

 <p style="text-align: center;">Massachusetts Department Of Correction</p> <h1 style="text-align: center;">POLICY</h1>	Effective Date	8/12/2020	Responsible Division Health Services Division
	Annual Review Date	8/12/2020	
Policy Name	<p style="text-align: center;">103 DOC 607 INMATE MEDICAL RECORDS</p>		
	<p>M.G.L. Reference: 42 USCA §§290dd-3 and 290ee-3; 42 CFR 2.33; MGL c.111, §§70, 70F; MGL c.112, §12CC; MGL c. 123, §36A; MGL 123A, §§ 6A & 9; MGL 124, §1 c.,j.,q.; MGL 125, §1 n.;</p> <p>105 CMR 205.500 through 205.605, DPH Minimum Standards Governing Medical Records in Correctional Facilities; NCCHC Standard: P-60 through P-65</p>		
	<p>DOC Policy Reference: 103 CMR 157; 103 DOC 518; 103 DOC 604</p>		
	<p>ACA/PREA Standards: 4-ACRS-4C-22; 4-ACRS-4C-23; 4-ACRS-4C- 24; 5-ACI-6C-03; 2-CO-4E-01</p>		
<p>Attachments Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Inmate Library Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Applicability: Staff</p>	
<p>Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>Location: DOC Central Policy File/Facility Policy File Health Services Division Policy File</p>		
<p>PURPOSE: The purpose of this policy is to establish guidelines for uniform content and management of separately maintained and confidential inmate medical records throughout the Department.</p> <p>RESPONSIBLE STAFF FOR IMPLEMENTATION AND MONITORING OF POLICY: Assistant Deputy Commissioner of Clinical Services Superintendent</p> <p>CANCELLATION: This policy cancels all previous Department policy statements, bulletins, directives, orders, notices, rules, and regulations regarding inmate medical records.</p> <p>SEVERABILITY CLAUSE: If any article, section, subsection, sentence, clause, or phrase of this policy is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner, or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause, or phrase of this policy.</p>			

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607.01

General Policy

The contractual clinical provider at each facility shall maintain a uniform medical record which shall include, but not be limited to, documentation of all medical, dental, and mental health encounters, visits, diagnoses and treatment. All inmate medical records shall be maintained separately from the inmate's confinement records. The format and required content of the Department medical records shall be approved by both the clinical contractual Program Director and the Assistant Deputy Commissioner of Clinical Services. The content of all inmate medical records shall be considered confidential.

1. Each facility which maintains inmate medical records on the premises shall maintain an adequate and uniform system of identification and filing to ensure rapid access to inmate medical records. Electronic medical records may be maintained off the premises but must be readily accessible to facility personnel
2. The use of all forms, including electronic forms, shall be pre-approved by the Assistant Deputy Commissioner of Clinical Services through the contractual Program Director. The Assistant Deputy Commissioner of Clinical Services may consult with the DOC Senior Medical Consultant regarding any form.
3. The collection of inmate health history information and all other health appraisal data shall be performed only by qualified health personnel or health trained personnel.

607.02

Department of Correction Inmate Medical Records

The contractual clinical provider of the receiving facility shall establish an individual medical record for each inmate upon his/her commitment to the DOC. The inmate medical record shall include documentation of all inmate visits or contacts with medical, mental health, or dental treatment staff. The inmate medical record shall also contain all reports, records, entries, orders, and written documentation concerning the inmate's medical, mental health, dental, and substance use disorder care. The medical record shall be maintained from the time of commitment to release or discharge of the inmate from the custody of the DOC. Following the release or discharge of the inmate, the DOC shall retain inmate medical records for a period of thirty years.

1. The contractual clinical provider will designate an individual as Keeper of Inmate Medical Records. The designated Keeper of Medical Records is responsible for ensuring that the medical records filing system provides for accuracy and rapid access to the medical records only by authorized persons.

2. All visits or contacts with inmates by medical, mental health, and dental staff must be legibly documented, timed, dated, and signed with the name and title of the staff providing services.

The mental health and dental record is to be fully integrated with the medical contents of the medical records and available for review by all health services personnel.

3. Inmate medical records shall be maintained at the facility in an area separated from all other records, in a location that will ensure confidentiality. Inmate medical records shall be stored in a secure area with restricted access.
4. The attending physician shall have overall responsibility for the completion of the medical portion of the inmate medical record, and shall be responsible for reviewing and signing all the entries made by medical staff under his/her supervision.

