



<b>STATE OF ALASKA</b> <b>DEPARTMENT OF CORRECTIONS</b>  <b>POLICIES &amp; PROCEDURES</b>	SECTION: <b>Health and Rehabilitation Services</b>		PAGE: Page 1 of 9
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	TITLE: <b>Health Care Record</b>		
APPROVED BY:  <b>Nancy A. Dahlstrom, Commissioner</b>		DATE: <b>08/28/2019</b>	
ATTACHMENTS / FORMS: <b>A. Authorization for Release of Personal Health Care Information</b> <b>B. Health Care Records Receipt Acknowledgement</b> <b>C. Confidentiality Agreement</b>		AUTHORITY / REFERENCES: <b>7 AAC 27.0057                      27 AAC 27.890 - 899</b> <b>AS 47.30.845                      AS 08.02.040</b> <b>DOC P&amp;P 202.03</b> <b>HIPAA Pub. L. 104-191</b>	

**POLICY:**

- I. It is the policy of the Department of Corrections (DOC) that a health care record shall be maintained for each prisoner that accurately documents all health care services provided or refused, throughout the prisoner's entire period of incarceration. The health care record is separate from the prisoner's case record.
- II. It is the policy of the Department to have in place uniform procedures for the recording, management, maintenance, and release of prisoner personal health information.
- III. It is the policy of the Department that prisoner health care records are the property of the State of Alaska.
- IV. It is the policy of the Department that, consistent with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), all information regarding physical and mental health treatment is confidential and shall be handled in a manner consistent with HIPAA regulations as they apply to corrections.
- V. It is the policy of the Department that, except as outlined in Procedures section IV below, information contained in the health care record shall not be released without the specific approval of the prisoner.
- VI. It is the policy of the Department that all forms used in the health care record shall be standardized. All new forms and changes to existing forms shall be submitted to the Medical Records Administrator for review with final approval by the Division Operations Manager of Health and Rehabilitation Services (HARS).
- VII. It is the policy of the Department that prisoners held in contract facilities where health care records exist, the responsibility to maintain those records will be outlined in the contract.
- VIII. It is the policy of the Department that protocols shall be established that address the creation, maintenance and quality assurance of the electronic health care record. These shall be updated as needed and at least

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every three (3) years.

**APPLICATION:**

This policy and procedure will apply to all Department employees and prisoners.

**DEFINITIONS:**

As used in this policy, the following definitions shall apply:

**Central Medical Records:**

A centralized health care records management office led by the Medical Records Administrator.

**Contract Facility:**

A correctional facility that is under contract with DOC to provide housing for prisoners. This includes private prisons and community jails.

**Disclosure:**

Providing information in any format which includes, but is not limited to: verbal, e-mail, text message, facsimile, or written.

**Electronic Health Record (EHR):**

An electronic version of a patient's medical history that is maintained over time and includes all the clinical data relevant to that person's care, including demographics, progress notes, problem lists, medications, vital signs, medical history, immunizations, laboratory data and radiology reports.

**Guardian:**

A person, appointed by the court, who has legal authority to protect another person's interests.

**Health Care Provider:**

A physician assistant, advanced practice registered nurse or physician who is responsible for the delivery of health care at an institution.

**Health Care Record:**

A record initiated for each person committed to the custody of DOC for the purpose of managing their healthcare. This includes Title 47 detainees, pre-trial, un-sentenced and sentenced prisoners. The record shall include all information pertaining to all disciplines including medical, mental health, dental, optometry, hospital / infirmary and palliative care.

**Health Care Staff:**

Includes physicians, psychiatrists, psychologists, physician's assistants, advanced practice registered nurses, registered or practical nurses, certified nurse's assistants, dentists, dental assistants, dental hygienists, optometrists, pharmacists, mental health clinicians, social workers, psychological associates, dispensing opticians, physical therapists, and occupational therapists that provide preventative, curative, promotional or

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rehabilitative health care services.

**Health Care Services:**

Services provided to a prisoner during their incarceration. This includes medical, mental health, dental or substance abuse treatment services.

**Health Insurance Portability And Accountability Act Of 1996 (HIPAA):**

A federal law that provides data privacy and security provisions for safeguarding medical information.

**Individually Identifiable Health Information (IIHI):**

This is information that relates to:

1. The prisoner's past, present or future physical or mental health condition; or
2. The provision of health care to the prisoner; or
3. The past, present, or future payment for the provision of health care to the prisoner;

And that:

1. Identifies the prisoner; or
2. For which there is a reasonable basis to believe it can be used to identify the prisoner.

**Medical Records Administrator:**

The staff member responsible for overseeing the overall management of health care records for prisoners. The Medical Records Administrator is the Department's designated HIPAA Compliance Officer.

**Offender Trust Account:**

The system in which prisoner funds are deposited, monitored and disbursed.

**Protected Health Information (PHI):**

Any individually identifiable health information (IIHI) in any form or media whether electronic, paper, or oral that is related to health status, provision of health care or payment for health care.

