



# Operating Procedure

<b>Effective Date</b>	February 1, 2016	<b>Number</b>	701.3
<b>Amended</b>		<b>Operating Level</b>	Department
<b>Supersedes</b> Operating Procedure 701.3 (2/1/13)			
<b>Authority</b> COV §8.01-413(B), §32.1-36.1 §32.1-127.1:03, §53.1-40.10			
<b>ACA/PREA Standards</b> 4-4349, 4-4396, 4-4413, 4-4414, 4-4415; 4-ACRS-4C-22, 4-ACRS-4C-23, 4-ACRS-4C-24; 2-CO-4E-01; §115.81 (e)			
<b>Office of Primary Responsibility</b> Health Services Unit			

**Subject**  
**HEALTH RECORDS**

**Incarcerated Offender Access**  
Yes  No

**FOIA Exempt Attachments** Yes  No   
Yes  #2 No

## I. PURPOSE

This operating procedure provides for the management of Health Records for offenders incarcerated in Department of Corrections facilities. This procedure governs the establishment, utilization, content, privacy, and security of offender Health Records and governs the dissemination of information from these records.

## II. COMPLIANCE

This operating procedure applies to all facilities operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

## III. DEFINITIONS

**Case Record** - The case management record established and maintained for each offender in a Community Corrections facility

**COI - Complaint, Observation, Intervention** - The format to be used for documentation in the progress notes

**Community Corrections Facility** - A residential facility operated by the Department of Corrections to provide the Detention Center Incarceration program in accordance with [COV §53.1-67.8](#) or the Diversion Center Incarceration Program in accordance with [COV §53.1-67.7](#).

**Complaint** - The problem as presented by the offender

**Facility** - Any Community Corrections facility or institution

**Facility Folder** - A two part folder established at reception for each new offender received into the DOC on or after August 1, 2015 for the storage of the Property Envelope and facility specific information not uploaded to VACORIS

**Facility Provider** - Medical Practitioner, dentist, or psychologist

**Health Record** - A file that contains information relative to the offender's medical, dental, and mental health condition, and treatment; the Health Record is maintained at the offender's facility of assignment and follows him throughout his term of incarceration.

**Historical Hardcopy Record** - The original offender criminal record, established at reception for each offender in an institution prior to August 1, 2015, containing all original incarceration documents

**Institution** - A prison facility operated by the Department of Corrections; includes major institutions, field units, and work centers.

**Intervention** - The treatment or referral decision of the health care provider

**Medical Practitioner** - A physician, physician's assistant, or nurse practitioner licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the treatment is to be rendered or withheld.

**Mental Health Information** - Any information relative to the offender's mental health status or treatment, including that part of the offender's Health Record which deals primarily with mental health issues

**Observation** - The findings of the health care provider during an examination or interview

**Prescriber** - A medical practitioner, dentist, or other individual licensed to prescribe and administer drugs under the laws of the Commonwealth of Virginia.

#### IV. PROCEDURE

##### A. Health Records (2-CO-4E-01)

1. There shall be a Health Record established for each offender on reception into the DOC. The Health Record shall be securely stored in an area separate from other types of offender records.
2. The Health Record shall be available so that all health care staff shall maintain complete records of the health care given to offenders. The Health Record should contain documentation of all contacts between offenders and health care staff to include, but not limited to visits, consults, diagnoses, and treatments (see the *Documentation* Section of this operating procedure). (4-4413)
3. The method of recording entries in the Health Records and their maintenance and safekeeping are in accordance with this operating procedure and approved by the Health Authority. (4-4413; 4-ACRS-4C-23)
4. Missing Health Records are to be reported to the Health Services Unit (HSU) within 24 hours.
5. Information from the Health Record may only be released in accordance with the *Dissemination* section of this operating procedure.
6. The Health Record shall be transferred with the offender on movement from one DOC institution to another (see the *Transfers* Section of this operating procedure).
7. A "dummy" Health Record will be created to go with the offender when released to most DOC supported programs (see the "*Dummy*" Health Record Section of this operating procedure).
8. Inactive Health Records shall be maintained as permanent records (see the *Discharge* Section of this operating procedure).