The Health Services Administrator has the overall responsibility to ensure that the medical portion of the inmate medical record is kept in a uniform manner which adequately meets the needs of the medical staff.

5. The content of the medical portion of the inmate medical record shall include, but not be limited to the following identifying information:

health status reports;
health history;
immunization records;
problem list;
physician orders;
progress notes which are dated, time, and signed documenting all inmate contact;
findings of all screenings and assessments;
treatment plans;
flow sheets;
medication administration records;
KOP records;
consultations (to include telephone consultations);
sick call requests;
consent to treat forms;
medical record release forms;
reports of any and all diagnostic tests;
radiology and laboratory reports;
refusal of medical care forms;
results of medical entrance screening, and physical examinations;
discharge summaries from outside hospitals.

6. The content of the dental portion of the inmate medical record shall include, but not be limited to:
 - brief medical history;
 - record of all screening;
 - treatment needed;
 - treatment rendered;
 - oral surgery consultations;
 - medications prescribed;
 - notes which are timed, dated, and signed, documenting all inmates contacts.

7. The content of the mental health portion of the inmate medical record shall include:
 - a. Psychiatric progress notes that are to be written with the same chronological sequence and on the same form as other medical progress notes.

 - b. Psychiatric orders that are to be written within the same chronological sequence and on the same form as other medical orders.

 - c. The mental health records shall also include, but not be limited to:
 - admission screening;
 - history;
 - diagnoses;
 - treatment;
 - medications prescribed;
 - dispositions;
 - assessments and treatment plans;
 - treatment plan updates;
 - consultations;
 - progress notes;
 - progress notes that document all treatment provided and attainment of treatment goals;
 - health evaluations;
 - case conference notes;
 - mental health status reports;
 - mental health watch forms and order forms;
 - mental health watch logs;
 - forensic mental health evaluation;
 - mental health evaluations & administrative mental health evaluations;

contemporaneous progress notes (including place, date, time of every encounter);
documentation of all inmate contacts, including signature and title of each provider;
prior records of significant mental health treatment/hospitalization;
copies of all treatment summaries and discharge summaries that have been obtained from outside mental health providers;
a copy of the intake or initial comprehensive mental health evaluation;
periodic assessments of inmates housed in segregation units;
clinically significant correspondence from inmates to mental health providers; and
all correspondence from outside sources relating to mental health status.

607.03 Bridgewater State Hospital Medical Records

Bridgewater State Hospital medical, dental, and mental health records, excluding forensic mental health evaluations, shall be combined in a single folder or medical record for each individual patient. The format and required content of the Bridgewater State Hospital medical records shall be approved by both the contractual Program Director and the Assistant Deputy Commissioner of Clinical Services.

1. The Bridgewater State Hospital medical record shall contain medical, dental and mental health data, as specified in 607.02 (5) through (7).
2. The Bridgewater State Hospital medical record shall also include all contacts with treatment staff, including nursing notes, treatment rendered, and evaluations. In addition, this record may include appropriate criminal history information which is pertinent to the evaluation and treatment of the patient.
3. Upon an inmate's transfer or commitment to another DOC facility a copy of the complete BSH medical record, including medical, dental and mental health records, as well as forensic mental health evaluations, shall be transferred with the inmate.
4. Guidelines for access and release of Bridgewater State Hospital medical records are set forth in section 607.05 of this policy.
5. The inmate/patient medical records will be maintained in such a manner that they are easily retrievable to treatment staff. Storage of medical records shall be maintained so as to ensure the protection and confidentiality of the records. A moisture control plan shall be developed and approved by the superintendent.

607.04 Forensic Mental Health Evaluations

Pursuant to M.G.L., c. 123 § 36A, forensic mental health evaluations are private. Therefore, special precautions must be taken so as not to release this information to third parties.

All forensic mental health information shall be stamped as having special restrictions regarding release to third parties. Each Health Services Unit records department, except at Bridgewater State Hospital, shall have available a stamp that indicates the following: "CAUTION, this information is confidential pursuant to M.G.L. c.123 § 36A".

Forensic mental health evaluations shall be, prior to filing in the inmate's 10 part folder, stamped with the above statement.

At Bridgewater State Hospital, forensic mental health examinations shall be maintained in the A-1 portion of the patient's administrative folder. Upon an inmate's discharge to another DOC institution, his forensic evaluation, along with the inmate's Bridgewater State Hospital medical record, shall be copied, and sent in a separate envelope along with the inmate's 10 part folder.

