

GEORGIA DEPARTMENT OF CORRECTIONS



Standard Operating Procedures

Policy Name: Confidentiality of the Health Record and Release of Information

Policy Number: 507.02.02

Effective Date: 3/29/2022

Page Number: 1 of 10

Authority:
Commissioner

Originating Division:
Health Services Division
(Physical Health)

Access Listing:
Level I: All Access

I. Introduction and Summary:

All health information will be regarded as Confidential, available to authorized users, and released in accordance with federal and state law and departmental policy. This policy is applicable to all facilities that house Georgia Department of Corrections (GDC) offenders to include private and county prisons.

II. Authority:

- A. O.C.G.A. §§ 24-12-1, 24-12-13, 24-12-21, 37-3-166, 37-4-125, 50-18-71, and 50-18-72;
- B. GDC Standard Operating Procedure (SOP): 507.04.61 HIV Antibody Testing;
- C. NCCHC 2018 Adult Standard: P-A-08; and
- D. ACA Standards: 5-ACI-6C-03 (Mandatory), 5-ACI-6C-06, 5-ACI-6D-03 (Mandatory), 5-ACI-6D-06, 5-ACI-6A-16 (Mandatory), 4-ALDF-4C-17, 4-ALDF-4C-40, 4-ALDF-4D-13, 4-ALDF-4D-14, 4-ALDF-4D-22-8, 4-ALDF-4D-24, 4-ALDF-4D-27, 4-ACRS-4C-10, and 4-ACRS-4C-21.

III. Definitions:

- A. **Confidential/Privileged** - Protection afforded by law from unauthorized Disclosure.
- B. **Disclosure** - The acts of transmitting or communicating medical matters to a person who would not otherwise have access thereto.

IV. Statement of Policy and Applicable Procedure:

- A. Ownership of Health Records and Health Information:
 - 1. A health record will be maintained for every offender in the custody of the Georgia Department of Corrections (GDC).

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2. The health record is the property of the GDC and will be maintained in accordance with professional standards and practices governing health record administration.
3. The health information contained in the health record belongs to the patient. It will be kept Confidential and will be released in accordance with federal and state law and GDC policy.

B. Access to the Health Record:

1. All health records will be kept separate from custody records and stored in a secure area under the control of the Responsible Health Authority. Health records will not be left unattended in areas accessible to unauthorized individuals.
2. An accountability system will be established for all health records being removed from the record room.
3. Direct access to the health record will be limited to the following:
 - a. Medical, dental, and mental health care providers employed by GDC or the contract vendor who are providing health care services to the patient.
 - b. Health consultants employed or contracted with by GDC or the contract vendor.
 - c. Members of the Office of Health Services, Central Office, and the contract vendor's designated personnel involved in conducting quality improvement studies or investigating offender health care concerns.
 - d. Individuals conducting research approved by the Health Services Director and Commissioner.

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- e. The Georgia Attorney General's Office or other legal agents of involved parties in the event an offender brings a suit that puts his/her medical care at issue in any civil or criminal proceeding.
 - f. Non-Medical employees in order to process a medical grievance or a medical reprieve filed on behalf of an offender, to comply with a valid subpoena, or to fill a medical records request.
 - g. Internal Affairs Investigators in order to properly investigate circumstances including, but not limited to, an unusual death or suspicious death, allegation of excessive use of force by correctional personnel, and sexual abuse of offenders.
 - h. Offenders or any representative designated by the offender pursuant to Section IV.E. of this SOP.
 - i. Exceptions to (h) are permitted in certain mentally disordered patients in which the treating psychiatrist believes that disclosure of medical information would be detrimental to the physical or mental health of the patient and makes a notation to that effect in the health record.
4. Direct access to the health record by other individuals is prohibited unless the offender signs a release of information form permitting such access to a designated person.

C. Access to Health Information for Non-Medical Personnel:

- 1. Access to health information for non-medical personnel is necessary in certain circumstances for the purposes of:
 - a. Appropriate classification of the offender which includes institutional, housing, and program and work assignments based on medical limitations and capabilities;

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- b. Access to health services in emergency situations (e.g., conveying to a correctional officer that an offender complaining of chest pain may be experiencing a heart attack and requires immediate transport);
 - c. Access to medical tests or treatments under correctional officer control when health care personnel are not in the facility (e.g., correctional staff observing diabetics self-administering insulin or conducting blood sugar testing by glucometer instruments kept at the control room);
 - d. Ensuring that medical appointments in or outside the institution are kept in a timely manner (e.g., providing a list of offenders who have medical appointments to correctional staff); and
 - e. Protection of staff or offenders from infectious diseases (e.g., an offender is on respiratory precautions to prevent transmission of a pulmonary infection such as tuberculosis). See Section D of this SOP regarding protection of HIV/AIDS Confidential Information.
2. The Office of Health Services will collaborate with the Facilities Division to ensure that adequate health information is available for the appropriate classification of offenders. Appropriate security measures will be instituted to prevent unauthorized access to Confidential medical information (e.g., security codes for access to OTIS).
3. In general, the sharing of health information will focus on measures to be taken to provide the medical service needed (e.g., bottom bunk, housing with wheelchair access, universal precautions) and avoid the Disclosure of diagnoses (e.g., seizure disorder, multiple sclerosis, HIV infection). Medical diagnoses will only be shared in circumstances where it is necessary to ensure the delivery of services (see IV.C.1.a-e).
4. Apart from medical information required for the appropriate classification and assignment of offenders, Confidential information from offender's medical files will not be included in the institutional or central office files.

