

1.4.E.5 Inmate Medical Records

I Policy Index:



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Office of Primary Responsibility: DOC Administration

II Policy:

A complete health record will be maintained for each inmate to accurately document medical, dental and mental health needs and care received or offered while the inmate is placed in a facility under the control of the Department of Corrections.

III Definitions:

Inmate:

For the purposes of this policy, an inmate is any person who has been sentenced or placed in a facility under the control of the Department of Corrections (DOC).

Protected Health Information:

Information that concerns an inmate's physical or mental health, health care, or payment information that could reasonably be used to identify the inmate.

IV Procedures:

1. Establishing Health Records:

- A. At the time of admission to a DOC facility, a complete health record will be established for every inmate (See DOC policy 1.4.A.2 [Inmate Admission](#) and SDCL § 24-2-19). The DOC may obtain or use protected health information that exists for an inmate to provide health care to the inmate, for the health and safety of other inmates and staff and for administration and for the safe, secure and orderly operation of the institution.
- B. Paper and electronic medical records will be compiled in a standard format approved by the responsible health care authority (See [Attachments 1](#) and [2](#)). All health records will be organized in a uniform manner and the order of content standardized (See DOH policies P-H-01A [Medical Records Chart Order](#) and ACA 4-4413).
- C. To facilitate continuity of care and ensure current diagnostic evaluations, all inmates will have one (1) health record that contains reports, studies, and all other medical information specific to the inmate.

2. Location of Health Records:

- A. Health records for an inmate housed in the institution are electronic. All records shall be kept secure and under the control and supervision of health service staff. Inactive inmate health records prior to April 2015, will be securely maintained separate from the records of inmates currently housed at the facility.
- B. Upon any release of an inmate from DOC custody, (including parole, suspended sentence, discharge, or in the event of death) all paper health records for the inmate will be placed in the health records archives (See DOH policies P-H-03 [Management of Health Records](#) and ACA 4-4415). Electronic records will continue to be maintained in the electronic system (CorrecTek) used by Health Services.
 - 1. Inactive paper health records for male inmates released from DOC custody will be archived at the South Dakota State Penitentiary (SDSP). Inactive paper health records for female inmates will be archived at the South Dakota Women's Prison (SDWP).
 - 2. Paper health records will be kept for a minimum of eight (8) years following the date the record is archived.
 - 3. All paper health records that exceed the retention period will be properly destroyed. The South Dakota Department of Health is responsible for coordinating the proper destruction of inmate medical records in a way that meets the destruction criteria set by the Department of Health and state and federal law.
 - 4. Inmates released from DOC custody, including those on Suspended Sentence or parole supervision, are entitled to the same privacy rights that apply to all other non-incarcerated individuals under Privacy Regulations/HIPPA laws.

3. Transfer of Health Records:

- A. Pertinent health information in the form of summaries, originals, copies or print-outs of health records, as determined by health service staff, will accompany inmates approved for transfer to another correctional institution (includes half-way houses or other community correctional programs), including those outside the jurisdiction of the South Dakota DOC and out of state (Interstate Compact) placements (See DOH policies P-H-04A [Intra System Transfer of Medical Records](#) and ACA 4-4414).
- B. Inmate records stored in CorrecTek™ may only be reviewed by authorized persons (See DOH policy P-H-04A [Intra System Transfer of Medical Records](#)).
- C. To avoid delays in continuing medications and treatment, authorized staff at the receiving institution will review each transferred inmate's medical record upon arrival. If no authorized staff is on duty at the time of admission, the inmate's records should be reviewed within twelve (12) hours of admission.
 - 1. A computer generated transfer sheet will be completed for inmates transferring from the institution (See DOH policy P-E-03 [Transfer Screening](#)).
 - 2. Health record confidentiality will be maintained throughout the physical or electronic transfer of inmate records (ACA #4-4414).

4. Inmate Access to Health Records:

- A. Inmates may inspect their health records, billing records, and other associated records, in whole or part, used to make medical decisions about them and receive copies of these records, unless providing such copies would put at risk the health, safety, security, custody or rehabilitation of the inmate or other inmates, or the safety of any staff member or other person (See DOC policies 1.1.E.3 *Offender Access to DOC Records*, DOC policy 1.4.E.10 *Medical Co-Payment Fees* and DOH policy P-H-02A *Release of Information From Medical Records*). Sensitive information, such as the date(s) of future appointments off-site may be redacted and secured.
1. A co-pay fee may be charged to an inmate to inspect their medical record, billing record or other records in whole or part used to make medical decisions about them. The inmate will be supervised by health service staff while inspecting their records.
 2. Inmates requesting and approved to receive copies of their medical records, billing records or other associated records, in whole or in part, used to make medical decisions about them, may be charged a set fee for each copy generated.
 3. Inmates may not inspect psychotherapy notes, or records that contain information compiled by the institution for use in a criminal or administrative proceeding.
- B. If an inmate escapes from custody, the Warden or Secretary of Corrections may authorize the disclosure of certain protected health information that may be useful in the apprehension of the inmate, consistent with applicable laws and standards of ethical conduct. (HIPPA does not restrict the use or disclosure of an escaped inmate's medical information).