##### B. Confidentiality

1. The principle of confidentiality applies to an offender's health records and information about an offender's health status. The Health Record shall be handled and stored to ensure that confidentiality of the information is maintained, except as provided by law and this operating procedure. (4-4396, 4-ACRS-4C-22)
2. The Health Record should be maintained separately from other types of offender records and be sealed prior to any transport. (4-4396; 4-ACRS-4C-22)
3. Access to the Health Record shall be controlled by the Health Authority and shall be granted only to those who require it under DOC procedures and applicable state and federal law.
4. Offenders shall have no access to Health Records of other offenders.

##### C. Format and Content

1. Cover
  - a. For Institutions, the Health Record is kept in a gray-colored six or eight part folder.
    - i. Six part folders were used prior to April 30, 2002.
    - ii. Only eight part folders should be used for new Health Records.
  - b. For Community Corrections facilities, the Health Record is kept in a blue-colored two part folder.
  - c. Labels on the cover of the Health Record folder should:
    - i. Identify the offender by name and number. On the right edge of the folder, starting at the bottom and going up, the first five digits of the DOC number shall be written in black ink and

- the last 2 digits denoted using color-coded numerical stickers.
- ii. Indicate allergies
  - iii. Identify interstate compact offenders when relevant.
  - iv. Indicate that there is more than one folder to the record
  - v. Due to confidentiality requirements, the cover may NOT have a label indicating any diagnosis or any need for special precautions
  - vi. Identify Medicaid approved offenders with blue identifier Department Medical Assistance “DMAS”.
2. The contents of the Health Record shall be organized by the Health Services Unit standardized format ([4-4413](#), [4-ACRS-4C-23](#))
- a. The Health Record is complete and contains the following items filed in a uniform manner:
    - i. Patient identification on each sheet
    - ii. A completed receiving screening form
    - iii. Health appraisal data forms
    - iv. A problem summary list
    - v. A record of immunizations
    - vi. All findings, diagnoses, treatments, dispositions
    - vii. A record of prescribed medications and their administration records, if applicable
    - viii. Laboratory, x-ray, and diagnostic studies
    - ix. The place, date, and time of health encounters
    - x. Health service reports (for example, emergency department, dental, mental health, telemedicine, or other consultations)
    - xi. An individualized treatment plan, when applicable
    - xii. Progress reports
    - xiii. A discharge summary of hospitalization and other termination summaries
    - xiv. A legible signature and the title of the provider
    - xv. Consent and refusal forms
    - xvi. Release of information forms
  - b. Institutions - see *Attachment 1* for eight part folders and *Attachment 1a* for six part folders.
  - c. Community Corrections facilities
    - i. Left side - Reports and records such as Medication Administration Record, Immunization Record, Lab Reports, and Consultation Forms
    - ii. Right side - Clinical material such as Complaint and Treatment Form with nurse’s progress notes and doctor’s notes
3. Forms
- a. Use only Health Services Unit approved forms - do not reformat forms.
  - b. Forms may be found on the Virtual Library.
4. Thinning the Health Record
- a. A new volume may be added to the Health Record when it becomes too thick to be manageable. The cover of each volume will be clearly marked, i.e. Volume I of II, Volume II of II, etc., with the highest number representing the current volume.
  - b. Miscellaneous documents, pertinent to the offender’s current medical status and treatment, should be moved into the new volume from each of the sections of the Health Record. Always transfer the C&R 7, C&R 7a, and the latest relevant documents and reports such as x-ray, lab results, consults, and at least 30 days of the progress notes.