607.05 Confidentiality of Medical Records

1. All inmate medical records are the property of the DOC Health Services Division. Contractual medical staff and DOC Health Services personnel may have access to the inmate medical record as is needed in the performance of their duties in accordance with established procedures.
2. In addition, the Health Services Division's Senior Medical Consultant, designated Psychiatric Consultants, members of Performance Improvement Mortality Review Committees and other reviewers as authorized by the Assistant Deputy Commissioner of Clinical Services may have access to all inmate medical records for purposes of peer review. The above individuals are responsible for ensuring that inmate medical records are maintained and used in a manner which protects their confidentiality.
3. Inmate medical records shall not be released, without the prior written consent of the inmate (see attachment #1), to any other individuals except the Commissioner; Deputy Commissioner; Assistant Deputy Commissioner of Clinical Services; Director of Behavioral Health, Director of Clinical Services, Director of Contract Compliance, DOC Health Services Medical and Mental Health Regional Administrators, Superintendents and, during investigations as cited in 103 DOC 518, to the Office of Investigations and to the facility IPS investigator, who, by virtue

of their statutory authority, shall be deemed to possess a "need to know" regarding medical record information at all times.

4. "Need to know" is the authorization to release medical record information by the most senior qualified health personnel on site to DOC personnel staff only for the following reasons:
 - a. to preserve the health of the patient concerned;
 - b. to enhance the care of the patient;
 - c. to protect the health of others;
 - d. to exercise the duty to warn others where their safety may be threatened.
5. All other department employee may request clinical information on a "need to know" basis as defined in 607.05 (4), except that such Department employees shall not have access to information regarding an inmate's HIV status.
6. Requests by such Department employees for clinical information should be submitted in writing by the Superintendent to the Health Services Administrator and should be as specific as possible. In all cases, any information provided under this provision shall be limited to the most pertinent details and shall not include access to the actual medical, mental health, and dental record.

Employees are to be advised that any medical information regarding an inmate's medical condition that they may learn is strictly confidential under Massachusetts law (M.G.L. c 111, §70E (b)).

7. Upon the written release (see attachment #1) of the inmate or his guardian, requested inmate medical record information may be provided to him/her, his/her physician or to his/her executor, administrator, or legal representative, or any other individual or agency designated by the inmate.
 - a. The release shall specify which kind of inmate medical record information is identified for release.
 - b. If the inmate is currently incarcerated in a DOC facility, the release shall be witnessed by healthcare personnel.
 - c. Special precaution is necessary in the handling and release of any record concerning sexually transmitted diseases, HIV information, mental illness, and drug and alcohol abuse. A separate release (attachment #2) for disclosure of this information is necessary, pursuant to section 607.05 §12.
8. Information relative to an inmate shall not be communicated to anyone other than the designated facility staff or health care providers. However,

in an emergency situation in which contractual medical or Department staff believes it is appropriate to notify the inmate's next of kin, and the inmate is unable to provide his/her informed consent due to medical or mental health disability, written consent to release information shall not be required.

The staff person involved shall notify the Medical Director or Health Services Administrator as soon as possible during business hours or the appropriate on-call contractual medical staff after business hours, that an emergency exists that requires notification of kin without written consent. The Health Services Administrator or designee will then notify the Superintendent of the facility and the Superintendent will notify the next of kin in accordance with 103 DOC 604, Outside Hospital Relations. At the Superintendent's discretion, a designee may make this notification.

9. When an individual is permitted to receive a copy of the medical record in accordance with 607.05 (7), a copying fee may be assessed. The search charge of \$5.00 after the first four (4) hours of searching/segregating plus .05 cents per page for copying services may be imposed.

No charge shall be made for indigent inmates. Inmates may be declared indigent in accordance with the criteria in 103 DOC 157.06 (Regulations Governing Access To and Dissemination of Evaluative Information).

Pursuant to M.G.L. c. 112, §12CC, no charge shall be made for the production of records for the purpose of supporting a claim or appeal under any provision of the Social Security Act or any federal or state financial needs-based benefit program.

10. The above provisions for release of medical record information shall not apply to outside hospital records or records generated by non-DOC providers that may be included in the DOC inmate medical record. Such records shall not be released unless the consent procedures of that hospital or provider are followed, or the release of the record is otherwise authorized by the hospital or provider.
11. DOC attorneys may be allowed access to the medical, mental health and dental record without the consent of the inmate for the purpose of litigation or case review.
12. Sensitive Medical Information:
 - a. In order to obtain sensitive information protected by statute or regulation (HIV test, AIDS or related information, substance use disorder, mental illness), an authorization for the release of sensitive medical information, specifically authorizing the release

of such information, must be completed and signed by the inmate involved (see Attachment #2).

