

Custodial Operations Policy and Procedures

22.4 Medical records and health information

Policy summary

Corrective Services NSW (CSNSW) has a duty of care to make sure inmates have access to appropriate healthcare. The Justice Health and Forensic Mental Health Network (JH&FMHN) provides healthcare to inmates, including primary care, clinical assessments, mental health and psychiatric services, dental services, optometry, drug and alcohol related services and sexual health services.

An inmate's medical information must not be released without the consent of the inmate. This does not prevent a general report on the inmate's health (that protects the patients' rights to confidentiality and does not identify specific health diagnosis) being provided by JH&FMHN to the Governor of a correctional centre on request.

Management of Public Correctional Centres Service Specifications

Service specification	Health services Professionalism and accountability
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Scope

This section applies to all correctional centres and other facilities administered by or on behalf of CSNSW.

It also applies to all CSNSW employees, and where relevant to other personnel such as JH&FMHN, contractors, subcontractors, and visitors.

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1 Medical records and health information

1.1 Policy

JH&FMHN is responsible for the provision of health care services in the criminal justice system.

JH&FMHN holds all inmate/patient health records. JH&FMHN must maintain health records on the care and treatment of each inmate for whom it provides services. The health records must be kept at the JH&FMHN health centre. The Nursing Unit Manger (NUM) or the nurse in charge (NIC) is responsible for these health records.

JH&FMHN and CSNSW, as agencies collecting personal information or health information from an inmate, must ensure the information is safeguarded from unauthorised disclosure and any dissemination of the information in line with legislation including the *Privacy and Personal Information Protection Act 1998* (PPIP Act) and the *Health Records and Information Privacy Act 2002*.

Clause 288(2) of the *Crimes (Administration of Sentences) Regulation 2014* requires that health records for inmates at a correctional centre must not be divulged to any person outside JH&FMHN (including the inmate) except in accordance with the *Guidelines on the use and disclosure of inmate/patient medical records and other health information* established by the Chief Executive, JH&FMHN.

However, under clause 288(3) of the *Crimes (Administration of Sentences) Regulation 2014*, this does not prevent JH&FMHN providing information from an inmate's health records to the Governor of a correctional centre so it can be used to prepare general reports on the inmate's health. These reports must be provided whenever the Governor requests it.

JH&FMHN requires an inmate/patient to consent to the release of information regarding their medical treatment to CSNSW. An inmate/patient can provide this consent by signing the Authority to disclose health information (JH&FMHN form).

Where consent is not gained from the inmate/patient, JH&FMHN staff must seek the approval to release the requested information from either the Executive Director, Clinical Operations or the Chief Executive. JH&FMHN, by faxing the request to them. The original completed document must be returned to a JH&FMHN staff member and a copy placed in the patients' health record.

Psychologists and other allied health staff of CSNSW may only access JH&FMHN health records of JH&FMHN for whom they have direct clinical responsibility.

- They must request access to the health record from the JH&FMHN NUM or delegate. This request may be made verbally. Inmate/patient consent is not required where the allied health professional is the treating health professional.

All access to health records must be in line with the JH&FMHN *Inmate health: Information sharing guidelines* and the NSW Health Privacy Manual for Health Information, Version 3.

The *Inmate health: Information sharing guidelines* set out the principles governing the use and disclosure of inmate's medical records maintained by JH&FMHN.

1.2 Areas of common interest

Information sharing is necessary to the operation of CSNSW and JH&FMHN in the following areas:

- care, treatment and management of inmates/patients within correctional facilities
- care, treatment and management of specific medical conditions
- care, treatment and management of inmates/patients with special needs/requirements
- management of inmates/patients who pose a threat to self, other inmates and staff
- transportation requirements
- placement issues
- release planning
- deaths in custody
- assaults
- management of Work, Health and Safety issues within correctional facilities
- requests for health information from Police and other law enforcement agencies
- statutory obligations to disclose health information, and
- research into inmate/patient management and care.