**Release of Information (ROI):**

A statement signed by the prisoner authorizing the release of individually identifiable health information.

**PROCEDURES:**

I. Collection, Maintenance and Storage of Health Care Information:

- A. A prisoner health care record shall be created at the time the prisoner is admitted to a DOC institution.
- B. The record shall include documentation of all health care services provided during incarceration, including all on-site and off-site care, health education and treatment refusals.

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- C. Health care records received from off-site care entities shall be scanned into the EHR.
- D. The institutional Medical Information and Services Assistants (MISA) are responsible for ensuring health care records are maintained appropriately. In institutions without a MISA, health care staff have this responsibility.
- E. Health care records received from a contract facility shall be scanned into the EHR.
- F. Except for the State of Alaska Attorney General's Office, original health care records shall not be released to a third party.
- G. At no time shall a prisoner be allowed to view his or her health care record via computer in the EHR.

II. Disclosure of Protected Health Information (PHI):

Protected Health Information (PHI) is to be kept confidential. This information shall only be disclosed as authorized by law and this policy:

- A. DOC or contract employees may not discuss any PHI overheard or learned during their duties unless there is a business reason to do so.
- B. DOC or contract employees may not discuss prisoner PHI with another prisoner.
- C. Documentation received from outside health care agencies is the property of that agency and shall not be released to any outside agencies by DOC staff or contract providers under any circumstances. An individual or agency requesting these documents shall obtain such documentation from the original source.
- D. No PHI shall be released verbally unless authorized by the HARS Division Operations Manager, the Chief Medical Officer, the Chief Mental Health Officer or the Medical Records Administrator.
- E. No PHI shall be publicly released except for public health reporting as mandated under 7 AAC 27.005 (Preventive Medical Services).

III. Disclosure with Prisoner Authorization:

- A. Requests for access to PHI shall be made in writing by and accompanied by a signed Authorization for Release of Personal Health Care Information (Attachment A). The minimum necessary information shall be released in accordance with federal HIPAA regulations.
- B. If the prisoner has a guardian, a release of information (ROI) shall be obtained from the guardian prior to any disclosure of PHI.

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- C. Authorization for release of a deceased prisoner's PHI shall be obtained from the deceased prisoner's legal representative. An ROI shall be completed prior to the release and a copy placed in the prisoner's health care record.
- D. Mental health and HIV information may only be released when specifically noted on the ROI and not as part of a general health care records request.
- E. PHI may only be disclosed to the following entities with a signed ROI or with a valid court order:
  - 1. The Department of Corrections Division of Probation, Parole & Pretrial Enforcement;
  - 2. The State of Alaska Board of Parole;
  - 3. The attorney of record (including the State of Alaska Public Defender's Office);
  - 4. The State Commission for Human Rights;
  - 5. The Disability Law Center; and
  - 6. The American Civil Liberties Union (ACLU).

IV. Disclosure Without Prisoner Authorization:

- A. While prisoners are in a correctional institution, health care staff may use or disclose a prisoner's PHI to the correctional institution or other law enforcement personnel having custody over the prisoner as necessary for:
  - 1. The provision of health care;
  - 2. The health and safety of the prisoner or other prisoners;
  - 3. The health and safety of correctional institution personnel;
  - 4. The health and safety of those personnel responsible for transporting or transferring of prisoners; and
  - 5. The administration and maintenance of the safety, security, and good order of the institution.
- B. PHI may be disclosed without authorization of the prisoner in order to fulfill DOC's obligation to warn, or to protect the public.
- C. PHI may be disclosed without authorization of the prisoner when required by court order. The

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validity or scope of a court order shall be coordinated through and verified by the Office of the Attorney General.

- D. PHI may be disclosed in response to a subpoena, discovery request or other lawful process not accompanied by a court order as long as the prisoner is provided written notice of the request. The validity or scope of such a request shall be coordinated through and verified by the Office of the Attorney General.
- E. PHI may be provided to other correctional agencies without authorization of the prisoner when considering a prisoner for transfer or classification, or to facilitate appropriate treatment by another agency that shall be responsible for the treatment of the prisoner.
- F. When occupational exposure to a bloodborne pathogen occurs, results of the source individual's testing shall be made available to the exposed employee with or without authorization of the prisoner, per DOC P&P 202.03 (Bloodborne Pathogens).
- G. PHI may be released without authorization of the prisoner to:
  - 1. The DOC Classification Unit;
  - 2. The institution's Disciplinary Board;
  - 3. The PREA Coordinator;
  - 4. The US Marshals Services for federal prisoners;
  - 5. Law enforcement agencies for the purpose of criminal investigation, in response to a request about an individual who is or is suspected to be a victim of a crime, to avert a serious threat to health or safety, to report potential abuse, neglect or domestic violence, to identify or locate a suspect, fugitive, material witness or missing person or as relevant and material to a legitimate law enforcement inquiry;
  - 6. The Office of the Attorney General or attorneys who are representing employees of the DOC who are being sued by a prisoner;
  - 7. Local and state health departments regarding reportable diseases, in accordance with 7 AAC 27, Preventive Medical Services;
  - 8. A community health care provider, hospital or treatment facility that is providing treatment for the prisoner;
  - 9. Another health care entity now providing emergency care for a former prisoner.