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5. Any conflicts regarding the sharing of health information on a "need to know" basis will be directed to the contract vendor Statewide Medical Director. Unresolved issues will be directed to the GDC Statewide Medical Director for clarification.
6. Correctional personnel who during their duties receive Confidential health information will be responsible for maintaining the confidentiality of the information and not releasing it to unauthorized persons.

D. Confidential HIV/AIDS Information:

1. HIV/AIDS Confidential Information will only be released in accordance with state law and GDC policy.
2. HIV/AIDS Confidential Information may be disclosed:
 - a. To the offender identified by that information or, if that person is a minor or incompetent person, to the offender's parent or legal guardian.
 - b. To any person or legal entity upon completion of a Release of Information Form completed by the offender (or person's legal guardian if a minor or incompetent).
 - c. To any agency or department authorized or required by law to be reported to that agency or department. This includes the Department of Public Health and the Georgia Board of Pardons and Parole.
 - d. To the health care provider who ordered the HIV test.
 - e. When a physician has determined that an offender is infected with HIV and the physician reasonably believes that the spouse or sexual partner or any child of the offender, spouse, or sexual partner is at risk of being infected with HIV by that patient, the physician may disclose to the person at risk that the patient has been determined to be infected with HIV after first

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attempting to notify the patient that such disclosure is going to be made to the Department of Public Health for the purpose of partner or victim notification.

- f. Any health care provider authorized to order an HIV test may disclose AIDS Confidential information regarding a patient thereof if that Disclosure is made to a health care provider or health care facility which has provided, is providing, or will provide any health care services to that patient and as a result of such provision of service that health care provider or facility:
 - 1) Has personnel or patients who may be persons at risk of being infected with HIV by that patient if that patient is an HIV infected person and such Disclosure is reasonably necessary to protect any such personnel or patients from that risk; or
 - 2) Has a legitimate need for the information in order to provide health care services to the patient.
- g. To other GDC employees only when reasonably necessary to protect other persons at risk of infection or to provide treatment to the patient. This includes sharing information in order to arrange for necessary health care services as well as the appropriate classification and assignment of offenders. Any conflict as to what constitutes "reasonably necessary" will be resolved by the GDC Health Services Director in collaboration with the respective divisional Director.
- h. Pursuant to a court order meeting the requirements of O.C.G.A. § 24-12-21.
3. Any Disclosure of HIV/AIDS Confidential information authorized by law or GDC policy will in no way destroy the Confidential nature of that information except for the purpose for which the authorized Disclosure is made.

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E. Release of Health Records:

1. Requests to release health records to third parties (e.g., attorneys, outside medical facilities) will be processed by GDC Legal Services and will be honored upon receipt of a signed HIPAA compliant authorization.
2. All requests for copies of health records should be immediately forwarded to GDC Legal Services.
3. Upon receipt of a request for health records, GDC Legal Services will:
 - a. Confirm that the authorization received is valid and HIPAA compliant;
 - b. Contact the appropriate facility and/or Offender Administration to request the specific records that need to be copied;
 - c. Invoice the requestor, where applicable, for the copying of the records and collect the payment; and
 - d. Send the records to the requestor.

F. Requests for Access to an Offender's Own Medical Record and for Photocopying of Records.

1. Offenders who wish to have access to their own health record will submit their request in writing to the Responsible Health Authority or designee who will make arrangements for the offender to inspect the record under the supervision of a staff member. The Responsible Health Authority will designate a reasonable time period for the inspection with additional time rescheduled if more time is requested.
2. Offenders who wish to receive copies of specific information in the record will identify the information desired in writing using the Release of Information form. Arrangements will be made to make a copy the specified information

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within 30 days. A notation will be made on the form as to what specific information was released to the offender.

3. Offenders requesting a photocopy of health records will be responsible for the reasonable costs of copying the health record information. The offender will be charged for the labor of photocopying the records at the prorated salary of the staff member that copied the records. An invoice will be provided to the offender. Offenders will be required to provide payment prior to the records being furnished.
4. Offenders may maintain these records in their possession; however, the GDC will not assume responsibility for the confidentiality or protection of any health information released to the offender. Offenders will be advised that during security shakedowns, envelopes containing health records may be inspected by correctional officers for contraband.
5. Offenders in the system (or those who have been released) wishing to have photocopies of health records sent to a health care provider, legal representative, or other person designated by the offender will complete and sign a Release of Information form which will be sent to GDC Legal Services for processing. Payment may be required prior to furnishing the records.

G. Certified Copies of Health Records:

1. Certified copies of the offender's health record will be provided upon request and receipt of the proper authorization for release.
2. A notarized Statement of Authenticity will accompany the copy upon release.

V. Attachments: None.

VI. Record Retention of Forms Relevant to this Policy: None.