- b. Identifiable information regarding the results of any HIV testing or results performed on an inmate shall not be disclosed to anyone other than medical treatment staff without the prior written consent for release of the information by the inmate.
 - c. Neither the inmate's relative nor next of kin shall be permitted to receive identifiable information regarding the results of any HIV test performed on the inmate unless either the inmate or executor, administrator, or legal representative has given prior written consent to the release of such information or the information is released pursuant to a court order.
 - d. Release of information relating to substance use disorder shall be in compliance with 42 USC § 290dd-3, 290ee-3 and 42 CFR, Part II. Disclosure to anyone other than contractual and DOC staff (pursuant to 607.05 (3) - (5)) shall require prior written consent for release of the information by the inmate (see Attachment #2).
 - e. Inmates shall not have access to the mental health portion of their medical record unless the contractual Mental Health Director or designee determines that such release is in the best interest of the inmate. In instances when access to the mental health portion is denied, the mental health clinician shall make a summary of the record available to the patient, pursuant to M.G.L. c. 112 § 12CC.
13. Regarding the Massachusetts Treatment Center for the Sexually Dangerous and the records of sexually dangerous persons (SDP 's), the Community Access Board (CAB) and other qualified examiners shall have access to all records of SDP's being evaluated or examined as mandated by M.G.L. c. 123A, §§ 6A and 9.
14. Bridgewater State Hospital Medical/Mental Health Records
- a. In addition to those persons listed in 607.05, § 3 - 5, the Bridgewater State Hospital Deputy Superintendents shall have access to the Bridgewater State Hospital medical records.
 - b. The Bridgewater State Hospital medical record may be viewed by the patient's attorney in connection with his/her representation of the inmate in commitment and Rogers hearings. The record may also be examined by a psychiatrist or psychologist who is working with the patient's attorney on behalf of the patient, upon the written consent of both the patient or his/her legal guardian, and the

patient's attorney. The record may also be examined by the patient's Probate Court guardian/*Rogers* monitor.

- c. Attorneys for the Disability Law Center may be provided with a copy of a Bridgewater State Hospital medical record where mandated by federal law.
- d. Bridgewater State Hospital medical records, including forensic mental health evaluations, may be released pursuant to a written release of the patient or guardian, as specified in 607.07 (3).

607.06 Storage of Inmate Records

Each facility which stores inmate medical records on the premises shall provide adequate equipment and space for the storage of the records in a manner which maintains safety of the records against fire and water damage and against unauthorized access and use.

1. At facilities without on-site medical staff, inmate medical records shall be stored in a separate, secure area with restricted access. Contractual provider medical records staff and/or facility staff shall handle the inmate medical records only for the purpose of providing the record to any health care providers who may see patients in an on-site examination room, for the purposes of transferring the record or in accordance with the provisions in 607.05.
2. Upon release from DOC custody, inmate medical records will be transferred to a contractual medical record storage site that has been mutually selected by the contractual medical provider and the Assistant Deputy Commissioner of Clinical Services. Should an inmate return to the prison system, the medical record will be retrieved by the contractual clinical provider at the facility where the inmate is being held.

607.07 Transfer of Inmate Medical Records

At any time an inmate is transferred to another DOC correctional facility; except contract houses, county and out-of-state facilities; the entire medical, dental, and mental health portions of the medical record shall accompany the inmate, in accordance with the provisions below:

1. When inmates are transferred between facilities which maintain health services units, the entire original medical, dental, and mental health portions of the inmate medical record will accompany the inmate. If there are paper or hard copies of the medical record, these will accompany the inmate in a sealed envelope. Facility personnel should notify the staff of the sending Health Services Unit of the transfer at least 24 hours in advance whenever feasible.

2. When an inmate is discharged from the custody of the Department of Correction directly into the custody of the federal government, another state, or a sheriff of one of the several counties in the Commonwealth, a health status report shall be prepared and sent with the inmate to ensure continuity of care.
3. Bridgewater State Hospital shall follow the procedures outlined below for transferring medical records:

- a. Discharges to a Department of Correction Facility:

The original or copy of the Bridgewater State Hospital current Administrative Record (A-1) and a copy of the current medical record and, where applicable, the paper or hard copy of the 10 part medical record will be sent to the Health Service Unit of the receiving facility.

