



Illinois Department of Corrections

Administrative Directive

Number: <b>01.07.105</b>	Title: <b>Health Insurance Portability and Accountability for Health Information Privacy and Security</b>	Effective: <b>6/1/2022</b>
-----------------------------	--	-------------------------------

Authorized by:	<b>Rob Jeffreys</b> Director
Supersedes:	01.07.105 effective 9/1/2005

<b>Authority:</b> 45 CFR 160 and 164 740 ILCS 110/1 et. seq DR 107	<b>Related ACA Standards:</b> 5-ACI-1C-23, 5-ACI-1E-01, 05, 5-ACI-6C-02,03,04,10,11, 12, 5ACI-6D-02
<b>Referenced Policies:</b> 04.01.114	<b>Referenced Forms:</b> DOC 0240 – Authorization for Release of Individual in Custody Mental Health or Substance Abuse Treatment Information DOC 0241 – Authorization for Release of Individual in Custody Medical Health Information DOC 0242 – Individual in custody Request to Restrict Health Information DOC 0243 – Response to Individual in custody's Request to Restrict Health Information DOC 0244 – Notification of Restriction of Individual in Custody Health Information DOC 0245 – Individual in custody Notification of Health Information Restriction Agreement Termination DOC 0246 – Individual in custody Health Information Restriction Termination Tracking Document DOC 0247 – Notification of Individual in custody Health Information Restriction Agreement Termination DOC 0248 – Notification of Amended Individual in Custody Health Information Records DOC 0249 – Individual in custody Request to Amend Health Information DOC 0250 – Response to Individual in custody's Request to Amend Health Information DOC 0251 – Individual in custody Health Information Disclosure Accounting Request DOC 0252 – Individual in custody Health Information Disclosure Documentation DOC 0253 – Individual in custody Health Information Disclosure Accounting Suspension DOC 0266 – Health Information Record Management Personnel Distribution and Record Location

**I. POLICY**

The Department shall comply with the federal privacy provisions contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

**II. PROCEDURE**

	Illinois Department of Corrections <b>Administrative Directive</b>	Page 2 of 7
Number: 01.07.105	Title: Health Insurance Portability and Accountability for Health Insurance Privacy and Security	Effective: 6/1/2022

**A. Purpose**

The purpose of this directive is to establish uniform procedures to ensure adequate privacy of health information.

**B. Applicability**

This directive is applicable to all facilities, offices, programs and parole services within the Department.

**C. Facility Reviews**

A facility review of this directive shall be conducted at least annually.

**D. Designees**

Individuals specified in this directive may delegate stated responsibilities to another person or persons unless otherwise directed.

**E. Definitions**

Business associate – an entity that performs a function or activity for the Department involving the use or disclosure of individually identifiable health information, including but not limited to, the provision of services by a third party where the disclosure of individually identifiable health information is necessary.

Designated record set - a group of medical and related records maintained by or for the Department used in whole or part to make decisions about s.

Disclosure – the release, transfer, or provision of access to, or divulging in any other manner of protected health information.

Employee - for purposes of this directive, includes State employees, volunteers, interns, contractual persons, and employees of contractors who are working in a correctional setting and have direct contact with individuals in custody or individual in custody medical records.

Protected health information – any information, in any form or medium such as oral, tape, paper, diskette, fax, e-mail, digital, or voice message that is created or received by the Department and relates to the physical or mental health of an individual, the provision of health care, or payment for the provision of health care.

**F. General Provisions**

1. Health care and mental health information is confidential.
2. Employees found to be non-compliant with HIPAA guidelines may be subject to discipline, up to and including discharge, pursuant to the Department of Central Management Services Personnel Rules and applicable collective bargaining agreements.
3. When disciplinary action is necessary against an employee due to non-compliance with HIPAA guidelines, the Department shall consider the seriousness of the offense and the facts surrounding the case. The Department is committed to the tenets of corrective and progressive discipline and due process for all employees in the workforce.
  - a. Incidents of HIPAA privacy violations regarding protected health information shall be reported in the following manner:

	Illinois Department of Corrections <b>Administrative Directive</b>	Page 3 of 7
Number: 01.07.105	Title: Health Insurance Portability and Accountability for Health Insurance Privacy and Security	Effective: 6/1/2022

- (1) The observing employee shall immediately report violations of HIPAA provisions to his or her immediate supervisor and complete an incident report.
  - (2) The observing employee's immediate supervisor shall report the infraction to the alleged violator's immediate supervisor.
  - (3) Any employee conduct that is considered criminal conduct shall be reported through the appropriate administrative chain-of-command to the proper entity authorized by law in accordance with Administrative Directive 01.12.101.
- b. Complaints by individuals in custody regarding the disclosure of protected health information shall be handled through the grievance procedures in accordance with Administrative Directive 04.01.114.

