

STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES DIRECTIVE	PROGRAM: MENTAL HEALTH SERVICES
	DPSCSD #: 124-311
	TITLE: Access to Mental Health Records
	ISSUED: December 20, 2000
	CLINICAL AUTHORITY: ASST. DIRECTOR
	AUTHORITY: DIRECTOR
	APPROVED: DEPUTY SECRETARY

- I. REFERENCES: A. DPSCSD 124-003
B. Health General Article, §§ 4-301-4-309, ACM
- II. PURPOSE: To establish access procedures for mental health records by persons in interest.
- III. DEFINITIONS:

PERSON IN INTEREST: A “Person in interest” is:

- (1) An adult on whom a health care provider maintains a medical record;
- (2) A person authorized to consent to health care for an adult consistent with the authority granted;
- (3) A duly appointed personal representative of a deceased person;
- (4) (i) A minor, if the medical record concerns treatment to which the minor has the right to consent and has consented under [Health General] Title 20, Subtitle 1. . . .; or
(ii) A parent, guardian, custodian or a representative of the minor designated by a court, in the discretion of the attending physician who provided the treatment to the minor, as provided in [Health General] § 20-104. . . .;
- (5) If paragraph (4) of this subsection does not apply to a minor:
 - (i) A parent of the minor, except if the parent’s authority to consent to health care for the minor has been specifically limited by a court order or a valid separation agreement entered into by the parents of the minor; or
 - (ii) A person authorized to consent to health care for the minor consistent with the authority granted; or

(6) An attorney appointed in writing by a person listed in ¶¶ (1), (2), (3), (4) or (5).

IV. PROCEDURE:

- A. Institutional psychology staff shall ensure that:
1. The institutional mental health records are kept in a secure area accessible to authorized personnel requiring the records in the regular performance of their duties. The mental health record shall contain those documents set forth in DPSCSD 124-300.
 2. Health care providers and those non-health care providers within DPSCS who by virtue of their specific duties require access to these files for a legitimate business purpose have access to these records through the chief psychologist.
 3. Those with restricted access shall make their request to review all or part of the mental health record in writing to the chief psychologist. The chief psychologist or designee shall log all requests and file the completed form in the mental health record with the date of compliance.
- B. A person in interest may request a copy of his/her mental health record by sending the request in writing to the warden. This request shall specify who shall pay the copy charges, (if any) and how payment is to be made.
- C. A person in interest other than the inmate may receive a copy of the mental health record when the request is accompanied by the release of information form (DPSCS Form 124-311aR) signed by the inmate.
1. The warden shall forward the written request to the chief psychologist.
 2. The chief psychologist shall review the file to determine if access to any portion(s) is to be denied. Denial is based on a professional opinion that the disclosure of any portion of the psychological file would be injurious to the health of the patient or the recipient. If it is determined that any portion of the record shall be denied:
 - a) The chief psychologist or designee shall make available a summary of the portion.
 - b) A copy of the summary shall be inserted into the mental health record.
 3. If the request is not denied, the chief psychologist or designee shall notify the institutional finance department of the request and the number of copies for which payment must be made.
 4. The finance department shall notify the chief psychologist when payment has

been confirmed so that he/she can have the copies made.

5. The institution may require that payment be made before the record is copied.
 6. The chief psychologist or designee shall respond to this request within 30 days.
- D. The mental health record shall be made available in response to an appropriately filed subpoena.
1. All subpoenas for mental health records shall be forwarded to the institutional chief psychologist.
 2. The chief psychologist or designee shall verify the subpoena through the issuing clerk of the court; log receipt and verification of subpoena.
 3. The chief psychologist or designee shall forward the appropriate mental health records as indicated, in a sealed envelope with a "confidential" notation.
 4. The mental health record shall be forwarded to the person designated at the time specified in the subpoena.
- E. Institutional personnel not specified under this policy do not have access to the mental health record. If input is needed for institutional programming purposes, the staff member shall make a written request to the chief psychologist, in the form of questions/professional opinions regarding the programming issue in question (i.e. can this inmate participate meaningfully in the school program, etc.). The chief psychologist shall respond in writing as soon as practicable, but no later than 30 days from the date of receipt of the request.

V. ATTACHMENTS: Appendix 1, Authorization for Release of Mental Health Records (DPSCS Form 124-311aR)

VI. SUPERSEDES: DCD 124-311 dated March 15, 1992.

DISTRIBUTION:

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AUTHORIZATION FOR RELEASE OF MENTAL HEALTH RECORDS

Inmate's Name: _____ ID #: _____

I authorize _____ to release the following mental health records:
(Mental Health Care Provider)

to _____
Name

Address

for the purpose of: _____

This release shall remain valid in accordance with Health-Gen. § 4-303 or until the date specified here _____ (Date) and may be revoked in writing at any time except to the extent to which the records have already been released.

I understand that the information may/will include treatment for mental and/or physical illness, counseling or treatment for drug and/or alcohol abuse, human immunodeficiency (HIV) infection, including acquired immunodeficiency syndrome (AIDS) or tests for HIV or AIDS.

Further, I understand that the confidentiality of these records are maintained in accordance with the specifications of Md. Code Ann., Health-Gen. § 4-303.

Witness

Signature