The original Bridgewater State Hospital record, including the administrative and medical record as well as the 10 part medical record shall be returned to Bridgewater State Hospital if the inmate is either readmitted to Bridgewater State Hospital or discharged from the Department of Correction.

- b. Discharges to a Massachusetts County Jail and House of Correction:

A discharge summary or the most recent forensic evaluation shall be sent. In addition, a cover letter and blank release form shall accompany this material. The cover letter shall indicate that should the County facility desire/need a copy of the Bridgewater State Hospital Medical Record, the facility's hospital records office may request same via the Bridgewater State Hospital Records Manager. The request must be accompanied by a signed release from the inmate. This material however, may not, pursuant to M.G.L. 123 §36A, be conveyed to a third party without the inmate's written permission.

- c. Discharges to the Massachusetts Department of Mental Health:

A discharge summary shall be forwarded as well as copies of the current Bridgewater State Hospital Administrative and Medical records to the receiving Department of Mental Health facility. The material will be forwarded only pursuant to the court ordered transfer of a patient to the Department of Mental Health and upon receipt of a signed release from the patient. Criminal Responsibility Evaluation reports shall not be included.

- d. Massachusetts Courts shall receive the most recent forensic evaluation report, a Health Status Report and a cover letter. The cover letter will request that the court forward the Health Status Report with the patient should he be placed in the custody of another criminal justice or correctional agency. The Health Status Report is to be forwarded only to the Mental Health Director and Superintendent of the receiving facility.

607.08 Retention of Inmate Medical Records

Upon the release of inmates from the Department, all inactive inmate medical records shall be held at the releasing facility until the contractual clinical provider arranges for their collection and storage.

Inactive records shall be retained for 30 years after release, in accordance with M.G.L. c. 111 §70. When new inmate admissions have a prior record of commitment to the DOC, the contractual health services provider will request that the inmate's previous paper or hard copy of their medical records be retrieved from storage.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CORRECTION
HEALTH SERVICES DIVISION

AUTHORIZATION FOR THE RELEASE OF MEDICAL RECORDS

PATIENT'S NAME: _____ SS# _____

ID# _____ DATE OF BIRTH _____

INSTITUTION: _____

_____ To provide me with a complete copy/abstract of my medical record for my personal use. I agree to accept responsibility for payment of any fees charged for this service. Provide dates of service.

DATE OF TREATMENT _____
INFORMATION REQUESTED _____

_____ To allow _____ who is _____
(Name of authorized person) (relationship, e.g., physician, attorney)
to be furnished a complete copy/abstract of my medical record.
Provide dates of service _____
(Specify scope of procedures or N/A)

This information has been disclosed to you from records whose confidentiality is protected by Federal law. Federal regulations (42 CFR Part 2) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations.

I hereby acknowledge that I have read, or have had read to me, and fully understand the above statements as they apply to me and do herein expressly and voluntarily consent to disclosure for the purpose or need and to the extent or nature as stated. I further understand that I may revoke this consent at any time. Except where disclosure has already been made or upon occurrence of the event: the purpose for which this disclosure is hereby authorized. Deletions may be made as required by the privacy laws of Massachusetts.

This Authorization for Release of information (unless expressly revoked earlier) expires sixty (60) days from the date last signed by the patient or authorized agent.

Patient's signature _____ Date _____

Witness signature _____ Date _____

Copied _____ pages @ _____ Total Paid \$ _____
pages Price per page
_____ Date _____

Additional Signature & Relationship to inmate, if required
_____ Date _____

Witness

If inmate is deceased, please provide proof of executor or administratrix.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CORRECTION
HEALTH SERVICES DIVISION

AUTHORIZATION TO RELEASE SENSITIVE MEDICAL INFORMATION

NAME & ADDRESS OF INMATE
DATE _____

_____ ID # _____

_____ SS # _____

Date of Birth _____ Institution _____

NAME & ADDRESS OF PERSON REQUESTING MEDICAL RECORD (OTHER THAN INMATE)

Purpose of disclosure: _____

Information to be released: _____

I hereby authorize the release of the information stated above, including any information regarding mental health conditions, drugs or alcohol abuse, HIV test results and/or any AIDS related information. Any other use or disclosure of this information is forbidden. This consent will expire on _____ or sixty days after today's date. This consent is subject to revocation at any time except to the extent that action has been taken in reliance there on.

Signature of inmate Date

Witness Date

Additional Signature & Relationship to inmate, if required. Date

If inmate is deceased, please provide proof of executor or administratix.