**G. Requirements**

1. The Director shall appoint:
  - a. A Department HIPAA Coordinator who shall coordinate the responsibilities of the Department's Chief Privacy Officer and HIPAA Security Officer.
  - b. A Chief Privacy Officer who shall coordinate efforts of the Department in carrying out its responsibilities under HIPAA and the Illinois Mental Health and Developmental Disability Confidentiality Act for privacy standards.
  - c. A HIPAA Security Officer who shall coordinate efforts of the Department in carrying out its responsibilities under HIPAA for security standards for the protection of electronic protected health information.
2. The Chief Administrative Officer of each facility shall appoint a Facility Privacy Officer who shall coordinate efforts of the facility in carrying out its responsibilities under HIPAA privacy standards.
3. The Facility Privacy Officer at each facility shall identify and document all designated records sets in the facility and the designated personnel responsible for requests for access to, amendment of, and disclosure accounting for protected health information. The documentation shall be on a Health Information Record Management Personnel Distribution and Record Location, DOC 0266, and an updated copy shall be forwarded to the Chief Privacy Officer by June 30th of each fiscal year.
4. The Department and workforce members shall limit the request or disclosure of protected health information to that which is reasonably necessary to accomplish the purpose for which the request or disclosure is made.
5. The Facility Privacy Officer shall maintain a listing consisting of job categories of employees in the facility workforce who need access to protected health information to carry out their duties and for each category identify the minimum access to protected health information that is required and any conditions appropriate to such access. An updated copy of this list shall be forwarded to the Chief Privacy Officer by June 30th of each fiscal year.
6. For any type of disclosure outside of the facility workforce made on a routine and recurring basis, the Facility Privacy Officer shall maintain a listing consisting of the categories of disclosure and any conditions to access. Access to protected health information shall be limited to the amount reasonably necessary to achieve the purpose of the disclosure. An updated copy of this list shall be forwarded to the Chief Privacy Officer by June 30th each fiscal year.

	Illinois Department of Corrections <b>Administrative Directive</b>	Page 4 of 7
Number: 01.07.105	Title: Health Insurance Portability and Accountability for Health Insurance Privacy and Security	Effective: 6/1/2022

7. All employees shall be trained on the policies and procedures with respect to protected health information.
  - a. New employees shall complete HIPAA training during facility orientation.
  - b. HIPAA polices and procedures shall be reviewed annually in cycle training.
  - c. HIPAA training shall be documented in the training file.

**H. Access and Inspection of Protected Health Information**

1. An individual in custody may request to inspect or obtain a copy of his or her protected health information maintained in designated record sets pursuant to Department Rule 107.
2. The individual in custody or the individual in custody's representative shall request to inspect or obtain a copy of his or her protected health information using the Authorization for Release of Individual in custody Mental Health or Substance Abuse Treatment Information, DOC 0240, or the Authorization for Release of Individual in custody Medical Health Information, DOC 0241, as appropriate.
3. The Facility Privacy Officer shall respond to the individual in custody or the individual in custody's representative within 30 days of receipt of the request.
4. The Facility Privacy Officer may allow the individual in custody or individual in custody's representative to inspect the copies but deny an individual in custody or individual in custody's representative to obtain copies of the information if providing copies would jeopardize health, safety, security, custody, or rehabilitation of the individual in custody or others.
5. The Department may charge a fee for copying and mailing of the information. Standard fees for copies shall be no charge for the first 50 pages and \$0.15 per page thereafter for paper reproductions, \$0.50 per diazo for microfilm, and for all other types of media, the actual cost for reproduction.

**I. Protected Health Information Amendment Procedures**

1. Requests by individuals in custody to amend protected health information or records in a designated record set shall be submitted to the Facility Privacy Officer using the Individual in custody Request to Amend Health Information, DOC 0249. All requests for change shall require formal statement disputing or adding new information, which will be added to the record. Disclosure of the changes shall be accompanied by the statement as provided in this section.
2. The Facility Privacy Officer shall review the request and forward to the Chief Privacy Officer with a recommendation.
3. The Facility Privacy Officer shall respond to the individual in custody's request within 60 days. The Department may take an additional 30 days to respond, if needed, by notifying the individual in custody within the original 60 day response period of the reason for the extension and the anticipated date of response. The extension reason and date shall be noted on the DOC 0249 and filed in the individual in custody's medical file.
4. The Department shall deny a request for amendment if the Chief Privacy Officer determines one of the following:

	Illinois Department of Corrections <b>Administrative Directive</b>	Page <b>5</b> of <b>7</b>
Number: 01.07.105	Title: Health Insurance Portability and Accountability for Health Insurance Privacy and Security	Effective: 6/1/2022

- a. The information was not created by the Department, unless the individual in custody provides a reasonable basis to prove the originator is no longer available to act on the request.
  - b. The information is not part of a designated record set maintained by the Department or business associate on behalf of the Department.
  - c. The individual in custody does not have a right to inspect the information to be amended.
  - d. The information is accurate and complete.
5. The Chief Privacy Officer shall document the approval or denial decision pertaining to the individual in custody's request on the Response to Individual in custody's Request to Amend Health Information, DOC 0250.
  6. The Facility Privacy Officer shall also notify business associates and others who were previously provided the information of the decision to amend the records using the Notification of Amended Individual in custody Health Information Records, DOC 0248.

