

May 31, 2013

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-401.105 Refusal of Health Care Services

33-401.701 Medical and Substance Abuse Clinical Files

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Forms DC4-711A, Refusal of Health Care Services, and Form DC2-813, Acknowledgment of Responsibility to Maintain Confidentiality of Medical Information. Form DC4-711A is being revised to eliminate the requirement that the clinician signing the form be a physician and Form DC2-813 is being revised to clarify that entities working via a contract with the Department of Corrections is required to maintain confidentiality of medical information.

SUBJECT AREA TO BE ADDRESSED: Health Services Administration

RULEMAKING AUTHORITY: 944.09, 945.10, 945.6034 FS

LAW IMPLEMENTED: 119.07, 395.3025, 766.103, 944.09, 945.10, 945.25, 945.6034 FS

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: LaDawna Fleckenstein, 501 South Calhoun Street, Tallahassee, Florida 32399.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-401.105 Refusal of Health Care Services.

(1) – (2) No change.

(3) Documentation of refusal of treatment or procedure.

(a) If an inmate refuses an aspect of health care services other than medication, which is addressed in subsection (4), the inmate shall be required to sign Form DC4-711A, Refusal of Health Care Services. If the inmate refuses to sign the form, the notation “patient refuses to sign” will be entered and witnessed by two staff members. Form DC4-

711A is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 S. Calhoun St., Tallahassee, FL 32399, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01335>. The effective date of the form is _____ ~~11-28-10~~.

(b) – (g) No change.

(4) – (6) No change.

Rulemaking Authority 944.09, 945.6034 FS. Law Implemented 944.09, 766.103, 945.6034 FS. History–New 11-28-10, Amended 7-19-12, _____.

33-401.701 Medical and Substance Abuse Clinical Files.

(1) – (6) No change.

(7) Request for Accounting of Disclosures.

(a) – (k) No change.

(l) The following specific information about each disclosure shall be included and documented in the medical file on Form DC4-534, Health Care Information Request Record. Form DC4-534 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is 4-15-10.:-

1. – 5. No change.

(m) – (n) No change.

(8) Each employee of the Department of Corrections shall maintain as confidential all medical, mental health, dental and substance abuse information, regarding any inmate or offender that the employee obtains in conjunction with his or her duties and responsibilities, and shall not disseminate the information or discuss the medical, mental health, dental, or substance abuse condition of the inmate or offender with any person except persons directly necessary to the performance of the employee’s duties and responsibilities. An employee who has been designated as a member of the healthcare team or is part of a mental health or substance abuse treatment team shall not disseminate inmate medical, mental health, or substance abuse information or discuss the medical, dental, mental health, or substance abuse condition of an inmate with any person except other members of the healthcare team, mental health treatment team, or substance abuse treatment team, release officers or any other employees designated to facilitate continuity of care and treatment upon reentry, officers responsible for transporting inmates, upper level management at the institution or facility level, regional level and central office level, inspectors from the Inspector

General's Office if related to law enforcement on the premises of a correctional institution, classification or security staff if related to maintenance of the safety, security and good order of the correctional institution, department attorneys, or other employees and persons authorized to receive such information in accordance with the Health Insurance Portability and Accountability Act Privacy Rule of 1996, (HIPAA) and Florida law. Breach of this confidentiality shall subject the employee to disciplinary action. Each employee shall acknowledge receipt and review of Form DC2-813, Acknowledgement of Responsibility to Maintain Confidentiality of Medical Information, indicating that he understands the medical and substance abuse confidentiality requirements. Form DC2-813 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is _____.

(9) Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall maintain as confidential all health or substance abuse information that he sees or hears while performing his duties and responsibilities, and shall not disseminate the information or discuss the medical or substance abuse information with any person except health care staff or substance abuse program staff. Failure to keep health or substance abuse information confidential and private shall subject the inmate to disciplinary action. Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall acknowledge receipt and review of Form DC1-206, Inmate Acknowledgement of Responsibility to Maintain Confidentiality of Health or Substance Abuse Information, indicating that he understands the medical and substance abuse confidentiality requirements. Form DC1-206 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is 4-15-10.

(10) – (11) No change.

~~(12) The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.~~

~~(a) DC4-534, Health Care Information Request Record, effective 4-15-10.~~

~~(b) DC2-813, Acknowledgement of Responsibility to Maintain Confidentiality of Medical Information, effective 4-15-10.~~

~~(c) DC1-206, Inmate Acknowledgement of Responsibility to Maintain Confidentiality of Health or Substance Abuse Information, effective 4-15-10.~~

Rulemaking Authority 944.09, 945.10 FS. Law Implemented 119.07, 395.3025, 944.09, 945.10, 945.25, 945.6034 FS. History–New 4-15-10,_____.