
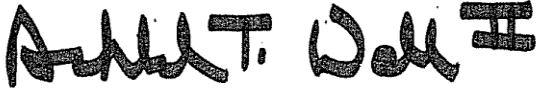


RHODE ISLAND DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE

	POLICY NUMBER: 18.59-6 DOC	EFFECTIVE DATE: 01/25/16	PAGE 1 OF 10
	SUPERCEDES: 18.59-5 DOC	DIRECTOR 	
SECTION: HEALTH CARE SERVICES		SUBJECT: CONFIDENTIALITY OF INMATE HEALTH INFORMATION TO INCLUDE ELECTRONIC MEDICAL RECORD (EMR) AND PAPER DOCUMENTS	
AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10(22), Powers of the director			
REFERENCES: Health Insurance Portability and Accountability Act (HIPAA) of 1996, 45 CFR Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information, Final Rule 4/13/01; NCCHC Standard #J-59 (Confidentiality of Health Records) JH02, JH03, JH04, JH06; JH01 J-58, Health Record Format and Contents; J-61, Availability and Use of Health Records; P-44, Continuity of Care; J-63, Retention of Health Records ACA Standard 4-4396, Confidentiality of Health Records Files; 4-4413, Contents of Health Record Files; 4-4415, Transferred and Inactive Records; the most recent versions of RIDOC Policies #5.01 DOC, Management of Semi-Active and Archival Records ; #6.06 DOC, Research ; #9.49 DOC, PREA (Prison Rape Elimination Act) Policy ; #18.05 DOC, Continuous Quality Improvement and Physician Peer Review ; #18.30 DOC, Receiving Screening and Mental Health Evaluation of New Commitments ; RIGL § 5-37.3-1 et seq., Confidentiality of Health Care Communications and Information Act; § 23-6-17 Confidentiality - Disclosure of (HIV) Test Results; § 38-3-5.1, Reproduction of Public Records - Destruction of originals; § 38-3-6, Public records custody and disposal; 42 CFR Part 2 Drug and Alcohol Abuse Information; <u>Federal Register</u> Vol. 65, No. 250, 12/28/00, Definitions, page 82803 (§ 164.501); 45 CFR Parts 160 and 164 - Standards for Privacy of Individually Identifiable Health Information Final Rule - 12/28/00 - Updated, 08/03; Rhode Island Department of Health Rules and Regulations for the Licensure and Discipline of Physicians as amended 01/2000 (Medical Records, 11-2); DOJ Final PREA Standards 115.81 Medical and Mental Health Screenings; history of sexual abuse			
INMATE ACCESS THROUGH LAW LIBRARY?		X YES	
AVAILABLE IN SPANISH?		X YES	

I. PURPOSE:

- A. To comply with federal and state requirements to reasonably protect confidential inmate health information during and after incarceration.

- B. To provide for orderly organization of inmate health information in order to enhance services as well as promote continuity of care as inmates transfer from one health services setting to another.
- C. To provide an outline of information included in designated record sets.
- D. To ensure that inmate health information is compiled, maintained and stored in accordance with applicable State and Federal laws.

II. **POLICY:**

- A. Confidential inmate health information whether communicated electronically, on paper or orally, is considered protected from unauthorized disclosure except as outlined below.

NOTE: Unauthorized disclosure may result in employee discipline (up to and including termination and civil and/or criminal penalties).

- B. During an inmate's incarceration, protected health information about inmates may be disclosed without signed authorization from the inmate-patient for the following reasons:

- 1. Provision of health care;
- 2. Health and safety of inmate or others;
- 3. Health and safety of transporting teams;
- 4. Law enforcement on the premises at the Rhode Island Department of Corrections (RIDOC);

NOTE: Exceptions for this instance shall only be by the authorization of the Director/designee.

- 5. The administration and maintenance of safety, security, and good order of RIDOC on a case-specific basis;
- 6. Peer Review and Continuous Quality Improvement activities.
- C. A signed [Authorization to Request/Release Health Care Information Form](#) must be completed by the inmate prior to release of confidential health information for all

- inmates on pre-trial release, probation, parole, or any such person no longer in lawful custody of RIDOC.
1. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans, security and management decisions, including housing, work, education and program assignments, or as otherwise required by Federal, state or local law.
 2. Medical and mental health services shall obtain authorization from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. Inmates giving such authorization shall fill out an [Authorization to Request/Release Health Care Information Form](#).
- D. The storage media used for health information is the property of RIDOC and is maintained by the Department in accordance with all Federal and State laws. The electronic medical record identifies the patient by name, RIDOC identification number, and date of birth.
- E. Printed documents are provided by the Medical Records staff to the patient and/or a requestor with a completed and signed authorization from the patient. A copy of the signed authorization is provided to the patient at the time of the completion of the printed documents contained in the electronic medical record (EMR).
- F. Upon request, the inmate is provided with one copy of his/her health information contained in the EMR.
1. The inmate is responsible for fees associated with the photocopies (see item III.C.).
 2. It is the inmate's responsibility to secure this copy and provide copies to others, as s/he deems appropriate.
- G. Health information stored on the RIDOC computer network or stand-alone personal computers shall be secured at all times.

