

Department of Public Safety / Division of Corrections
POLICY & PROCEDURES

CHAPTER:	4	Facility Services	4.2.15
SECTION:	2	Health Services	EFFECTIVE DATE: 7 / 21 / 2020
SUBJECT:	15	Inmate Health Records	
STANDARDS: ACA – 4 – ALDF: 4D-13 (M), 4D-14 (M), 4D-26, 4D-28, 7D-22			
APPROVED:			REVIEW DATE: 7 / 21 / 2020
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Dale Glass COMMISSIONER OF CORRECTIONS			REVISION DATED: 7 / 30 / 20
Rescind: 4.2.15 dated 7/27/16 Cancel:			

I. POLICY

It is the policy of the St. Louis City Division of Corrections to comply with the disclosure requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Recovery and Reinvestment Act of 2009.

II. RESPONSIBILITIES

The facility Executive staff, healthcare providers, and staff having daily contact with the inmate population are responsible for ensuring that the provisions of this procedure are adhered to.

III. DEFINITIONS

None

IV. PROCEDURES

A. General Information

1. The Health Service Administrator will initiate an electronic health record for all inmates admitted into the custody of the Division of Corrections and will maintain the records in a secure and confidential manner throughout the inmate's stay. (See Policy #4.2.5: Level I and II Medical Screening).

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2. Information maintained in inmate records will conform but not limited to the specifications noted above in 4D-26 ACA Standard.
3. The electronic health record of inmates that are no longer under the custody of the Division, and their hard copy record files not converted to electronic record are forwarded to Division of Corrections Central Records Office as soon as possible, by the Health Service Administrator/designee.
4. The St. Louis City Division of Corrections qualifies as a "hybrid entity" because it provides health care to inmates in its custody. All the information collected by the Division's contracted medical provider in rendering their contractual agreement with the Division is the protected health information (PHI) of an inmate.
5. As a hybrid entity, the St. Louis City Division of Corrections is required, by law, to keep an inmate's PHI confidential and prevent the unwanted, unauthorized and unnecessary disclosure of an inmate's personal identifiable information.
6. The HIPAA privacy rule does not require a correctional institution that is a covered entity to develop and provide a notice of their privacy practices therefore, inmates should have no expectation of such privacy notices.
7. For the purposes of this procedure and work rule, an individual is no longer an inmate when such individual is released from, or is no longer in lawful, custody of the Division.
8. The Health Service Administrator will put in place, appropriate administrative, physical and technical safeguards that protect against uses and disclosures that are not permitted by the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rules. (See Public Law 104-191).
9. All Divisional employees, contracted staff and volunteers having access to inmate data must sign the Electronic Staff Confidentiality Statement of the Division. This record will be kept and monitored by the Training Academy, (See policy #1.1.22: Computers and Communication Resources; and #1.3.22: Confidential Information and Records).
10. Inmate's PHI can be disclosed only for treatment and, health care operations or when exception is made in procedure and work rule. (See DOC #1.5.3: Inmate Records).
11. It is the responsibility of the Division's contracted health care provider and the Custodian of Records to enforce HIPAA compliance with respect to release, contracts dealing with treatment, payment, or healthcare operations between the Division and other healthcare providers or entities.

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12. Personal Health Information to be protected includes but not limited to the following:
 - a. Consumer Name;
 - b. Address/telephone number;
 - c. Employer/occupation;
 - d. DOB/SSN;
 - e. Medicaid number;
 - f. Diagnosis;
 - g. Hospital/physician/therapist evaluations and/or records;
 - h. Eye examination reports;
 - i. Authorizations, payments, statement of charges for services;
 - j. Consumer contacts, progress notes and/or summaries;
 - k. All information contained in the care record is considered PHI
13. The Health Service Administrator will share with the Appointing Authority/ designee information regarding an inmate's medical management as necessary. Correctional staff will be given safety information on inmate health status when such information is necessary to preserve the health and safety of an inmate, other inmates, volunteers, visitors, or the correctional staff. (ACA 4D-14).
14. Personal health information disclosed to staff under this section will be released on a need to know basis and the minimum amount of PHI necessary to carry out their duties.
15. The provisions of restricted disclosures provided in this policy do not apply to the following disclosures:
 - a. Disclosure to or requests by a provider for treatment,
 - b. Disclosures made to the inmate who is the subject of the information or to the representative of the inmate,
 - c. Disclosures pursuant to an authorization by the inmate,

