

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>		EFFECTIVE DATE 07/08/2019	NUMBER 03.04.108
SUBJECT PRISONER HEALTH INFORMATION		SUPERSEDES 03.04.108 (09/14/2015)	
		AUTHORITY MCL 330.1748 (5)(b); MCL 333.1101 et seq., MCL 333.5131, MCL 600.2157, MCL 750.411, MCL 791.203; MCL 331.532, MCL 4.355	
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**POLICY STATEMENT:**

The Department shall document all health care services provided to prisoners, centralize all health information in the prisoner health record, and control access to health information to ensure required confidentiality.

**POLICY:**

DEFINITION

- A. Prisoner Health Record: All information recorded in electronic form, paper form, or any other medium that pertains to a prisoner’s mental and/or physical health care, history, diagnosis, prognosis, or condition that is maintained by the Michigan Department of Corrections (MDOC).

GENERAL INFORMATION

- B. There shall be a Health Information Advisory Committee appointed by the Administrator of the Bureau of Health Care Services (BHCS). The Health Informatics Coordinator, BHCS, shall be the committee chairperson. The committee shall meet regularly to address all issues related to prisoner health records, health-related forms, and the BHCS processes and procedures. Committee recommendations shall be submitted to the BHCS Administrator for approval.
- C. Health information shall be maintained in a consistent and standardized format as described in the appropriate guidelines as approved by the BHCS Administrator. Care and treatment not specified in these guidelines shall be documented in the prisoner health record the day services are provided.

CREATION AND CONTENT OF THE PRISONER HEALTH RECORD

- D. Each prisoner shall have one health record that shall be created by BHCS staff when the prisoner is initially received at a reception facility.
- E. The prisoner health record shall contain dental, optometric, psychiatric, diagnostic reports (e.g., laboratory reports, x-ray reports) and any other medical care and treatment whether provided by BHCS, under contract, or in the community. Non-medical staff who deliver durable medical goods to a prisoner must document the delivery in the prisoner health record.
- F. The prisoner health record shall not contain e-mail correspondence or correspondence from the Department of the Attorney General except for requests for copies of prisoner health record documentation. Administrative reports shall not be placed in the prisoner health record including but not limited to, critical incident reports, misconduct reports, accident and injury reports, substance abuse screening for purposes other than treatment, data entry forms, and time review and disposition forms.
- G. Original Department inpatient records shall be retained at the treating facility for at least one year after treatment is completed then forwarded as necessary for placement in the prisoner health record.

TRANSFER OF PRISONER HEALTH RECORDS AND INFORMATION

- H. The prisoner health record shall accompany the prisoner upon transfer except as follows:

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1. Upon transfer or admission to a non-Department hospital, the prisoner health record shall be retained by the sending facility.
  2. Inactive prisoner health records, as defined in Paragraph K, shall be forwarded as set forth in Paragraph L.
- I. When transported with a prisoner, the prisoner health record shall be maintained securely and in a confidential manner during the transfer process.
  - J. Copies of pertinent portions of the prisoner health record may be provided to non-Department health care facilities or providers treating the prisoner. The complete, original prisoner health record shall be retained by the Department as indicated above.

#### INACTIVE PRISONER HEALTH RECORDS

- K. For purposes of this policy, a prisoner's health record shall be considered inactive when any of the following occur:
  1. The prisoner transfers to the Federal Bureau of Prisons or another non-Department correctional facility while still under commitment to the Department;
  2. The prisoner is released on bond;
  3. The prisoner is on escape status for 60 business days or more;
  4. The prisoner paroles, excluding parolees housed in MDOC facilities or the Lake County Residential Reentry Program (LCRRP);
  5. The prisoner discharges;
  6. The prisoner dies.
- L. Inactive prisoner health records shall be retained at the prisoner's last facility for 60 days to complete filing of loose documents and release of information. Inactive files then shall be sent to the records storage center, except that radiographic films shall be sent to the Duane L. Waters Health Center (DWH) Radiology Department for storage. The DWH Health Information Manager or designee shall be responsible for approving the release of information and documents from all inactive prisoner health records in the records storage center. These records shall be obtained through the Records Administrator, Central Records Section, Operations Division, Correctional Facilities Administration (CFA), or designee. The DWH Supervisor of Radiology shall be responsible for the maintenance and release of the radiographic films from inactive files.
- M. Prisoner health records that are inactive due to discharge or death of the prisoner shall be retained in accordance with the Department's Retention and Disposal Schedule.
- N. An inactive health record shall be reactivated if the prisoner or parolee is returned to an MDOC facility. The prisoner health record shall be retrieved from the records storage center and maintained as set forth in this policy.