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10. The Facility Standards Officers and Grievance Investigator for the purposes of investigating a grievance;
11. The DOC Standards Administrator;
12. The Alaska Office of the Ombudsman;
13. The State Medical Examiner's Office for the purpose of identifying the decedent, determining cause of death or other duties as authorized by law;
14. The authorized funeral director for the purposes of carrying out their duties regarding a deceased prisoner;
15. An organ procurement organization.

V. Reproduction of Health Care Records:

- A. Prisoners have a right to receive copies of information in their health care record. Prisoners desiring copies of their health care record shall make a written request via Request for Interview (DOC P&P form 808.11a) to the health services unit at the institution in which they are housed. The request shall include the specific information and dates requested.
- B. Prisoner requests for copies of their health care record shall be forwarded to the Central Medical Records Office for processing.
- C. When information from the health care record is reproduced for release to a prisoner, it shall be provided to the prisoner in electronic format (i.e. compact disk) and the prisoner shall be charged a \$20.00 fee for the first 10 pages and \$0.25 per page thereafter.
- D. A prisoner who is indigent shall have the processing fee debited from his or her Offender Trust Account.
- E. Prior to copying the health care record for the prisoner, the record shall be purged of any materials received from outside sources that provided health care prior to incarceration.
- F. Records containing mental health information shall not be provided to a prisoner without consultation with an institution's mental health clinician.
- G. Prior to copying the health care record for the prisoner, the record shall be purged of any materials that may be counter-therapeutic, jeopardize the health, safety, security, custody or rehabilitation of

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the prisoner or of other prisoners, or of any officer, employee or other person at the correctional institution. The records may be withheld pending a court order to release the records.

- H. DOC shall not be responsible for maintaining the privacy of any health care record copied for and provided to a prisoner while in custody. Prisoners shall sign the Health Care Records Receipt Acknowledgement (Attachment B), prior to a receiving a copy of his / her health care record.
- I. When information from the health care record is reproduced for release to a third party, the receiving party shall be charged \$20.00 for the first 10 pages and \$0.25 per page thereafter. Copies shall be provided in electronic format (i.e. compact disk).
- J. There is no charge for copies of the health care record for State of Alaska agencies, to include the Public Defender Agency.
- K. Privately managed contract facilities that house DOC prisoners shall charge according to their corporate policies.
- L. Copies of eye glass prescriptions, substance abuse assessments and PPD test results shall be provided to the prisoner upon request and at no charge.

VI. Former Prisoner Access to Health Care Records:

- A. After release from DOC custody, a former prisoner may receive copies of his or her health care record by making a written request to the Central Medical Records Office. The request shall include the specific information and dates requested and be accompanied by a signed ROI.
- B. Documents contained in the closed health care record may be provided for reproduction except those that the Medical Records Administrator, or designee, determines would result in substantial risk of reprisal or injury or would jeopardize the health, safety or security of other prisoners, or of any officer, employee or other person at the correctional institution. The records may be withheld pending a court order to release the records.
- C. Prior to copying the health care record for the prisoner, the record shall be purged of any materials received from outside sources that provided health care prior to incarceration.
- D. When information from the health care record is reproduced for release to the former prisoner, the receiving party shall be charged \$20.00 for the first 10 pages and \$0.25 per page thereafter. Copies shall be provided in electronic format (i.e. compact disk).
- E. Copies of substance abuse assessments, laboratory and test results shall be provided to former prisoners at no charge.

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**VII. Security Safeguards:**

- A. Each institution shall maintain health care records in a confidential manner under secure conditions. When health care staff are not present in the area where health care records are stored, the area shall be secured, and computers locked. If a paper health care record has been removed from the secure storage area, staff shall make all reasonable efforts to promptly return the record to the secure location when it is not being actively used.
- B. Employees, contract staff, volunteers, interns, researchers, and all others within the Department having access to health care information shall:
  - 1. Receive orientation and / or training regarding the expectations for use and management of PHI; and
  - 2. Sign a Confidentiality Agreement (Attachment C) which will be maintained in the employee's personnel file, the contractor's file or by the individual supervising the intern, researcher or volunteer.
- C. Consequences for misuse or abuse of PHI may include disciplinary action up to and including dismissal.

**VIII. Retention / Transfer / Disposition of Health Care Records:**

- A. The health care record shall be inactivated when a prisoner dies or is released from custody, released to probation or parole, released to electronic monitoring or transferred to a contract facility.
- B. Health care records shall be maintained in a secure location consistent with the State of Alaska Records Retention Schedule.

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