

§ 5b.6 Special procedures for notification of or access to medical records.

(a) *General.* An individual in general has a right to notification of or access to his medical records, including psychological records, as well as to other records pertaining to him maintained by the Department. This section sets forth special procedures as permitted by the Act for notification of or access to medical records, including a special procedure for notification of or access to medical records of minors. The special procedures set forth in paragraph (b) of this section may not be suitable for use by every component of the Department. Therefore, components may follow the paragraph (b) procedure for notification of or access to medical records, or may issue regulations establishing special procedures for such purposes. The special procedure set forth in paragraph (c) of this section relating to medical records of minors is mandatory.

(b) *Medical records procedures—(1) Notification of or access to medical records.* (i) Any individual may request notification of or access to a medical record pertaining to him. Unless the individual is a parent or guardian requesting notification of or access to a minor's medical record, an individual shall make a request for a medical record in accordance with this section and the procedures in § 5b.5 of this part.

(ii) An individual who requests notification of or access to a medical record shall, at the time the request is made, designate a representative in writing. The representative may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents at the representative's discretion.

(2) *Utilization of the designated representative.* A subject individual will be granted direct access to a medical record if the responsible official determines that direct access is not likely to have an adverse effect on the subject individual. If the responsible Department official believes that he is not qualified to determine, or if he does determine, that direct access to the subject individual is likely to have an adverse effect on the subject individual, the record will be sent to the designated representative. The subject individual will be informed in writing that the record has been sent.

(c) *Medical records of minors—(1) Requests by minors; notification of or access to medical records to minors.* A minor may request notification of or access to a medical record pertaining to him in accordance with paragraph (b) of this section.

(2) *Requests on a minor's behalf; notification of or access to medical records to an individual on a minor's behalf.* (i) In order to protect the privacy of a minor, a parent or guardian, authorized to act on a minor's behalf as provided in § 5b.10 of this part, who makes a request for notification of or access to a minor's medical record will not be given direct notification of or access to such record.

(ii) A parent or guardian shall make all requests for notification of or access to a minor's medical record in accordance with this paragraph and the procedures in § 5b.5 of this part. A parent or guardian shall at the time he makes a request designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent.

(iii) Where a medical record on the minor exists, it will be sent to the physician or health professional designated by the parent or guardian in all cases. If disclosure of the record would constitute an invasion of the minor's privacy, that fact will be brought to the attention of the physician or health professional to whom the record is sent. The physician or health professional will be asked to consider the effect that disclosure of the record to the parent or guardian would have on the minor in determining whether the minor's medical record should be made available to the parent or guardian. Response to the parent or guardian making the request will be made in substantially the following form:

We have completed processing your request for notification of or access to \_\_\_\_\_'s (Name of minor) medical records. Please be informed that if any medical record were found pertaining to that individual, they have not been sent to your designated physician or health professional. In each case where a minor's medical record is sent to a physician or health professional, reasonable efforts will be made to so inform the minor.