

U.S. Department of Homeland Security  
500 12th Street, SW  
Washington, DC 20536



U.S. Immigration  
and Customs  
Enforcement

January 26, 2021

MEMORANDUM FOR: Health Care Facilities and Practitioners

FROM: Dr. Stewart D. Smith, CCHP, FACHE  
Assistant Director  
ICE Health Service Corps

A handwritten signature in black ink, appearing to read "Stewart D. Smith".

SUBJECT: Release of Medical Information Regarding ICE Detainees

Individuals held in ICE detention frequently receive care from community health care systems; we greatly appreciate your assistance in providing these services to persons in ICE custody. In order to ensure continuity of care and appropriate follow up, we ask that you provide copies of health care records documenting the services ICE detainees received while in your care.

ICE Health Service Corps (IHSC) often receives questions regarding the applicability of the *Health Insurance Portability and Accountability Act* (HIPAA) and your ability to share medical information with ICE. As you know, HIPAA restricts the disclosure of patients' protected health information (PHI) when the patient did not consent to such disclosure. An exemption from HIPAA applies to a correctional institution or a law enforcement official having lawful custody of an inmate, or other individual, if the correctional institute or law enforcement official determines that such protected health information is necessary for:

- a. The provision of health care to such individuals;
- b. The health and safety of such individuals or other inmates;
- c. The health and safety of the officers, employees, or others at the correctional institution;
- d. The health and safety of such individuals, officers, or other persons responsible for transporting the inmates or their transfer from one institution, facility, or setting to another;
- e. Law enforcement on the premises of the correctional institution; or
- f. The administration and maintenance of the safety, security, and good order of the correctional institution. 45 C.F.R §§ 164.512 (k)(5)(i).

Therefore, ICE detainees are not subject to HIPAA based on the above cited standard. I hope this information is helpful in clarifying your ability to share with ICE any needed information regarding the care that you provided to an individual in ICE detention.

Please direct any questions or concerns via email to Captain Jennifer Moon, IHSC Deputy Assistant Director of Health Care Compliance, at [Jennifer.R.Moon@ice.dhs.gov](mailto:Jennifer.R.Moon@ice.dhs.gov).