

DISCLOSURE OF PROTECTED HEALTH INFORMATION PERTAINING TO INMATES POLICY

RESPONSIBILITY: Privacy Official or Designee(s)

BACKGROUND:

In order to protect the health and safety of prisoners and law enforcement officials, and the safety of correctional institutions, protected health information of prisoners and others in lawful custody may be disclosed under certain circumstances without written authorization.

POLICY:

Except for mental health information it is not necessary to obtain a patient's authorization to disclose protected health information when the patient is an inmate in a correctional institution or is otherwise in lawful custody.

Permitted disclosures. Except for mental health information Behavioral Health and Health Facilities (BHFF) may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual, protected health information (PHI) about such inmate or individual, if the correctional institution or law enforcement official represents that the protected health information is necessary for:

1. The provision of health care to such individuals;
2. The health and safety of such individual or other inmates;
3. The health and safety of the officers or employees of or others at the correctional institution;
4. 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 setting to another;
5. Law enforcement on the premises of the correctional institution; and
6. The administration and maintenance of the safety, security, and good order of the correctional institution.
7. Special Rule for Mental Health Information
 - a. Mental Health Information, including whether a patient is or was a mental health patient of BHFF, may not be disclosed except:
 - i. When authorized by the patient or representative. BHFF cannot deny treatment for refusal to give authorization except when necessary for or payment by a third party;

- ii. In involuntary commitment proceedings or proceedings to determine whether a criminal defendant is competent to stand trial or not guilty by reason of mental illness;
- iii. Pursuant to a court order finding the information is sufficiently relevant to a case before the court to outweigh the need to protect this information;
- iv. To protect against a clear and substantial danger to the patient or others;
- v. For treatment and internal review purposes; and
- vi. To comply with state and federal legal and regulatory requirements.

For the purposes of this policy, an individual is no longer considered to be an inmate or in lawful custody when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.

It is not necessary to include disclosures made under this policy in any accounting of disclosures. See ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION.

Effective Date: 4/14/03

Dates Revised:



Jerome E. Lovrien, Commissioner, Bureau for Behavioral Health and Health Facilities