**J. Disclosure of Protected Health Information Procedures**

1. Upon proper receipt of a signed Individual in custody Health Information Disclosure Accounting Request, DOC 0251, the Facility Privacy Officer shall provide an accounting to the individual in custody of disclosures of his or her protected health information. An accounting shall be limited to disclosures occurring after April 15, 2003 and within the 6 years prior to the date on which the accounting is requested.
2. Disclosures shall be documented using the Individual in custody Health Information Disclosure Documentation, DOC 0252. The DOC 0252 shall include:
  - a. The date of the disclosure.
  - b. The name and, if known, the address of the entity or person who received the disclosure.
  - c. A brief description of the protected health information disclosed.
  - d. A brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or in lieu of such a statement, a copy of the written request for a disclosure.
3. The Department is exempt from accounting for the following disclosures and the documentation recorded on the DOC 0252 shall **not** include disclosures:
  - a. Pursuant to a proper signed authorization or informal permission by the individual in custody or the individual in custody's representative.
  - b. For any exempt purpose made to or by a business associate who creates or receives protected health information on the Department's behalf, including but not limited to medical vendors.
  - c. To correctional or law enforcement officials as required for the health and safety of individuals or for the administration and maintenance of the safety, security, and good order of the correctional institution, including, but not limited to:
    - (1) Internal investigators

	Illinois Department of Corrections <b>Administrative Directive</b>	Page <b>6</b> of <b>7</b>
Number: 01.07.105	Title: Health Insurance Portability and Accountability for Health Insurance Privacy and Security	Effective: 6/1/2022

- (2) Internal auditors
  - (3) Executive staff
  - d. For treatment activities, payment activities, and health care operations.
  - e. For national security or intelligence purposes.
  - f. Mental health professions's notes and psychological test material whose disclosure would compromise the objectivity or fairness of the testing process may not be disclosed to anyone including the subject.
4. The Department shall provide the first accounting to an individual in custody in any 12 month period without charge. The Department may impose a reasonable, cost-based fee for each subsequent request for an accounting within the 12 month period, provided the individual in custody is advised in advance of the fee and given an opportunity to withdraw or modify the request for a subsequent accounting in order to avoid or reduce the fee.
  5. The Department shall suspend accounting to an individual in custody of disclosures to a health oversight agency or law enforcement official directing suspension to avoid impeding law enforcement activity. An Individual in custody Health Information Disclosure Accounting Suspension, DOC 0253, shall be used to document temporary suspensions. Disclosures of protected health information to the requesting agency or official shall continue to be logged on the DOC 0252 so that the Department can account for them after the suspension ends.

**K. Use and Disclosure of Protected Health Information Restriction Procedures**

1. Individuals in custody may request that the Department restrict uses and disclosures:
  - a. Of protected health information about the individual in custody to carry out treatment, payment, or health operations.
  - b. To an individual of the individual in custody's care including family members, close personal friends, or other persons identified by the individual in custody, protected health information relevant to the individual's involvement with the individual in custody's care, or payment related to the individual in custody's health care.
  - c. To notify or assist in the notification of, including identifying or locating, a family member, a personal representative of the individual in custody, or another person responsible for the care of the individual in custody of the individual in custody's location, general condition, or death.
2. The individual in custody shall complete an Individual in custody Request to Restrict Health Information, DOC 0242.
3. The Department shall be under no obligation to agree to the individual in custody's request, however, if an agreement is reached, the Department shall then restrict use or disclosure of protected health information as agreed upon and shall notify the individual in custody of the approval or denial decision using the Response to Individual in custody's Request to Restrict Health Information, DOC 0243.

Note: A Disclosure is non-transferrable unless covered in this AD. All individuals allowed to view confidential information through disclosure shall not disseminate that information to anyone who are not specified in the exception in the previous section or specified in the disclosure approval form.

	Illinois Department of Corrections Administrative Directive	Page 7 of 7
Number: 01.07.105	Title: Health Insurance Portability and Accountability for Health Insurance Privacy and Security	Effective: 6/1/2022

4. The Chief Privacy Officer shall notify affected departments and business associates of the obligation to comply with the restriction request using the Notification of Restriction of Individual in custody Health Information, DOC 0244.
  5. The individual in custody or the Department may terminate the restriction agreement at any time by notifying the other in writing. The Department shall notify the individual in custody of termination of the restriction agreement using an Individual in custody Notification of Health Information Restriction Agreement Termination, DOC 0245. The Department shall also request the individual in custody's concurrence in the termination at that time.
    - a. If the individual in custody does concur in termination of the restriction agreement, none of the individual in custody's protected health information will remain subject to restriction.
    - b. If the individual in custody does **not** concur in termination of the restriction agreement, all of the individual in custody's protected health information created or received subject to the restriction agreement shall remain subject to the restriction, however, any protected health information created or received after the termination of the restriction agreement shall not be subject to the restriction.
  6. The Chief Privacy Officer shall notify affected departments and business associates of the termination agreement using the Notification of Individual in custody Health Information Restriction Agreement Termination, DOC 0247.
  7. The Chief Privacy Officer shall document the departments and business associates notified of the termination of a restriction agreement using the Individual in custody Health Information Restriction Termination Tracking Document, DOC 0246.
-