#### D. Documentation

1. Progress Notes ([Health Services Complaint and Treatment Form](#) 720\_F17)

- a. Page headings are required including facility name and offender name and number.
  - b. Each entry and signature must be legible, in black or blue ink
  - c. Each entry must include date and time
  - d. Each signature must be accompanied by professional designation
  - e. Each entry must be formatted by COI (Complaint, Observation, Intervention)
  - f. Narrative entries are allowed in infirmary records only.
  - g. Only approved nursing abbreviations and symbols such as listed in *Attachment 2* should be used.
2. Lab, x-ray, and consult reports must be dated and initialed by the facility provider prior to placement in the Health Record.
  3. Provider orders must all be noted in red ink, with first initial, last name, title, and date.
  4. Outside appointment statements should note that the offender went to and returned from the visit.
  5. Close out statements
    - a. Transfer and arrival statements are usually brief since transfer and arrival forms are used
    - b. Discharge notes should contain whether or not medications or prescriptions were provided and for what length of time. Any other special arrangements should be noted.
    - c. Death notes may be brief or lengthy depending on the circumstances and the place of death.
- E. Health care off site (4-4349)
1. The Health Record shall accompany the offender to all DOC facilities for consultation and health care.
  2. The Health Record never goes to a non-DOC facility (i.e. hospital or physician's office). All information required by the off-site health care provider is to be copied and sent with the offender. The Health Record stays at the assigned facility.
- F. Reporting Offender Health Record Information to Facility Staff (4-4396)
1. The Health Authority will share information regarding an offender's medical management with the Facility Unit Head as necessary to protect and preserve the integrity of the facility.
  2. Information from the Health Record that clearly affects the safety and security of the facility or offender or is required for clearance for facility housing, security, transport, transfers or program assignments will be communicated to appropriate staff.
  3. For all offender transports and transfers at institutions, health care staff shall medically evaluate the offender to determine suitability for travel with particular attention given to communicable disease clearance. (4-4414)
    - a. Health care staff must provide critical medical information to transporting officers on the *Offender Gate Pass* (see Operating Procedure 050.3, *Facility Release of Offenders*). Information provided on the Gate Pass shall include:
      - i. Instructions regarding medication or health interventions required for the offender en route
      - ii. Special precautions (mask, special handling/disinfection procedures) to take if staff will be exposed to infectious or communicable diseases during the transportation assignment
      - iii. Any additional critical medical information as deemed necessary by health care staff
    - b. Use of the *Offender Gate Pass* is optional at Community Corrections facilities, but transporting officers should be provided any relevant medical information that may be needed.
  4. The Facility Unit Head or designee may view the Health Record of an offender if it is necessary to resolve grievances, to evaluate performance of health services staff, or respond to complaints or litigations.
- G. Dissemination of Medical, Dental, or Mental Health Record Information