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- d. Disclosures made to the Department of Health and Human Services,
 - e. Disclosure made to preserve the health and safety of the Correctional staff or shared with the appointing Authority/designee.
 - f. Disclosures required by law; and uses or disclosures required for compliance with applicable laws and regulations.
16. Inmates reserve the right to file grievance, as specified in DOC policy # 3.3.3: Inmate Grievance, for issues related to medical and/or mental health concerns.
17. All inmates' health records belong to the St. Louis City Division of Corrections' Appointing Authority whether generated internally or received from an external entity whereas the health information contained within belongs to the inmate.
18. Except to respond to requests for release of inmate health records, or court subpoenas for such records which shall be the sole responsibility of the Division's Custodian of Records, the contracted Health Service Administrator will monitor all active inmate health records in the Division consistent with current regulations, statutes, and federal laws. (See also DOC #1.1.21: Record Retention and Release of Public Records).

B. HIPAA Compliance Violation Reporting

- 1. Correctional employees, contracted staff and volunteers with any knowledge of a violation, risk of non-compliance, or complaint of any policy contained in this procedure and work rule, must report it directly to a Supervisor, verbally and in writing and is forwarded to the Appointing Authority/designee, (See DOC # 3.1.10: Incident Reporting).
- 2. If verified by Internal Affairs, the Record Retention Supervisor will report infraction in accordance with prevailing law.
- 3. In the event of an unauthorized use or disclosure of PHI, the Health Service Administrator will evaluate if any corrective action is needed to prevent future occurrences; and will advise the Appointing Authority/designee of such corrective action, in writing.
- 4. All documentations related to any reported HIPAA privacy incidents will be retained consistent with applicable statutes. (See DOC #1.1.21: Record Retention and Release of Public Records).

C. Rights of Inmates Related to their Personal Health Information

- 1. Disclosure of inmate's personal health information must be authorized with a HIPAA valid authorization signed by the inmate or "inmate's legal

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- representative." If an authorization form is incorrect or incomplete, it will be returned to the requestor for correction and/or completion before being honored.
2. Except to the extent action has already been taken in regards to the authorization to release inmate's PHI; inmates have the legal right to revoke an authorization at any time verbally, and follow it up in writing.
 3. The Custodian of Records and the Health Service Administrator/designee will:
 - a. Keep a log of all written requests received for access to PHI of inmates.
 - b. Record the name of the inmate, IMN (inmate master number), and the date of disclosure;
 - c. Record the name of the entity or person who received the PHI;
 - d. Provide a brief description of the PHI disclosed; and
 - e. Provide a brief statement of the purpose of the disclosure.

D. Faxing or E-mailing Personal Health Information

1. Faxing and e-mailing of PHI is allowable in situations when health information is needed for inmate's care purposes, continuing care placement, payment or when courier mailing delivery will not meet a necessary timeframe. Only the minimum necessary PHI will be faxed or e-mailed.
2. Authorized medical staff will verify the identity of the medical person requesting and receiving the PHI and ensure proper authorizations are obtained. Request for inmate's PHI over the telephone will not be accepted.
3. The fax information must be accompanied by special FAX cover sheet specifically designed for faxing of personal health information. Each page of the personal health information will be marked "confidential." In the event of a misdirected Fax, the recipient will be directed to immediately destroy the pages. The cover sheet must contain the following information:

This information accompanying this cover sheet is strictly confidential. It is intended only for the person named above. If you receive this information in error, please contact the person whose name is shown above. No responsibility can be accepted by the Division of Corrections if this information is made available to anyone except the addressee. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance on the contents of this information is strictly prohibited."

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4. When expecting the arrival of a fax containing PHI, staff will schedule with the sender to ensure that the faxed documents can be promptly removed from the fax machine.

E. Copying and Safeguards of Health Records

1. Request for copies will be in writing.
2. Only the records pertaining to the time period requested will be copied.
3. Requests for PHI, not generated by the Division of Corrections, which has been made part of the inmate health record, must be specified on the authorization or will not be copied as part of a request.
4. Staff reproducing personal health information will not leave the document unattended on reproduction equipment. Staff must pick up printed documents containing inmates PHI in a timely manner.