#### CONFIDENTIALITY OF HEALTH INFORMATION

- O. The prisoner health record shall be maintained as a confidential document and stored securely. All employees, including contractual employees, shall be responsible for maintaining the confidentiality of all health information regarding a prisoner. Maintaining confidentiality applies to both the release of documents from a prisoner's health record and providing information regarding a prisoner's diagnosis, health care, and treatment, whether in writing, electronically, or verbally.

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- P. Health Information Managers shall control access to and release of information contained in prisoner health records, except as set forth in Paragraph L. Access shall be in accordance with federal and state laws and Department policy.
- Q. Health information shall be released only upon the prisoner's written authorization or a court order, except as follows:
1. A court-appointed executor and personal representative or heirs at law of a deceased prisoner's estate may authorize the release of health information regarding the deceased prisoner. Legal questions shall be referred to the Office of Legal Affairs.
  2. A court-appointed guardian of a prisoner or the parent of a minor prisoner who is not emancipated may authorize the release of health information for the prisoner. This does not include a person who has a power of attorney for the prisoner's legal affairs.
  3. Health information may be released to those who must provide emergency medical care.
  4. Health information required for clearance for transfers or for the continuation of care during transport.
  5. Health information required for clearance for assignments and as required for proper care or management of the prisoner while incarcerated or on parole shall be released to the Warden or designee.
  6. Health information shall be released to the Warden or designee upon their written request if the Warden or designee considers it necessary for the safety and security of the facility. The written request shall be retained in the prisoner health record.
  7. Health information shall be released for parole eligibility report preparation as set forth in PD 06.05.103 "Parole Eligibility/Lifer Review Reports."
  8. All information on prisoner injuries inflicted by a knife, firearm, or other deadly weapons, or by other means of violence shall be immediately reported to the Warden, who shall report the information consistent with PD 01.05.120 "Critical Incident Reporting - Correctional Facilities Administration (CFA)." It also shall be reported to local law enforcement officials, as appropriate.
  9. Health information related to legally reportable conditions, including communicable diseases, or legally reportable circumstances shall be released to the appropriate agency or authority.
  10. A prisoner's HIV, Hepatitis B, and Hepatitis C status shall be released to an employee exposed to the blood or body fluids of the prisoner subject to the provisions set forth in PD 03.04.120 "Control of Communicable Bloodborne Diseases."
  11. Health information may be released for research and education provided prisoners are not identified by name or prisoner number in reports or papers or verbal communications.
  12. Health information may be released for use by the BHCS during clinical audits and for peer review activities.
  13. Health information shall be released to the Department of the Attorney General or to designated staff in the Office of Legal Affairs as necessary for litigation purposes, and to other staff as necessary to monitor compliance with court orders.
  14. Health information shall be released to the State Auditor General and other state or federal agencies for review as provided for in state or federal law.

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15. Upon request and without the requirement of any release, the Ombudsman shall be given access to all information, records, and documents in the possession of the Department that the Ombudsman deems necessary in an investigation, including, but not limited to, prisoner health information and prisoner mortality records. Pursuant to MCL 4.355, a signed release is not required in order to provide this information.
16. Health information shall be released to other Department staff as authorized by the BHCS Administrator or designee.

#### PRISONER ACCESS TO HEALTH RECORDS

- R. Psychological tests and/or test results, in electronic or paper form, shall not be released to the prisoner.
- S. A prisoner may receive copies of documents contained within their health record by making a specific, written request to the appropriate Health Information Manager or designee and paying the required per-page fee, as set forth in OP 03.04.108-B "Prisoner Access to Medical Records." Legal questions shall be referred to the Office of Legal Affairs.
- T. Prisoner requests for health information must be recorded in the prisoner's health record using the Patients Authorization for Disclosure of Health Information (CHJ-121) and the Response to Request for Health Record Information (CHJ-268). The forms must be made part of the prisoner health record.

#### PROCEDURES

- U. If necessary, to implement requirements set forth in this policy directive, the BHCS Administrator shall ensure that procedures are developed or updated.

#### AUDIT ELEMENTS

- V. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

APPROVED: HEW 05/23/2019