RIDOC's Management Information Systems (MIS) Unit performs a systematic backup of all computerized medical information-related files at least weekly according to State of Rhode Island DoIT Policies.

- H. The electronic medical record (EMR) is available to and used for documentation by all health care practitioners (medical, mental health, and dental care) for each clinical encounter with inmates in order to provide continuity of care.
- I. Inmates' records (EMR documents) are maintained for a duration consistent with Rhode Island General Laws §38-3-5.1 and §38-3-6, and the most recent version of RIDOC Policy 5.01 DOC, [Management of Semi-Active and Archival Records](#).

III. PROCEDURES:

A. General Guidelines

- 1. Access to health information is limited to those individuals specified on the Health Information Access List (Attachment 1), developed and maintained by the Medical Records Unit.
- 2. Individuals not listed on the Health Information Access List may submit written requests for disclosures to the Director or designee. Said requests will be considered after consultation with the Privacy Officer or designee.
- 3. Health information may be faxed for medical emergencies only.
- 4. Alcohol and drug abuse information may not be released unless specific consent is obtained from the inmate per Federal Regulations 42 CFR Part 2.
- 5. Rhode Island General Laws (RIGL) §23-6-17, Prevention and Suppression of Contagious Diseases, precludes disclosure of HIV status without the specific consent from the inmate.
- 6. Inmate-patient requests for photocopies of mental health notes shall be denied (45 CFR Parts 160 and 164).
- 7. At all times, confidentiality of the medical record and its contents will be maintained. If records are transported by non-medical staff, the records are enclosed in sealed envelopes.

B. Release of Information (Inmate -patient and/or Authorized Representative)

- 1. RIDOC's Medical Records Unit (or other authorized agent) may release the contents of an inmate's electronic medical record to a designated individual

or agency upon receipt of an [Authorization to Request/Release Health Care Information Form](#) by the inmate.

- a. The form must be properly dated and signed by the inmate.
- b. The inmate retains a copy of the authorization for his/her personal use.
- c. The original is scanned into the EMR.

2. The inmate is responsible for costs associated with retrieving, copying and mailing a copy of his/her healthcare information.
3. The former inmate-patient may request copies of his/her medical record in writing [Medical Records Unit, Intake Service Center, P.O. Box 8249, Cranston, RI 02920] or via telephone (401-462-3880).

C. Photocopying Charges:

1. Copies of electronic medical records provided for continuity of patient care (e.g., to physicians, hospitals, health/mental health centers, and other health service providers) shall be provided free of cost.
2. Consistent with the Rhode Island Department of Health's guidelines (current as of this policy's effective date), inmates and authorized representatives [as defined in RIGL §5-37.3-3(1)] will be charged for copies of inmate electronic medical records (in whole, or in part) as follows:
 - a. Reimbursement shall be twenty-five cents (\$0.25) per page for the first one hundred (100) pages.
 - b. After one hundred (100) pages, the fee is ten cents (\$0.10) per page.
 - c. Retrieval Fee - A fee of fifteen dollars (\$15.00) will be charged to attorneys and insurance agents for retrieval, regardless of the amount of time necessary to retrieve the record.
 - d. Social Security Administration - Requests for copies will be reimbursed to the RIDOC or its authorized agent for up to fifteen dollars (\$15.00) per request.
 - e. Subpoena Fee - The attorney requesting records through a subpoena shall reimburse the RIDOC or its authorized agent a fee of fifteen dollars (\$15.00) plus twenty-five cents (\$0.25) per page for

the first one hundred (100) pages. After one hundred (100) pages, the fee is ten cents (\$0.10) per page.

- f. United States postage fees will be incurred by requestor on all requests.
- g. Requests made by Rhode Island state agencies will be processed without incurring fees by the requestor.
- h. Indigent Inmates - If an inmate has an insufficient balance, a charge will be placed against his/her account. Such a charge will result in a negative balance in the inmate's account.

When an inmate's account has a negative balance because of such photocopying charges, one-half of all future deposits will be used as an offset to the charges until such time as the charges have been paid in full. There are no restrictions on the other half of deposits beyond normal restrictions.

Any remaining debt at the time of an inmate's release from institutional custody is considered a legal debt and is subject to civil remedy by the State.

NOTE: Unreasonable (i.e., voluminous and/or repetitive) requests for photocopies from indigent inmates may be denied at the discretion of the Associate Director of Health Care Services (Corrections) and/or the Medical Records Unit.