1. After receipt of a properly completed and signed [Consent for Release of Confidential Health and/or Mental Health Information](#) 701\_F8, health care record information may be released to the offender, an attorney, a physician, or any other person, agency, or organization specified. Federal confidentiality rules (42 CFR part 2) may apply. (4-4396)
  - a. The consent form must be witnessed by a DOC employee or an employee of a medical provider contracted to DOC, or notarized if the offender is no longer incarcerated.
  - b. In accordance with [COV](#) §8.01-413(B) and §32.1-127.1:03, within 15 days of offender request copies of offender medical, dental, and mental health records shall be provided or the offender will be notified that the information does not exist or is not available to the offender.
  - c. [COV](#) §8.01-413(B) and §32.1-127.1:03 provide that any copies of an offender's health records shall not be furnished to the offender or anyone authorized to act on the offender's behalf when the treating physician or clinical psychologist has made a part of the record a written statement that, in the exercise of his professional judgment, the furnishing to or review by the offender of such health records would be reasonably likely to endanger the life or physical safety of the offender or another person, or that such health record makes reference to a person other than a health care provider and the access requested would be reasonably likely to cause substantial harm to the referenced person. The offender has the right to designate, in writing, at his own expense, another reviewing physician, or clinical psychologist, to determine whether to make the health record available to the offender.
  - d. Offenders will be charged at the current copying rates. Per [COV](#) §53.1-28, any offender may obtain a copy of their medical records at no cost to the offender within 30 days of release so long as the offender requests a copy of the records at least 60 days prior to the release date.
  - e. Medical and mental health practitioners shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. (§115.81 [e])
2. [COV](#) §53.1-40.10 provides for offender medical and mental health information to be released to the following entities without offender approval: (4-4396)
  - a. Facility administration when the information is necessary to maintain security and safety of the facility, employees, and other offenders. Disclosure shall be limited to that necessary to ensure the safety and security of the facility.
  - b. Parole Board as needed to conduct release investigations
  - c. Probation and parole officers as needed for release planning
  - d. DOC officials as needed for programs and treatment
  - e. Public and private medical and mental health hospitals, facilities and other entities as needed for care and treatment (4-4349)
  - f. For public health or safety reasons, including contagious diseases and reports of child or domestic abuse
  - g. Release of human immunodeficiency virus testing results is restricted by [COV](#) §32.1-36.1.
3. The release of offender health information will comply with the Health Insurance Portability and Accountability Act (HIPAA), where applicable. (4-4396)
4. Upon receipt of a court order, medical, dental, and mental health information may be released to any criminal justice agency without offender consent.
5. Copying charges will apply to all requests by offenders and the public for offender record information.
  - a. Copying charges should be collected or charged to the offender's trust account before providing the requested information. Charges may be billed with the delivery of records at the discretion of the Facility Unit Head.
  - b. The charges will be the sum of:

- i. A charge for each page or copy
  - ii. The cost of postage plus a handling charge, when the copies are sent through the U.S. Postal Service or private mail carrier.
  - iii. Reasonable costs, not to exceed the actual cost of labor for additional research required to locate and copy records that are not readily available for copying, such as records that are archived or are maintained on microfilm or computer databases. All health care records for currently incarcerated offenders are considered readily available.
  - iv. Copying charges and handling charges for Health Record information should be in accordance with current DOC rates.
- c. The requester should be advised of the fees in writing using the *Sample Copying Charge Letter* (see Operating Procedure 050.1, *Offender Records Management*) as a guide.
- i. Upon receipt of the check or money order, made payable to the “Department of Corrections,” the copies should be provided and the check or money order deposited in accordance with financial systems procedures.
  - ii. Records of all monies received for copying and handling charges should be maintained for auditing purposes.
- d. Copies of offender health records requested in preparation for reentry in accordance with COV §53.1-28 and Operating Procedure 820.2, *Re-entry Planning*, are not subject to copying and handling charges.
6. Copying charges should not apply to information provided to DOC units, other Virginia state agencies, other law enforcement agencies, or to entities where the offender is being referred by DOC for services or treatment.
7. Any release of offender health care information should be documented in the offender’s Health Record.

#### H. Transfer (Institutions)

1. Transfer of offenders from one DOC institution to another shall be managed and documented in accordance with Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*.
  2. The Health Record will accompany any offender transferred to another DOC institution. The Health Record will be sealed separate from the Historical Hardcopy Record or Facility Folder and transported to the new institution with the seal unbroken. (4-4414, 4-ACRS-4C-24)
- I. Release from Institutions to a Community Corrections Facility - Within one working day after being notified that an offender is being released from a DOC institution to a Detention or Diversion Center, the facility should FAX or email a completed *Medical Transfer Comments* 720\_F24 to the Community Corrections facility for final screening of eligibility for the Detention or Diversion Center program.

