

# POLICY AND PROCEDURES

NUMBER: 1322

SUBJECT: Health Insurance Portability and  
Accountability Act (HIPAA)

ACA STANDARDS: 4-ALDF-7D-21

DIRECTOR: Herbert Bernsen

EFFECTIVE DATE: 12/03 REVISION DATE: 6/13



## I. Policy

The St. Louis County Department of Justice Services in agreement with the St. Louis County Department of Health will ensure the staff adheres to the rules and guidelines set forth by HIPAA.

## II. Responsibilities

All St. Louis County Department of Justice Services and Department of Health staff are responsible for the following procedures.

## III. Definitions

**Covered Entity:** An organization which provides health care and conducts certain types of transactions electronically.

## IV. Procedures

### A. General Information

1. Staff from the Department of Justice Services and the Department of Health will be trained on incidents which are related to this policy. Additional training will be completed as a refresher and as changes are made to this policy.
2. The *Superintendent of Security* will be responsible for complaints as they relate to Department of Justice Services practices or staff.

Complaints as they relate to the Department of Health will be referred to the authorized contact person. ]

- [3. Inmates who have a complaint will be instructed by Corrections staff to address their request in writing to the *Superintendent of Security* if directed towards the Department of Justice Services or the Corrections Medicine Manager if directed towards the Department of Health. The Corrections Officer will inform the inmate that the inmate is responsible for the following:
  - a. Address envelope as Interoffice Mail and write one of the following titles:
    - (1) *Superintendent of Security*
    - (2) Corrections Medicine Manager]
  - [b. Place the envelope in the housing unit mail box or give the request to a Corrections Medicine staff member if the complaint is directed towards the medical staff. That Corrections Medical staff member will give the request to the Corrections Medicine Manager. A written answer will be prepared by the *Superintendent of Security* or the Corrections Medicine Manager and returned to the inmate in a timely manner.]
4. Management staff of the Departments of Health and Justice Services will ensure the policies and procedures are implemented and followed.

B. Confidentiality

1. The St. Louis County Department of Justice Services and Department of Health staff will ensure the confidentiality of an inmate's health information. All staff who work with inmates will sign a Confidentiality Form (See Attachment 1) agreeing to abide by the policies and procedures set forth for confidentiality.
2. Staff will adhere to the following, to ensure the confidentiality of health information:
  - a. Only release health information with proper authorization from the inmate
  - b. Keep doors closed and locked when leaving medical records unattended in offices

- c.** Never leave medical records or any health information documents unattended without housing them where they are not accessible
- d.** Never place or leave medical records, or any other identifiable information on counter tops where accessible to unauthorized persons
- e.** Staff is prohibited from discussing health information about an inmate in housing units, unit control areas, break areas, restrooms and areas outside of the health care clinic or Infirmary
- f.** Protect medical records or health information in file cabinets or file drawers while attending to more than one inmate
- g.** Turn medical records backwards on doors to prevent view of the inmate names or any identifiable information
- h.** Report any incident immediately to your supervisor relating to the confidentiality of medical records
- i.** Consult with someone in authority for direction when you are uncertain whether to disclose information
- j.** Staff transporting medical records and health information documents must lock doors when leaving the vehicle unattended
- k.** Securely seal medical records in the designated envelope when preparing records or health information documents for transportation
- l.** Return and pick up all medical records by the end of each day. Medical records are never to remain in the service areas overnight
- m.** Secure the confidential data off the screens of your computer by use of screen savers or turning it off
- n.** Always discard inmate health information by shredding. Inmate health information must never be thrown in the trash



may be completed during the screening in the Law Enforcement Lobby Nurse's Office or during the inmate's medical assessment in the housing unit.

2. A "Covered Entity" is allowed to disclose protected individual health information to a correctional facility without consent or authorization if the institution represents that the information is necessary for:
  - a. the provision of health care to such individuals
  - b. the health and safety of such individuals or other inmates
  - c. the health and safety of the officers or employees of or others at the correctional facility
  - d. the health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility or to another setting
  - e. law enforcement on the premises of the correctional facility,
  - f. the administration and maintenance of the safety, security and good order of the correctional facility.
3. The purpose of these exemptions is to allow facilities to be able to provide necessary medical care without concern that a recalcitrant (difficult to manage) inmate will complicate provision of care by refusing to give consent for the disclosure of information.

**NOTE:** The disclosure exemptions no longer apply once an inmate is placed on probation, parole or is no longer in lawful custody.

#### D. Consequences for Violations

1. Employees may be suspended up to and including termination depending on the severity or intent of the violation of HIPPA regulations.
2. The facility, organization or institution can be sanctioned/penalized monetarily.

- a. Civil Penalties - \$100.00 per incident, up to \$25,000.00 per person per year.
- b. Criminal Penalties
  - (1) Up to \$50,000.00 and one (1) year in jail for knowingly and improperly disclosing or obtaining health information
  - (2) Up to \$100,000.00 and up to five (5) years in prison for obtaining health information under false pretenses
  - (3) Up to \$250,000.00 and up to ten (10) years in prison for obtaining health information with the intent to sell, transfer or use for commercial advantage, personal gain or malicious harm.
- 3. Inmates lose the confidence to entrust providers, health care personnel and the organization to protect the privacy of their protected health information.