- 3. Attorneys who represent non-profit legal aid agencies (e.g., Rhode Island Legal Services) and are requesting medical records for Social Security claims will not be charged for photocopies.
- 4. No charge shall be made for furnishing healthcare information to any individual currently or formerly under RIDOC jurisdiction, his or her attorney, or other authorized representative if the information is necessary for the purpose of supporting a claim or appeal under any provision of the Social Security Act, 42. U.S.C. section 301 et seq., or Worker's Compensation Act, chapters 29-38 of RIGL title 28.
 - a. Any request of this nature must be accompanied by documentation of the social security or worker's compensation claim or appeal.

- b. RIDOC's Medical Records Unit shall furnish health records pursuant to this section within thirty (30) days of the request.

D. Access to Health Information for Research Purposes

A copy of the Institutional Review Board (IRB) approval shall be maintained by the Medical Research Advisory Group (MRAG) for all research projects involving health care (See the most recent version of RIDOC Policy 6.06 DOC; [Research](#)). This list of approved projects includes the name of the principal investigator and any research assistant(s) associated with each project and is updated as appropriate (i.e., whenever a new research project is approved, or a project is completed). The principal investigator provides the appropriate certification from the institution where the IRB approval or waiver has been issued. The research assistants gather data during normal RIDOC business hours.

E. Original Documents

All health care information remains on RIDOC premises at all times. Upon receipt of a court order, a certified copy will be hand carried to the court for review. No other exceptions will be granted.

F. Confidentiality Training

1. Training for Health Care Services Staff:
 - a. All new hires for Health Care Services are provided with training on confidentiality, record documentation and the Health Insurance Portability and Accountability Act (HIPAA). Health Care Services staff shall sign a [confidentiality agreement](#). Confidentiality agreements are maintained by the Medical Records Unit.
 - b. At the conclusion of the training, the Medical Records Unit ensures all staff with access to inmates' personal health information read and sign a [Confidentiality Agreement](#) as required by Rhode Island General Laws §5-37.3-4(c)(3). The original shall be filed with the Medical Records Unit, and a copy will be provided to the employee upon request.
 - c. The Medical Records Unit forwards the names of and applicable documentation for staff that has been trained, as specified above, to the Training Academy for appropriate action.

2. Training for Custody Staff:

All Custody staff receives training on confidentiality of inmate health information as part of pre-service training.

G. Privacy Notice (Post Release)

Following an inmate's discharge from the RIDOC, s/he may request a copy of RIDOC's [Privacy Notice](#) governing release of personally identifiable health information from the Medical Records Unit [Intake Service Center, P.O. Box 8249, Cranston, RI 02920; telephone (401) 462-3880]. The Medical Records Unit staff responds in writing to the address provided by the inmate-patient within thirty (30) days.

H. Right to Disclosure (Post Release)

1. After discharge from the RIDOC, the inmate may request a list of disclosures made of his/her electronic medical record.

Only disclosures made following the inmate's discharge from the RIDOC will be reported (HIPAA Rules 4-13-01) - i.e., this rule does not apply to disclosures made while the inmate was incarcerated.

2. RIDOC responds in writing within sixty (60) days of receipt of the request (HIPAA Rules 4/13/01).

I. Format and Content

1. All Health Care Services staff documents all health services they provide to inmates in affected inmates' electronic medical records. Tampering with, altering or destroying a medical record is strictly forbidden. Disciplinary action, up to and including termination, and civil and/or criminal penalties may be taken against any person found guilty of such actions.
2. Any bills associated with services provided to inmates for medical furloughs or other services as necessary are maintained in files other than inmate health information.

3. Designated Record Sets
 - a. Per the Federal Register's §164.501, a designated record set means a group of records maintained by or for a covered entity that is:
 - (1) the electronic medical records and billing records about individuals maintained by or for a covered health care provider;
 - (2) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - (3) used, in whole or in part, by or for the covered entity to make decisions about individuals.
 - b. For the purposes of this policy, the term "record" means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.
 - c. Designated Record Sets exclude:
 - (1) Data collected and maintained for:
 - i. Research;
 - ii. Peer review purposes;
 - iii. Performance improvement purposes.
 - (2) Appointment schedules;
 - (3) Death collection forms;
 - (4) Duplicate copies of information that can be located in medical and/or billing records;
 - (5) Psychotherapy notes;
 - (6) Information compiled in reasonable anticipation of or use in civil, criminal or administrative actions or proceedings;

- (7) Administrative information (e.g., audit logs, authorizations for release of information, consent forms);
- (8) X-rays (films);
- (9) Photos.

4. Records Maintained by Business Associates

Records maintained by business associates (i.e., consultants or contracted health service providers) that meet the definition of designated record sets and are not duplicates of information maintained by RIDOC's Health Care Services may be included in designated record sets.

Electronic medical records are available 24 hours a day for all active patients. If the patient does not have a file in the EMR, a paper record will be forwarded to the facility within 72 hours of commitment (if an old paper record is available).

J. Retention

Inmate health care information is maintained in accordance with the most recent version of RIDOC Policy 5.01 DOC, [Management of Semi-Active and Archival Records](#).