#### J. “Dummy” Health Record

1. When an offender is released to a Community Corrections facility (Detention or Diversion), Offender Re-Entry, VASAVOR, jail work release, or Transition Therapeutic Community (TTC) program the Health Records staff must prepare a Health “Dummy” File to accompany the offender when transferred to the program.
2. The “Dummy” File, created by the sending facility should contain a copy of the most recent issuance of the following documents:
  - a. *Medical Classification C&R 7* 720\_F15
  - b. DNA Test - date taken
  - c. Tuberculin Skin Test (TST) results
  - d. Immunization Record
  - e. *Medical Transfer Comments* 720\_F24; Include any medical and/or dental appointments
  - f. Any special diet documentation

- g. Any [Self-Medication Contract](#) 720\_F6
- h. Any prosthesis documentation
- i. Any other documents that would be beneficial to program staff in determining appropriate classification and employment

K. Discharge-(Inactive Health Records)

1. When an offender is released from DOC institutions, the Health Record will remain at the last facility of assignment for six months. Release includes parole, discharge, good time release, and transfer to a Detention or Diversion Center, Jail Re-Entry Program, Work Release, or Transition Therapeutic Community Program.
  - a. Holding the file will ensure that all file material is complete and up to date before the file is released.
  - b. Any requests for release of file material during this six month period will be forwarded to the respective facility medical staff for processing.
  - c. Each month, facility Medical staff will generate a *Facility Custody Release Report* for the previous six months.
  - d. The Health Record for offenders released on parole, pre-release assignment, or work release will be forwarded to Central Criminal Records for storage. Pre-release and work release records must be forwarded within 30 days of transfer.
  - e. The Health Record for offenders released to supervision, discharged, or out from DOC will be sent by runner or shipping to VCE: Document Conversion where the record will be scanned to electronic storage.
  - f. Since the records contain sensitive information, care should be taken to ensure that privacy is maintained and that each record is sent to the location designated for the offender's release type.
2. When an offender is released from a Community Corrections facility, the Health Record is handled as follows:
  - a. By February 28 of each calendar year, the Facility Unit Head will transport the Health Records on each participant who left the facility program in the previous calendar year to:
    - Manager, Central Criminal Records
    - Virginia Department of Corrections
    - P. O. Box 26963
    - Richmond, Virginia 23261
  - b. Health Records must be stored and shipped in Fellows File Storage Boxes (Letter Size Heavy Duty 12" x 10" x 15").
  - c. Make a list of offenders (name & number), and the facility sending files. NOTE: Insure the list matches what is in the boxes).
  - d. Put a list on the inside and outside of each box.
  - e. Mark the boxes in chronological order (ex. box 1, box 2, etc.) when you send in the next batch continue on with numbering sequence. DO NOT START NUMBERS OVER.
  - f. Write on the outside of the boxes.
    - i. The Facility Name
    - ii. The current month/year
    - iii. The destruction date (which is ten years from current month/year),
    - iv. The words "Health Records"
3. The closed Health Records are permanent records to be maintained in accordance with the *Library of Virginia's Record Retention and Disposition Schedules*. (4-4415)

L. Deaths

1. Pertinent medical facts relating to health status prior to death must be copied from the Health Record

and sent to the Medical Examiner with the body.

2. The original Health Record must be sent to the Chief Physician at the Health Services Unit within forty-eight hours.

M. If an escapee remains at large for more than 5 days, the Health Record shall be forwarded with the other offender records to the Supervisor of the Detainer Unit.

#### V. REFERENCES

Federal Confidentiality Rules (42 CFR part 2)

Operating Procedure 050.1, *Offender Records Management*

Operating Procedure 720.2, *Medical Screening, Classification, and Levels of Care*

Operating Procedure 820.2, *Re-entry Planning*

#### VI. FORM CITATIONS

[Consent for Release of Confidential Health and/or Mental Health Information](#) 701\_F8

[Self-Medication Contract](#) 720\_F6

[Medical Classification C&R 7](#) 720\_F15

[Health Services Complaint and Treatment Form](#) 720\_F17

[Medical Transfer Comments](#) 720\_F24

#### VII. REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years from the effective date.

*Signature Copy on File*

*12/15/15*

N. H. Scott, Deputy Director of Administration

Date