E. Inmate's Right to Access Health Information

- 1. An inmate has the right to inspect and receive copies of his/her medical records only after the inmate has been released from the facility. A scheduled date and time for inspection of health information by the inmate will be determined by the Corrections Medicine Manager/designee, in a timely manner.
- 2. Inmates who request to inspect and receive copies of their medical records will be instructed by Corrections staff or Corrections Medicine staff to address their request in writing to the Corrections Medicine Manager/designee once the inmate has been released from the facility.
- 3. Inmates have the right to request restriction of uses and disclosures of health information. The documentation will be filed in the inmate's medical records.
- 4. Inmate's have the right to request communications by alternate means (e.g., phone, letter, pager, e-mail, facsimile, etc). If the method is reasonable, the Corrections Medicine Manager/designee must grant the alternate communication.

5. The Corrections Medicine staff reserves the right to deny such request to inspect, or restrict disclosure in whole or in part, if obtaining such copy would jeopardize the health, safety, security, custody, or rehabilitation of the individual or of other inmates, or the safety of any officer, employee, or other person at the correctional facility or responsible for transporting of the inmate. Denials based on these grounds are final, and the subject of the record has no right to have the decision reviewed. The decisions will be made on a case by case basis.
6. If the inmate requests copies to be made there will be a cost-based fee for any copies made. There will be a \$15.70 retrieval fee and .37¢ per page there after.

F. Amended Material

1. Inmates may request that information in their medical file be amended. This request must be made in writing to the authorized Corrections Medicine staff. The Corrections Officer will inform the inmate that he/she (the inmate) is responsible for giving the request to a Corrections Medicine staff member. That staff member will give the request to the authorized Corrections Medicine staff.
2. The Department of Health may amend information if found to be incorrect or refuse to amend the information if it is determined that the information;
  - a. Is accurate and complete
  - b. Was not created by the Department of Health, unless the person or entity that created the information is no longer available to make the amendment
  - c. Is not part of the medical information kept by or for the facility
  - d. Is not part of the information which an inmate would be permitted to inspect or copy.
3. The authorized Corrections Medicine staff will ensure a written statement of denial stating the reason(s) for denial is completed and given to the inmate in timely manner. Denials are final, and the inmate of the record has no right to have the decision reviewed.
4. The inmate may submit a written “statement of disagreement” if he/she disagrees with the statement of denial. The Corrections

Officer will inform the inmate that the inmate is responsible for giving the statement to a Corrections Medicine staff member. That staff member will give the request to the authorized Corrections Medicine staff. The Department of Health may submit a “statement of rebuttal” to the “statement of disagreement” at its discretion.

G. Accounting of Disclosures

1. The inmate may request a list of disclosures made by the facility of the inmate’s medical/health information. The inmate will submit his/her request in writing to the authorized Correction Medicine staff. The request will state a time period which may not go back more than six (6) years and cannot include dates before April 14, 2003. The Corrections Officer will inform the inmate that he/she (the inmate) is responsible giving the request to a Corrections Medicine staff member. That staff member will give the request to the authorized Corrections Medicine staff.

**NOTE:** There are some disclosures that do not have to be tracked (e.g., when an inmate gives authorization to disclose information)

2. The first list requested within a twelve (12) month period will be free. Additional lists may include a charge for the cost of providing the list. The Department of Health will notify the inmate in writing of the cost and give the inmate an opportunity to withdraw or modify the list before being charged. The Corrections Officer will inform the inmate that he/she (the inmate) is responsible for giving the request to a Corrections Medicine staff member. That staff member will give the request to the authorized Corrections Medicine staff.

H. Request Restrictions

1. The inmate may request restrictions on the inmate’s medical/health information that is used or disclosed concerning treatment, payment or health care operations (e.g., do not disclose information about family history to a particular community provider, etc). The inmate will submit his/her request in writing to the authorized Corrections Medicine staff. The Corrections Officer will inform the inmate that he/she (the inmate) is responsible for giving the request to a Corrections Medicine staff member. That staff member will give the request to the authorized Corrections Medicine staff.



**NOTE:** The request will inform the Corrections Medicine staff of the information that the inmate wants limited, whether the inmate wants to limit the use, disclosure or both, and to whom the inmate wants the limits to apply (e.g, spouse, etc)

2. The Department of Health is not required to agree to the request. If the Department of Health agrees to the request, the Corrections Medicine staff will comply with the request unless the information is needed to provide the inmate emergency treatment.

I. Request Confidential Communications

1. The inmate may request that the Corrections Medicine staff communicate with the inmate in a certain way (e.g., verbally, in writing, etc) and where (e.g., housing unit, clinic, etc). The inmate will submit his/her request in writing to the authorized Correction Medicine staff. The Corrections Officer will inform the inmate that he/she (the inmate) is responsible for giving the request to a Corrections Medicine staff member. That staff member will give the request to the authorized Corrections Medicine staff.

**NOTE:** The request will specify how and/or where the inmate requests to be contacted.

2. The Corrections Medicine staff will not ask the inmate the reason for the request and will accommodate all reasonable requests.