5. Release of Medical Records/Protected Health Records:

- A. Disclosures of protected health information for law enforcement purposes is permitted as follows:
1. Protected health information may be released from an inmate's health record to comply with a court-ordered warrant, subpoena or summons issued by a judicial officer, a grand jury subpoena, or through statutory privilege. The Clinical Supervisor will be notified of such requests by the Warden or his/her designee.
 2. An administrative subpoena or investigative demand or other written request from a law enforcement official. Administrative requests should include or be accompanied by a written statement that the information requested is relevant and material, specific and limited in scope.
 3. To respond to a request from law enforcement for the purpose of identifying or locating a suspect, fugitive, material witness or missing person. Such disclosures are limited to certain medical information.
 4. To assist the medical examiner or coroner in determining cause of death or to carry out other authorized duties.
 5. To law enforcement to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public by an inmate, or to identify or apprehend an inmate who has escaped from custody.
 6. In instances where disclosure of protected medical records/health information is permitted, only the necessary amount of information required may be used or disclosed.

- B. Any protected health information released that includes an inmate's **behavioral health records** must have the approval of the Clinical Director or his/her designee.

Note: Medical staff is not permitted to release behavioral health records. Behavioral health staff is not permitted to release medical records. Prior approval from the respective responsible health authority is required.

- C. Privileged medical information from an inmate's health record may be accessed and/or released/transferred in accordance with state and federal law (ACA 4-4415). The Correctional Health Clinical Director may authorize the disclosure of the inmate's protected health information to institutional staff or law enforcement personnel having custody over the inmate as necessary for:
1. The provision of health care;
 2. The health and safety of the inmate or other inmates;
 3. The health and safety of institutional staff;
 4. The health and safety of those staff or other personnel responsible for transporting or transferring of inmates;
 5. Law enforcement on the institutions grounds or within the facility; and
 6. The administration and maintenance of the safety, security and good order of the institution.
- D. The following may submit a written request to receive protected health information contained within an inmate's medical records. A valid signed Release of Information from the inmate or legal representative is required and must accompany the written request (See DOH policy P-H-02 [Confidentiality of Health Records](#)).
1. Attorneys;
 2. Other health care facilities/providers;
 3. Regulatory agencies, Center for Disease Control (CDC), DOH and its various Divisions (Vital Statistics, Disease Intervention Office etc.);
 4. Welfare organizations, Social Security Administration;
 5. Workers Compensation;
 6. Disability Determination Services;
 7. South Dakota Advocacy Services; and
 8. Others, as approved by the responsible health authority.
- E. Access to protected health information is controlled by the responsible health authority. Health records will be stored separate from confinement records and only accessible to authorized individuals (ACA #4-4396).
- F. DOC staff authorized to inspect an inmate's medical records will not remove any records from the designated storage area.
- G. Confidentiality of each inmate's health information, including health information contained within paper health records or electronically, will be maintained at all times.

5. Documentation of Health Records:

- A. Laboratory reports, consultant reports, discharge summaries, diagnostics studies, etc. will be maintained in the inmate's medical file (See SDCL § [24-2-19](#)).

- B. The health care provider will properly maintain a record of any care received or provided to an inmate in DOC custody by an outside health care facility.

V Related Directives:

SDCL § [24-2-19](#).

DOC policy 1.1.E.3 – [Offender Access to DOC Records](#)
DOC policy 1.4.A.2 -- [Inmate Admission](#)
DOC policy 1.4.E.10 – [Medical Co-Payment Fees](#)
DOH policy P-H-01 – [Health Record Format and Contents](#)
DOH policy P-H-01A -- [Medical Records Chart Order](#)
DOH policy P-H-02 – [Confidentiality of Health Records and Information](#)
DOH policy P-H-03 -- [Management of Health Records](#)
DOH policy P-H-04A -- [Intra System Transfer of Medical Records](#)
DOH policy P-H-05 – [Transfer of Health Records](#)
DOH policy P-H-06 – [Retention of Health Records](#)

VI Revision Log:

July 2003: **Added** references to DOH policies PH 01, PH 02, PH 05 and PH 06. **Added** reference to policy 1.1.E.3 **Changed** the wording on disposing of inactive medical files Deleted reference to record retention from the policy statement.

September 2004: **Changed** policy reference name from *Inmate Access to Records* to *Offender Access to Records* **Changed** inmate to offender **Changed** Director of Nursing to Clinical Supervisor. **Revised** attachment 1.

September 2005: **Expanded** policy to include juvenile offenders **Added** definition of offender. **Added** attachment 2 **Clarified** that Health Services will release an offender's medical records to another state agency/department with a signed release.

October 2006: **Added** reference to policy 1.4.E.10 Revised attachment 1.

October 2007: **Revised** attachment 1. **Updated** the name of DOH policy P-H-02.

September 2008: **Revised** formatting of policy and attachments in accordance with DOC policy 1.1.A.2. **Added** reference to DOC policy in section V.