1.3 Disclosure to inmate/patient

Inmates/patients have a right to access their personal health information held by JH&FMHN and must submit their written request to JH&FMHN.

Further information, including how an inmate/patient can access or request a copy of their own personal health information, is in the *Inmate Health: information sharing guidelines*.

1.4 Obligations of CSNSW staff under the guidelines

CSNSW staff may become aware of or gain access to confidential personal health information belonging to an inmate/patient.

This information must not be disclosed to any person, including anyone outside CSNSW (including to an inmate/patient), unless the disclosure is in line with the *Health Records and Information Privacy Act 2002*.

The *Guidelines on the use and disclosure of inmate/patient medical records and other health information* and the *Inmate health: information sharing guidelines* are available to CSNSW and provide information about the disclosure of personal and health information of inmates in line with legislation and agency policy.

2 Quick links

- [Related COPP](#)
- [Forms and annexures](#)
- [Related documents](#)

3 Definitions

AHNM	After Hours Nurse Manager
Authorised Officer	The officer authorised by the Governor to perform the functions prescribed as part of the Custodial Policy and Procedures.
CAS Regulation 2014	<i>Crimes (Administration of Sentences) Regulation 2014</i>
Complementary therapies	Include chiropractic, iridology, naturopathy, homoeopathy and aromatherapy. JH&FMHN may not consider these mainstream, and therefore may not provide such services unless deemed essential to the inmates health by a Medical Practitioner.
COPP	Custodial Corrections Operations Policy and Procedures
Correctional patient	Under Section 41 of the <i>Mental Health (Forensic Provisions) Act 1990</i> – is a person (other than a forensic patient) who has been transferred from a correctional centre to a mental health facility while serving a sentence of imprisonment, or while on remand, and who has not been classified by the Mental Health Review Tribunal as an involuntary patient.
CSNSW	Corrective Services NSW
Forensic patient	Section 42 of the <i>Mental Health (Forensic Provisions) Act 1990</i> – is a person who, when charged on indictment, is: <ul style="list-style-type: none"> • Found unfit to be tried (s14,17(3)); or • Subject to a limiting term (s23, 24 & 27*) after a qualified finding of guilt (*refer to Limiting Term for the meaning of each Order); or • Subject to a special verdict of not guilty by reason of mental illness (s39).
Guidelines	Guidelines on the use and disclosure of inmate/patient medical records and other health information. Established by the Chief Executive of JH&FMHN in accordance with Clause 288 of the <i>CAS Regulation 2014</i> .

Health information	<p>Section 6 of the <i>Health Records and Information Privacy Act 2002</i> - includes information or an opinion about the physical or mental health or a disability of an individual including details of medical conditions, self-harm attempts, psychological and psychiatric tests and reports.</p> <p>The <i>Crimes (Administration of Sentences) Regulation 2014</i> refers to “medical records”, the Guidelines (see above definition) referred to in this policy use the broader terminology of “health information” to reflect the legislative obligations under the above Act.</p>
JH&FMHN	Justice Health and Forensic Mental Health Network
NIC	Nurse In Charge
NUM	Nursing Unit Manager
OIMS	Offender Integrated Management System
Personal information	<p>Section 4 of the <i>Privacy and Personal Information Protection Act 1998</i> - includes information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. It includes information concerning such things as name, alias, date of birth, address, physical descriptions, fingerprints, ethnic or racial background, languages spoken, religious beliefs, employment history, income, finances and intelligence information.</p>
PPIP Act	<i>Privacy and Personal Information Protection Act 1998</i>
Recovery position	<p>The recommended recovery position for breathing but unconscious casualties: the casualty is placed on their left side in a three-quarters prone position with the upper arm and leg as props in front of the casualty to prevent the casualty rolling face down. This position helps keep the airway open whilst waiting for medical assistance to arrive.</p>

4 Document information

Business centre:	Custodial Operations	
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1.0		Initial publication (<i>Replaces section 7.3.4 of the superseded Operations Procedures Manual</i>)
1.1	12/03/20	General formatting update and improvements
