in the clinical record.

Department of Mental Health Policy

Consent for Release of DMH Information, DMH Form MH 215  
 Release of Information without Client Authorization, DMH Form MH 216

### AUTHORITY:

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This policy shall be reviewed on or before August 1, 2005.

**ATTACHMENTS:**

**REVIEW DATE:**

CONSENT FOR RELEASE OF DMH CLINICAL RECORD INFORMATION

I hereby authorize \_\_\_\_\_  
FACILITY OR PROGRAM

to disclose records and/or information regarding \_\_\_\_\_  
NAME OF PATIENT

date of birth \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_, obtained in the course of his/her diagnosis and treatment to:

\_\_\_\_\_  
NAME OF REQUESTOR AGENCY/FACILITY/COMPANY/PHYSICIAN/ATTORNEY

\_\_\_\_\_  
STREET CITY STATE ZIP CODE

This disclosure of records is required for these purpose(s): \_\_\_\_\_

The information is subject to these limitations: \_\_\_\_\_

These records are protected by the California Welfare and Institutions Code Section 5328. Disclosure shall be limited to the information specified below (check appropriate items):

- ASSESSMENT/EVALUATION
- RESULTS OF PSYCHOLOGICAL TESTS
- DIAGNOSIS
- TREATMENT
- MEDICATION HISTORY/CURRENT MEDICATIONS
- LABORATORY RESULTS
- HIV TEST RESULTS
- OTHER: Specify

An additional consent must be obtained for any other record transfer or sensitive information disclosure. I also understand that the requestor may not further use or disclose the medical information unless he/she obtains another authorization from me or unless such use or disclosure is specifically required or permitted by law.

This authorization shall become effective \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_ and is subject to revocation by the undersigned at any time except to the extent that the action has already been taken. If not earlier revoked, this consent shall terminate on \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_. (Termination date should not be more than 90 days from effective date unless the treatment plan justifies ongoing communications with the above named agency. Under no circumstances should the termination date exceed one year.)

\_\_\_\_\_  
DATE SIGNATURE OF PATIENT

\_\_\_\_\_  
WITNESS SIGNATURE OF PARENT/GUARDIAN/CONSERVATOR/ATTORNEY FOR HEALTH CARE

I UNDERSTAND THAT I HAVE THE RIGHT TO RECEIVE A COPY OF THIS AUTHORIZATION IF I SO REQUEST.

CONSENT REVOKED \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_  
SIGNATURE OF PATIENT/PARENT/GUARDIAN/CONSERVATOR

The undersigned therapist, who is primarily responsible for the treatment of the patient, disapproves in part  or whole  of the requested release of information to the party specified above. If disclosure is disapproved, note below the reason for any partial or complete restriction.

\_\_\_\_\_  
SIGNATURE AND TITLE DATE

\_\_\_\_\_  
SUPERVISOR/PROGRAM DIRECTOR'S SIGNATURE AND TITLE DATE

**RECORD OF  
RELEASE OF INFORMATION  
WITHOUT CLIENT AUTHORIZATION**

Information  verbal  paper copy from the record of \_\_\_\_\_  
Name of Client

was released on \_\_\_\_\_ to \_\_\_\_\_  
Date Name of Person  
\_\_\_\_\_  
Name of Agency

The release was made under the following circumstances (check appropriate box):

- Client left facility without notice, and is adjudged to be a danger to himself and/or others and/or gravely disabled.
- Client believed to have committed or to have threatened to commit a crime on the premises of the facility or to have been a victim of a crime which is reportable under State statutes.
- Information needed in an emergency situation for the protection of the client's health, including HIV test information.
- Information needed by a health care provider for the purpose of diagnosis, treatment, or care of the client, including HIV test information.
- Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Specific information released: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Release was authorized by licensed staff: \_\_\_\_\_  
Name and Discipline Date

Information was released by: \_\_\_\_\_  
Name and Title Date

This confidential information is provided to you in accord with applicable Welfare and Institutions Code. Duplication of this information for further disclosure is prohibited without the prior written consent of the patient/authorized representative to whom it pertains unless otherwise permitted by law. Destruction of this information is required after the stated purpose of the original request is fulfilled.

Name: \_\_\_\_\_ MIS #: \_\_\_\_\_  
Facility: \_\_\_\_\_

**Los Angeles County - Department of Mental Health**