F. Requesting Medical Records or PHI

1. Except as provided under the General Information items 13, 14, and 15 of this procedure and work rule, individuals requesting PHI will present a signed HIPAA release authorization form, and a copy of acceptable forms of identification such as State-issued driver's license, State, or federal-issued identification card with photograph, or U.S. Passport, etc.
2. All counseling notes and raw data in an inmate's health record will be exempted from disclosure due to ethical considerations.
3. Inmates may have access to their medical and mental health treatment records while under the custody of the Division of Corrections. Any request for access must be forwarded to Healthcare provider for response. There will be no charge for the 1st request to inmate.
4. An ex-inmate may request medical records once without charge.
5. All requests for inmate's medical records by third party must be forwarded to the Central Records Office of the Division for action by the Custodian of Records. (See DOC #1.1.21: Records Retention and Release of Public Records).
6. Once the PHI is released to an inmate, or other authorized person the Division is not responsible for protecting the confidentiality of the released information.
7. The Custodian of Records will release medical records only if there is a HIPAA request. In the event of court order, the Custodian of Records will consult with City Counselors.

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8. Inmates will be issued and will receive at no charge, a one time copy of Medical Statement pertaining to their current diagnosis during visit with the Doctor or following a sick-call and/or hospital visit. For continued inmate care, health care providers will not be charged for copies of inmate's PHI.
9. Fees for medical records will not be charged to the following entities:
 - a. Public Defenders,
 - b. Circuit Attorney/Federal Prosecutors,
 - c. The Courts,
 - d. Police agencies, and
 - e. Metropolitan Psychiatric Center, (MPC).

G. Release of Protected Health Information for Deceased Inmates

1. Health Record confidentiality remains in effect after the death of an inmate. The State of Missouri rules for disclosure of a decedent's health records are consistent with HIPAA Privacy Regulations Confidentiality, and by law, survive the death of an inmate.
2. In the case of inmate death, Missouri law provides that the personal representative (i.e., court appointed person) of the deceased be treated as the deceased individual unless a restriction occurs. Consequently, the deceased inmate's designated representative may properly inspect, review, or request copies of the deceased inmate's records upon receipt of written authorization. (See MO 650-2616 for release authorization).
3. In situations where no personal representative has been appointed, generally the inmate's next of kin are deemed to be the person who may properly inspect the records and request copies. The next of kin will be as indicated in the inmate's Admission Card to the Division, or a surviving relative i.e., spouse, adult child, grandchild, parent, sibling, niece, nephew, grandparent, uncle, aunt or cousin.
4. Upon the death of an inmate, the health records of the deceased inmate must be forwarded to the Custodian of Records as soon as possible.

H. Permissible PHI Disclosure without Authorization as Required by Law

1. Pursuant to the privacy laws, rules and regulations, the Division may disclose PHI of an inmate without inmate consent in the circumstances outlined below with the assistance of City Attorney:

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- a. To protect the public health and safety by releasing information to another entity for the purpose of reporting or controlling disease or injury; vital events such as birth or death; public health investigations and intervention, and to report adverse effects of medications or medical devices (45 CFR 164.512(a)(b)).
 - b. To release information for audits, inspections, or other necessary governmental oversight of the health care system (45 CFR 164.512(d)).
 - c. To report to appropriate law enforcement authorities incidents of child neglect and abuse and to report incidents of domestic violence (45 CFR 512(c)).
 - d. To release information pursuant to an order of a court or administrative tribunal and in response to a subpoena, discovery request or other lawful process that is not accompanied by an order of a court or an administrative tribunal (45 CFR 164.512(e)).
 - e. To release minimum necessary information to a law enforcement agency for purposes of identifying or locating a suspect, fugitive, material witness or missing person (45 CFR 164.512(f)).
 - f. To release information to medical examiners, coroners and funeral directors for those persons to perform the official duties of their job (45 CFR 164.512(g)).
 - g. To release information to tissue, eye, organ donor and cadaveric organizations for the purposes of facilitating eye, tissue, and organ donation and transplantation (45 CFR 164.512(h)).
 - h. To release information for the purposes of research in compliance with Common Rule and review by an Institutional Review Board and/or privacy board (45 CFR 164.512(I)).
 - i. To release information to avert a serious threat to the health or safety of a person or a public entity (45 CFR 164.512(j)).
 - j. To release information to military organizations or other federal law enforcement agencies for the purposes of maintaining national security interests (45 CFR 164.512(k)).
2. All disclosures of PHI as required by law must be recorded and retained in the inmates' health file.

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I. Inactive Health Records

1. When an inmate is release from the Division, the Health Service Administrator/ designee will compile the inmate's health records and forwards it as inactive health record files to the Custodian of Records.
2. Any paper health record not converted into electronic copy will be assembled and forwarded to the Custodian of Records. Such records will be filed in the order established by the Records Retention Supervisor and retained consistent with State statues.
3. Disposal of inactive health records will be as stipulated in DOC policy #1.1.21: Records Retention and Release of Public Records.