September 2009: **Added** mental health to policy statement. **Deleted** Medical Director or psychiatrist for Mental Health Records in ss (B), **added** reference to Clinical Director or designee for release of mental health records within new ss (C), **added** Note, **deleted** former ss (C) regarding Health Services being the final authority on who is provided access to offender's health records and **added** new ss (G) all within (Access to Records),

September 2010: **Revised** formatting of Section I. **Revised** Note within section (Access to Medical Records) to state prior approval must be granted and copies can be made by either medical or mental health staff once permission is granted.

October 2010: **Deleted** former ss (B) stating that any request/release of medical records must receive prior approval from the Clinical Supervisor or designee and **replaced** with referencing any request/release of medical records must accompany a signed release of information from the offender in new ss (B) both within (Access to Medical Records).

November 2012: **Added** "Records should be organized in a uniform manner and the order of content standardized as offenders may be transferred throughout the DOC system" in Section 1 B. **Added** "provided to the offender to help facilitate continuity of care and ensure diagnostic evaluations are current" to Section 1 C. **Added** "by the owner(s)" to Section 2 D **Added** "Access to medical records is controlled by Health Services" to Section 2 F Added H. to Section 2.

September 2013: **Added** D. to Section 1. **Deleted** "expiration of the offender's maximum sentence and **Replaced** with "the date it is archived" in Section 2 B. 3. **Added** D. to Section 2. **Added** 1. and 2. to Section 3 A. **Added** "or legal representative" to Section 3 B. **Added** 1. to Section 3 B. **Deleted** D. "Copies of medical records will be released by court order by the owner of the record upon notification from the Warden, Superintendent or designee, the Clinical Supervisor, Charge Nurse or designee" in

Section 3. **Deleted** "Health Service staff will release the offender's medical record to other state agencies/departments with an offender's signed release form" and **Replaced** with "Privileged medical information may be released from an offender's medical record to the following (may require written authorization and signed Release of Information from the offender) and added sub items 1-8 to Section 3 E. **Deleted** "Health Services" and **Replaced** with "Clinical Supervisor or designee" in Section 3 F. **Deleted** " The only exception that may allow for an offender's medical chart to be removed from the medical unit with the correctional facility is when an inmate is being transferred from one DOC institution to another; i.e. from SDSP to MDSP" in Section 3. **Renumbered** section. **Added** G. to Section 3. **Deleted** attachments 1 & 2. Adult and Juvenile Medical Record Contents. September 2014: Added "Electronic medical records (EMR) will be initiated on all admissions to the facility" in Section 1 C.

September 2014: **Replaced** term "medical record" with "health record" throughout policy. **Added** "paper and electronic" to Section 1 B. **Deleted** "incarcerated" and **Replaced** with "admitted to a DOC facility" and **Added** "If previously established, an ERM may be located in COMS for the re-admitted offender" in Section 1 C. **Added** 1. to Section 1 C. **Deleted** D. from Section 1. **Deleted** "Active medical records for offenders currently in custody will be kept in the medical unit in secure open shelf storage" and **Replaced** with "Paper health records for an offender housed in the facility will be retained in a secure area of the facility and under the control of health service staff. Inactive paper medical records will be maintained separately from the records of offenders currently housed at the facility." In Section 2 A. **Added** "paper" health records in Section 2. **Added** 4. to Section 2 B. **Deleted** "After the 10 year period of retaining inactive medical records, the medical record will be destroyed" and **Replaced** with "Medical records that exceed the retention period will be destroyed" in Section 2 B. 5. **Added** new Section 3 "Transfer of Offender Health Records". **Deleted** "Clinical Director" and **Replaced** with "responsible health authority" in Section 4. **Added** 2. to Section 4 B. **Added** "mental health and dental" in Section 5 A.

September 2015: **Reviewed** with no changes.

March 2016: **Deleted** references to juvenile and STAR Academy. **Added** definition of "inmate".

September 2016: **Added** definition of "Protected Health Information". **Added** "The DOC may obtain or use protected health information that exists for the inmate to provide health care to the inmate, for the health and safety of other inmates, staff and for administration and maintenance of the safety, security and good order of the institution" in Section 1 A. **Deleted** C. in Section 1. **Added** "are electronic" and **Added** "prior to April 2015" in Section 2 A. **Added** "Electronic records will continue to be maintained in the electronic system (CorrecTek) used by Health Services" in Section 2 B. **Deleted** 10 and **Replaced** with 8 in Section 2 b. 2. **Added** 4. to Section 2 B. **Added** "Sensitive information, such as the date(s) of future appointments off-site may be redacted" in Section 4 A. **Added** 3. to Section 4 A. **Added** B. to Section 4. **Added** new section 5 title. **Added** "billing records, and other records in whole or part used to make medical decisions about them" and **Added** "unless providing such copies would put at risk the health, safety, security, custody or rehabilitation of the inmate or other inmates, of the safety of any staff member or other person at the facility" in Section 5 A. **Added** 1-6 in Section 5 B. **Added** "court-ordered warrant, subpoena or summons issued by a judicial officer, a grand jury subpoena" to Section 5 B.1. **Added** C. and 1-6 to Section 5.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

10/14/2016

Date